

NORWAY

Trade Marks Act

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Chapter 1. General Provisions

Section 1. Exclusive right to a trademark, etc.

Any natural or legal person may acquire an exclusive right to use a trademark as a distinctive sign for goods or services in an industrial or commercial undertaking pursuant to the provisions of this Act (trademark right). A society or other organisation may acquire an exclusive right for its members to use a collective trademark for goods or services in an industrial or commercial undertaking (collective mark). A public authority, foundation, company or other organisation that establishes standards for or conducts any other testing on goods or services may acquire an exclusive right to use a trademark for such goods or services to which the standards or the testing apply (guarantee or certification mark). Trademarks such as those mentioned in this paragraph are called collective marks. Any person who uses his own name or a protected business name as a sign for his goods or services enjoys protection pursuant to the rules of this Act against unlawful use of the name as a trademark by other persons within the same geographical territory.

Section 2. Signs that may be trademarks

A trademark may consist of any sign capable of distinguishing the goods or services of one undertaking from those of another, such as words and combinations of words, including slogans, names, letters, numerals, figures and pictures, or the shape of the goods, their get-up or their packaging.

A trademark right may not be acquired for signs that consist exclusively of a shape that results from the nature of the goods themselves, is necessary to obtain a technical result or adds substantial value to the goods.

Section 3. Establishment of a trademark right

A trademark right may be acquired for the whole of Norway by registering the trademark in the Trademark Register according to the provisions in Chapter 2.

A trademark right may also be acquired for the whole of Norway by international registration according to the provisions in Chapter 10. A trademark right is acquired without registration when the trademark is established by use. A trademark is considered to be established by use when and for as long as it is well known in the circle of trade in Norway for the relevant goods and services as someone's sign. If such use is established only in part of Norway, the exclusive right has effect only in this territory.

Section 4. Content of a trademark right

A trademark right has the effect that no one, without the consent of the proprietor of the trademark right (the trademark proprietor), may use in an industrial or commercial undertaking:

- a. any sign which is identical with the trademark for goods or services for which the trademark is protected
- b. any sign which is identical with or similar to the trademark for identical or similar goods or services if there exists a likelihood of confusion, such as if the use of the sign may give the impression that there is a link between the sign and the trademark.

For a trademark which is well known in Norway, the trademark right implies that no one, without the consent of the trademark proprietor, may use a sign that is identical with or similar to the trademark for similar or any other goods or services, if the use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or repute (goodwill) of the well-known trademark.

Use is considered to include the following:

- a. affixing the trademark to goods or to the packaging thereof
- b. offering goods for sale or otherwise putting them on the market, stocking or delivering them under the sign, or offering or supplying services thereunder
- c. importing or exporting goods under the trademark
- d. using the sign on business documents and in advertising.

Verbal use of the sign is also considered as use.

Section 5. Restriction of a trademark right

A trademark right acquired by registration does not cover any part of a trademark which could not be registered separately.

The trademark right does not prevent others from using the following in accordance with honest practices in industrial or commercial matters:

- a. his name, business name or address
- b. indications concerning the kind, quality, quantity, purpose, value or geographical origin of the goods or services, the time of production of the goods or of rendering the services or other characteristics of the goods or services
- c. the trademark, when this is necessary to indicate the intended purpose of goods or services, such as when the trademark indicates that the intended purpose of the goods is as accessories or spare parts.

An exclusive right to a geographical indication of origin acquired by registration as a collective mark does not prevent others from using the

indication when such use is in accordance with honest practices in industrial or commercial matters.

Section 6. Exhaustion of a trademark right

A trademark right does not prevent the use of the trademark for goods put on the market under the trademark within the European Economic Area (EEA) by the proprietor or with his consent.

Paragraph one does not apply if the proprietor has legitimate reasons to oppose further commercialisation of the goods, such as if the condition of the goods has changed or impaired after they were put on the market.

Section 7. Priority in the event of conflict between rights

If more than one party make separate claims to an exclusive right to identical or similar trademarks cf. Section 4, the proprietor with the earlier right has priority, provided this is not contrary to the provisions in Section 8.

Section 8. Effects of remaining passive

The right to a registered trademark shall coexist with an earlier right to a sign if the proprietor of the earlier right was aware of and tolerated the use in Norway of the later trademark for five consecutive years following registration and the application for registration of the later trademark was filed in good faith. If the later trademark was in use only for some of the goods or services for which it was registered, the right applies only to these goods or services.

The right to a trademark established by use shall coexist with an earlier right to a distinctive sign if the proprietor of the earlier right has taken no steps to prevent the use of the later trademark within reasonable time. The proprietor of an earlier right to a trademark which is well known, cf. Section 4, paragraph two, is considered to have acted within reasonable time if he takes steps to prevent the use within five years after he became aware of the use.

Section 9. Coexistence

In cases such as those mentioned in Section 8 and Section 35, paragraph two, sentence two, the proprietor of the later right may not oppose the use of the earlier distinctive sign even if the proprietor of the earlier right is no longer entitled to invoke his right against the use of the later trademark.

In cases such as those mentioned in Section 8, paragraph two, a court may, if it considers it reasonable, decide that one or both distinctive

signs may only be used in the future in a particular manner, for instance in a certain shape or form or with a clarifying addition such as the name of the proprietor or a location, or may only be used for specific goods or services or within a specific territory.

Paragraph two applies correspondingly to cases in which the same or similar trademarks are established by use for different proprietors in different parts of Norway.

Section 10. Deceiving trademarks, etc.

If a trademark is of such nature as to deceive or is used by the trademark proprietor or by any other person with the consent of the trademark proprietor in a manner capable to deceive, a court may prohibit the use of the trademark or such forms of use that are considered deceiving and may issue other injunctions that are considered necessary.

Legal actions pursuant to paragraph one may be brought by the Norwegian Industrial Property Office and by anyone who has a legal interest in doing so.

Section 11. Reproduction of trademarks in textbooks, etc.

When publishing a dictionary, manual, textbook or similar non-fictional publication, the author, chief editor and publisher shall at the request of the proprietor of a registered trademark, ensure that the trademark is not reproduced in the publication, unless it is clearly stated that it is protected by registration.

If a request is made in due time and in accordance with the preceding paragraph is not complied with, the natural or legal person to whom the request was addressed may be required to defray the cost of a rectification published in such a manner and to such extent as is considered reasonable by the Court.

A request according to paragraph one is always considered complied with if the trademark is reproduced with the symbol ® in a clear manner.

Chapter 2. National application for registration of a trademark

Section 12. Application for registration

An application for registration of a trademark shall be filed in writing with the Norwegian Industrial Property Office.

The application shall include:

- a. the name and address of the applicant
- b. a representation of the trademark
- c. a list of the goods or services in respect of which the registration is requested.

An application for registration of a collective mark shall also include the regulations established for the use of the trademark.

The application is subject to the requirements set forth by the King in regulations. The stipulated fee shall be paid.

Section 13. Amendment of an application

Insignificant changes may be made to a trademark for which an application has been filed for registration, provided that such changes do not affect the overall impression of the trademark.

The list of the goods or services for which application is made for registration of a trademark may be limited.

Section 14. General conditions of registration

A trademark to be registered shall consist of a sign which is capable of being protected pursuant to Section 2 and capable of being represented graphically. It shall have distinctive character as a sign for the relevant goods or services.

A trademark cannot be registered if it exclusively, or only with insignificant changes or additions, consists of signs or indications that:

- a. indicate the kind, quality, quantity, intended purpose, value or geographical origin of the goods or services, the time of production of the goods or of the rendering of the services or other characteristics of the goods or services, or

- b. constitute customary designations for the goods or services according to normal linguistic usage or to loyal, established business practice.

The conditions in paragraphs one and two shall be met on both the date of application and the date of registration. When assessing a proposed trademark pursuant to paragraph one, sentence two, and paragraph two, it is necessary to take into consideration all circumstances that prevailed on the date of application, in particular effects of use of the trademark prior to this time.

A mark that is used in an industrial or commercial undertaking to designate the geographical origin of a product or service may, notwithstanding the second paragraph letter a), be registered as a collective mark.

Section 15. Trademarks that conflict with public interests

A trademark cannot be registered if it:

- a. is contrary to law or public order or is liable to cause offence,
- b. is liable to deceive, for example in respect of the nature, quality or geographical origin of the goods or services, or
- c. contains, without authorisation, escutcheons or another sign covered by Section 328, paragraph one, no. 4, or paragraph two of the Norwegian Penal Code, a national flag or anything that is liable to be understood as such a sign or flag.

For wine and spirits, it is not permissible to register a trademark that consists of or contains anything that is liable to be understood as a geographical indication of origin, unless the geographical origin of the goods is in accordance with the indication.

Section 16. Trademarks that conflict with the rights of others

A trademark cannot be registered without the consent of the relevant proprietor of rights if:

- a. use of the trademark would infringe the right of another in this country to a trademark or business name or another business sign,
- b. the trademark is liable to be confused with a trademark, business name or other business sign that someone else started to use as a the distinctive sign for goods or services before the applicant and is still using, and the applicant was aware of this use when the application for registration was filed, in such way that the filing shall be considered to have taken place in conflict with honest practices in industrial or commercial matters
- c. the trademark contains something that is liable to be perceived as another person's name, stage name or portrait, unless it obviously refers to a person who is long dead,
- d. the trademark contains something that is liable to be perceived as the distinctive title of another's protected creative or intellectual work or it infringes another's right in Norway to a creative or intellectual work or a photography or a design, or
- e. the trademark infringes another's right in Norway to a designation protected in regulations pursuant to Act no. 6 of 17 June 1932 on Quality Control of Agricultural Goods, etc. or Act no. 124 of 19 December 2003 on Food Production and Food Safety, etc.

Section 17. Disclaimer

If a trademark contains a component that cannot be registered separately, then, to avoid uncertainty about the scope of the trademark right, the Norwegian Industrial Property Office may make registration subject to an indication, by means of a disclaimer, to the effect that this component is not covered by the protection afforded by registration. The fact that a disclaimer has not been made is of no significance to the scope of the trademark right.

If it later proves that the component of the trademark that has been excluded from protection could be registered separately, the trademark proprietor may make a new application for registration of that part or of the trademark as a whole without the disclaimer.

Section 18. Classes of goods and services

Trademarks are registered for specific goods or services within specified classes of goods or services. The classification of goods and services shall be set forth by the King.

Section 19. Priority

Any person or legal person who has filed an application for registration of a trademark in a foreign state that is a party to the Paris Convention of 20 March 1883 for the Protection of Industrial Property or the WTO Agreement of 15 April 1994 Establishing the World Trade Organization and who, within six months thereafter, applies for registration of the trademark in Norway, may claim that the new application be considered to have been filed at the same time as the first application.

Anyone who has used a trademark for goods for the first time in connection with displaying it at an international exhibition, as stated in the Convention of 22 November 1928 on international exhibitions and who, within six months thereafter applies for registration of the trademark in Norway, may claim that the application be considered to have been filed on the date on which the trademark was first displayed at the exhibition.

The King may, in regulations, establish further conditions for the right to claim priority. The King may also establish that priority may be claimed in cases other than those specified in paragraphs one and two.

Section 20. Examination of the conditions of registration

The Norwegian Industrial Property Office shall ensure that the application meets the requirements in Sections 12 to 15, that any requirements for disclaimers have been complied with and that there are no registered trademarks or applications for registration that constitute obstacles

to the registration of the trademark applied for.

The Norwegian Industrial Property Office does not examine specifically whether there are other obstacles as mentioned in Section 16 to prevent registration. However, if the Norwegian Industrial Property Office becomes aware of such obstacles, the application shall be examined in relation to them.

Section 21. The right to the trademark

Anyone who can prove that he is entitled to a trademark in an application filed by another party, may request that the Norwegian Industrial Property Office transfer the application. In such case, the person in question shall pay a new application fee.

If there is doubt as to who is entitled to the right, the Norwegian Industrial Property Office may request that the party requesting the application be transferred to him bring legal actions within a time limit fixed by the Norwegian Industrial Property Office. If no such legal actions are brought within the time limit, the Norwegian Industrial Property Office may disregard the request. The party requesting the transfer shall be notified of this.

While a transfer case is being examined by the Norwegian Industrial Property Office, the application may not be amended, shelved, refused or granted until the question of transfer has been finally decided.

If legal actions have been brought concerning the right to the trademark, the Norwegian Industrial Property Office shall postpone examination of the case concerning registration or transfer until the proceedings have been decided with legally binding effect.

The Norwegian Industrial Property Office shall notify the applicant and the party who has requested that the application be transferred to him of the decision in the transfer case. A final decision that the application is to be transferred shall be entered in the Trademark Register and published.

Section 22. Registration and publication

If the application meets the conditions in Section 20, the trademark shall be registered and a letter of registration sent to the applicant. Notice of the registration shall be published.

When a collective mark is registered, the regulations established for the use of the mark shall be registered and published with it. If the regulations are subsequently substantially altered, the amended text shall immediately be submitted to the Norwegian Industrial Property Office for to registration and publishing.

Section 23. Deficiencies in an application

If the application does not meet the conditions in Section 20, the Norwegian Industrial Property Office shall notify the applicant hereof and provide information about the possible effects of the deficiencies. The applicant shall be given a reasonable time limit to respond and, if possible, remedy the deficiencies.

If the deficiencies are remedied within the time limit prescribed by the Norwegian Industrial Property Office, the application shall be considered to have been filed on the date on which it was received by the Norwegian Industrial Property Office. However, the application is not considered to have been filed until the representation of the trademark and the list of the goods or services for which the trademark is to be registered have been received by the Norwegian Industrial Property Office.

If the applicant has not commented on or remedied the deficiencies before the time limit expires, the application shall be shelved.

The processing of a shelved application shall be resumed if the applicant responds to or remedies the deficiencies within two months after the expiry of the time limit. The stipulated fee shall be paid. The processing of an application can only be resumed once.

Section 24. Refusal

If the application has deficiencies that are not remedied according to Section 23, the application shall be refused unless the Norwegian Industrial Property Office considers that the applicant should be given a new time limit for correction.

Section 25. Access to the documents in an application case

Anyone may, as from the date of application, demand access to the application, including the enclosures and all the documents pertaining to the case, unless specified otherwise in paragraphs two and three.

Information on business secrets may be excluded from public access if the applicant so requests. When such a request has been filed, the information will not be available to the public before the request has been refused by a final decision. Information that is significant to whether the trademark can be registered or to the scope of the trademark right may not be excluded from public access. The regulations for use of a collective mark may not be excluded from public access. Section 12 of the Norwegian Freedom of Information Act applies correspondingly.

Documents prepared by the Norwegian Industrial Property Office for its internal case preparation may be excluded from public access.

Chapter 3. Opposition and Cancellation

Section 26. Opposition

When the registration of a trademark is published, any person may file an opposition to the registration. An opposition shall be filed in writing and shall be received by the Norwegian Industrial Property Office within three months of the date of publication.

The opposition shall include:

- a. the name and address of the person filing the opposition
- b. a specification of the registration to which the opposition applies
- c. the grounds on which the opposition is based
- d. necessary documentation of circumstances invoked in support of the opposition.

The opposition shall also meet the requirements set forth by the King in regulations.

When an opposition has been received by the Norwegian Industrial Property Office, it shall be recorded in the Trademark Register and a notice thereof published.

Section 27. Processing of oppositions

If the opposition does not meet the conditions in Section 26, the Norwegian Industrial Property Office shall set a reasonable time limit to comment on it and, if possible, remedy the deficiencies. If the deficiencies are not remedied before the expiry of the time limit, the opposition shall be rejected, unless the Norwegian Industrial Property Office considers that a new time limit should be set for correction.

The trademark proprietor shall be notified of the opposition as soon as possible and be given the opportunity to comment.

If two or more oppositions have been filed to the same registration, the Norwegian Industrial Property Office may join the cases as one case if no reasoned objection to this is made.

The Norwegian Industrial Property Office shall only consider factors that invoked in the opposition. If an opposition is withdrawn, the Norwegian Industrial Property Office may continue the processing of the opposition if there are special reasons for doing so.

Section 28. The right to the trademark

If an appellant requests that the registration of a trademark be transferred to him, the Norwegian Industrial Property Office shall transfer the registration if the right to the trademark is substantiated. In such case, the appellant shall pay a new application fee. Section 21, paragraphs

two to five, shall apply correspondingly.

Section 29. Decisions in opposition cases

The Norwegian Industrial Property Office shall cancel the registration of a trademark in full or in part if it was registered in contravention of Sections 14 to 16 and the obstacles to registration still exist. The registration of a collective mark shall also be cancelled if the regulations on the use of the collective mark were not submitted with the application and the deficiency was not corrected during the processing of the application.

If there is no obstacle to the registration, the opposition shall be dismissed.

The trademark proprietor and the appellant shall be notified of the decision by the Norwegian Industrial Property Office. When a final decision has been made in the case, the outcome shall be recorded in the Trademark Register and a notice thereof published.

Section 30. Cancellation on account of applications with better priority

If, after an application for registration of a trademark has been granted, another application, according to Section 19, has been filed before the first mentioned application, and the Norwegian Industrial Property Office presumes that the earlier filed application would have constituted a full or partial obstacle to the registration of the first mentioned application, the Norwegian Industrial Property Office shall notify the trademark proprietor hereof and afford him the opportunity to file observations within a reasonable time limit. If the application with the better priority is granted, the Norwegian Industrial Property Office shall, after the expiry of the mentioned time limit, cancel the first registration to the extent to which the application with the best priority is an obstacle to the upheld registration.

Paragraph one applies correspondingly if the Norwegian Industrial Property Office presumes that an earlier application that is resumed according to Section 23, paragraph four, or is processed according to Section 80, would have comprised an obstacle to registration for a later application for registration that has already been granted.

Paragraph one also applies correspondingly if the Norwegian Industrial Property Office receives notification that an international trademark registration is to take effect in Norway pursuant to Section 70 and assumes that the international registration would have comprised an obstacle to registration for an application that has been granted and that is considered to have been filed on a date later than the date from which the international

registration is to take effect in Norway, cf. Section 72.

The final decision in cases under this Section shall be recorded in the Trademark Register and published.

Section 31. Access to documents

Anyone may request access to documents in cases concerning opposition and cancellation. The provisions in Section 25, paragraphs two and three, apply correspondingly.

Chapter 4. Duration of the Trademark Registration. Trademark Alteration

Section 32. Duration of registration

A trademark registration is valid for ten years from the date of application. Registration may subsequently be renewed for ten years at a time, counting from the expiration of the previous period.

Section 33. Renewal of registration

A request for renewal shall be filed in writing with the Norwegian Industrial Property Office no earlier than one year before and no later than six months after the expiration of the registration period. The stipulated fee shall be paid. If the request for renewal is filed after the end of the registration period, an additional fee shall be paid.

Payment of the renewal fee with an indication of the trademark's registration number, made within the time limits set forth in paragraph one, shall be regarded as a request for renewal.

Renewal of a registration shall be recorded in the Trademark Register and a notice hereof published.

Section 34. Alteration of a registered trademark

The trademark proprietor may request that the Norwegian Industrial Property Office make alterations to a registered trademark if the alterations are insignificant and do not affect the overall impression of the trademark. The stipulated fee shall be paid.

Alteration of a registered trademark shall be recorded in the Trademark Register and published. A new letter of registration shall be sent to the trademark proprietor.

Chapter 5. Review, Invalidity and Deletion

Section 35. Invalidity

The registration of a trademark shall be invalidated in full or in part by a court ruling or by a decision by the Norwegian Industrial Property Office (administrative review) according to Sections 38 to 40 if the registration took place in contravention of Sections 14 to 16 and cannot remain in force according to Section 8, paragraph one. The registration of a collective mark shall be invalidated if the regulations on the use of the mark were not submitted with the application and the deficiency was not remedied during the processing of the application.

However, the registration shall not be invalidated on the grounds that use of the trademark would infringe the right to a registered trademark if the conditions set forth in Section 37 for deleting the registration of this trademark for the goods or services to which it applies are met. Nor shall a registration be invalidated on the grounds that use of the trademark would infringe the right to a trademark established by use if the establishment by use exists only within a small part of Norway.

Section 36. Deletion in connection with degeneration, etc.

A registration of a trademark shall be deleted in full or in part by a court ruling or by administrative review according to the provisions in Sections 38 to 40 if:

- a. the trademark has become contrary to public order or liable to cause offence,
- b. the trademark has become, as a consequence of the proprietor's actions or passivity, the general designation in the relevant market/industry for goods or services of the type for which it is registered,
- c. as a consequence of its use by the trademark proprietor or someone with his consent for goods or services of the type for which it is registered, the trademark has become liable to deceive, in particular in respect of the kind, quality or geographical origin of the goods or services, or
- d. notification has not been made of amendments to the regulations for the use of a collective mark as specified in Section 22, paragraph two, sentence two, or the collective mark has been used in contravention of the regulations filed without the proprietor having taken steps to prevent such use within reasonable time.

Section 37. Deletion based on non-use of a trademark

A registration of a trademark shall be deleted in full or in part by a court ruling or by administrative review pursuant to Sections 38 to 40

if the trademark proprietor has not, within five years of the date on which a final decision on registration of the trademark was made, made actual use of the trademark in Norway for the goods or services for which it is registered, or if the use has been discontinued for five consecutive years. However, the registration shall not be deleted if there are reasonable grounds for the non-use or discontinuation.

Use of the trademark according to paragraph one also includes use of the trademark in a form that differs from the form in which it is registered only in details that do not effect its distinctive character and use of the trademark in Norway on goods or on their packaging for export. Use by the trademark proprietor also includes use by another person with the consent of the trademark proprietor.

A registration shall not be deleted if use of the trademark is started or resumed after the end of the five-year period, but before legal actions are brought or a request is made for an administrative review to have the registration deleted. However, use in the last three months before legal actions are brought or a request is made for an administrative review shall be disregarded, if the preparations for use were begun only after the trademark proprietor learned that legal action may be brought or a request for a review made.

Section 38. Partial invalidation and deletion

If a basis for invalidity or deletion set forth in Sections 35 to 37 only applies to some of the goods or services for which the trademark is registered, the registration shall be invalidated or deleted with effect only for these goods or services.

Section 39. Case affiliation requirements, etc.

Legal action or a request for an administrative review based on Sections 35 to 37 may be brought or made by any person who has a legal interest in the matter. A request for an administrative review may also be made by the trademark proprietor. Legal action based on Section 14, 15 or 36 may also be brought by the Norwegian Industrial Property Office.

Section 40. Filing and processing a request for an administrative review

A request for an administrative review under Sections 35 to 37 may be made when the opposition time limit has expired and any opposition cases have been settled with a final decision. The request shall be filed in writing with the Norwegian Industrial Property Office and include:

- a. the name and address of the person who has filed the request
- b. a specification of the trademark registration to which the request

applies

c. the grounds on which the request is based

d. necessary documentation of circumstances invoked in support of the request.

The request shall also meet the conditions in provisions set forth by the King in regulations. The stipulated fee shall be paid.

If the request does not meet the conditions set forth in paragraph one and Section 39, the Norwegian Industrial Property Office shall set a reasonable time limit for comments on and, if possible, remedy of the deficiencies. If the deficiencies are not remedied before the expiry of the time limit, the request shall be rejected unless the Norwegian Industrial Property Office considers that a new time limit for correction should be set. The Norwegian Industrial Property Office may also reject the request if the case cannot be decided by the Norwegian Industrial Property Office, especially because the factual matters are disputed or unclear.

If the request has been made by persons other than the proprietor of the registration, the Norwegian Industrial Property Office shall notify the proprietor of the request as soon as possible, with a reasonable time limit for comments. The person requesting an administrative review shall notify all licensees registered in the Trademark Register with an address of this by registered post. If it is not documented that such notification has been given, the Norwegian Industrial Property Office may set a time limit for giving notification. If the time limit is not met, the request shall be rejected.

If two or more requests have been filed for reviews of the same trademark registration, the Norwegian Industrial Property Office may combine the cases if no reasoned objection to this is made. The Norwegian Industrial Property Office can only consider factors that are referred to in the request.

Section 41. The relationship between cases for the Norwegian Industrial Property Office and the courts

A request for an administrative review may not be made until legal proceedings concerning invalidity or deletion have been decided with legally binding effect. If legal action concerning invalidity or deletion are brought before a final decision has been made in a matter concerning an administrative review, the Norwegian Industrial Property Office shall await further procedure of the matter until the legal proceedings have been decided with legally binding effect if the request for an administrative review was made by persons other than the trademark

proprietor.

A person who has made a request for an administrative review may not bring legal action concerning invalidity or deletion while the case is being processed by the Norwegian Industrial Property Office.

A request for an administrative review may not be made by a party who has previously brought legal actions concerning invalidity or deletion if the rules on force of law prevent legal actions being brought again in the same matter.

Section 42. Invalidity and deletion in certain special cases

If the trademark proprietor and the person challenging the registration of the trademark agree, the matter of the validity or deletion of the registration may be decided with final effect by the Norwegian Industrial Property Office's Board of Appeals. The stipulated fee shall be paid.

Section 43. Deletion in connection with an unknown address, etc.

If there is reasonable doubt whether a trademark proprietor exists, anyone may request the Norwegian Industrial Property Office, in writing, to delete the registration. The same applies if the trademark proprietor's address is unknown. The stipulated fee shall be paid.

Before a registration may be deleted pursuant to paragraph one, the Norwegian Industrial Property Office shall request the trademark proprietor to report within a reasonable time limit. This request shall be made by registered post or in some other satisfactory manner. If the trademark proprietor's address is unknown, the request is made by publication in Norsk Varemerketidende (the Norwegian Trademark Journal). If the trademark proprietor has not reported within the time limit, the Norwegian Industrial Property Office shall decide whether to delete the registration of the trademark.

Section 44. Effect of decisions concerning invalidity or deletion

A legally binding decision by a court or final decision by the Norwegian Industrial Property Office to invalidate a registration in full or in part takes effect from the date on which the application for registration was filed.

A legally binding decision by a court or a final decision by the Norwegian Industrial Property Office to delete a registration takes effect from the time at which legal action were brought or a request for deletion was filed with the Norwegian Industrial Property Office. However, following a request from a party to the case, it may be established in a court ruling or a decision based on Section 36 that the decision will take effect from

an earlier time at which a basis for deletion existed.

Section 45. Cancellation on its own initiative

If a registration of a trademark, a renewal or an alteration of a registration has taken place by obvious mistake, the Norwegian Industrial Property Office may cancel the registration fully or partly on its own initiative. The trademark proprietor shall be notified, with a reasonable time limit for comments, before cancellation is carried out.

Section 46. Deletion in connection with expiry of the registration period, etc.

The registration of a trademark shall be deleted after the expiry of the registration period if the registration is not renewed or if the trademark proprietor requests in writing that the registration be deleted.

If legal actions have been brought concerning the right to the trademark, the registration may not be deleted following a request from the trademark proprietor until the legal action have been decided with legally binding effect.

Section 47. Entry in the Trademark Register and publication

If a request has been made for administrative review of a trademark registration or legal action have been brought concerning the invalidity or deletion of such a registration, this shall be entered in the Trademark Register and published. When a final decision has been made in the case, the outcome shall be entered in the Trademark Register and published. A final decision concerning the cancellation of a registration pursuant to Section 45 shall be entered in the Trademark Register and published. The same applies to a final decision concerning invalidity or deletion pursuant to Section 42 and deletion pursuant to Sections 43 and 46.

Section 48. Access to documents

Any person may request access to documents in cases for the Norwegian Industrial Property Office pursuant to this Chapter. The provisions in Section 25, paragraphs two and three, apply correspondingly.

Chapter 6. Appeal and Legal Proceedings

Section 49. Appeals against decisions of the Norwegian Board of Appeal for Industrial Property Rights (Board of Appeal)

A decision of the Norwegian Industrial Property Office on an application for trademark registration or a request for an international trademark registration to have effect in Norway may be appealed by the applicant to the Norwegian Board of Appeal for Industrial Property Rights (Board of Appeal) if the decision went against the applicant. The same applies to a decision of the Norwegian Industrial Property Office to reject an application for international trademark registration pursuant to Section 68, paragraph three.

The decision in an opposition case may be appealed to the Board of Appeal by the party against whom the decision was made. If a request for a transfer of an application pursuant to Section 21 or a registration pursuant to Section 28 is granted, the decision may be appealed to the Board of Appeal by the applicant or the trademark proprietor.

The decision in a case concerning an administrative review pursuant to Sections 35 to 37, cf. Section 40, may be appealed to the Board of Appeal by the party against whom the decision was made. This does not apply to a decision to reject a request pursuant to Section 40, paragraph two, sentence three.

The trademark proprietor may appeal to the Board of Appeal against a decision to cancel a registration pursuant to Section 30 or 45 or to delete a registration pursuant to Section 43.

A decision to reject or refuse a request to:

1. resume processing pursuant to Section 23, paragraph four
2. exclude information from public access pursuant to Section 25, paragraph two, Sections 31, 48, 51, paragraph five, and 76
3. access documents in matters concerning this Act
4. renew a trademark registration pursuant to Section 33
5. alter a trademark pursuant to Section 34
6. have a case processed pursuant to Section 80

may be appealed to the Board of Appeal by the person who made the request. Other decisions of the Norwegian Industrial Property Office may not be appealed.

Section 50. Filing appeals

An appeal shall be filed in writing with the Norwegian Industrial Property Office within two months after the date on which notification of the decision was sent to the party in question. The appeal shall include:

- a. the name and address of the appellant
- b. the decision being appealed
- c. the amendment to the decision requested
- d. the grounds on which the appeal is based.

The appeal shall also meet the conditions set forth by the King in regulations. The stipulated appeal fee shall be paid.

Section 51. Processing appeals

Other parties in the case shall be notified of the appeal as soon as possible, with a reasonable time limit for comments.

Provided that the conditions for processing the appeal are met, the Norwegian Industrial Property Office may revoke or amend the decision if it considers it obvious that the appeal will succeed. If no such decision is made, the case shall be referred to the Board of Appeal. If the Norwegian Industrial Property Office makes a comment to the Board of Appeal, a copy shall be sent to the parties.

If the conditions for processing the appeal are not met, the appellant shall be given a reasonable time limit for comments on and, if possible, correction of the deficiencies. If the deficiencies are not remedied before the expiry of the time limit, the appeal shall be rejected unless the Board of Appeal considers that a new time limit for correction should be set.

If the appeal is processed, the Board of Appeal shall make the investigations occasioned by the appeal. It may consider factors that are not referred to in the appeal. If the appeal is withdrawn, the Norwegian Industrial Property Office may continue processing the case if there are special reasons for doing so.

Any person may request access to documents in appeal cases. The provisions in Section 25, paragraphs two and three, apply correspondingly.

Section 52. Review by the courts of decisions in the Norwegian Board of Appeal for Industrial Property Rights (Board of Appeal)

A decision from the Norwegian Industrial Property Office may only be brought before the courts if the right of appeal pursuant to Section 49 has been exercised and the Norwegian Board of Appeal for Industrial Property Rights (Board of Appeal) has made a decision on the appeal. Paragraph one does not concern the right to bring legal proceedings concerning invalidity or deletion pursuant to Sections 35 to 37 or concerning the right to the trademark.

The decision in the Board of Appeal in an appeal case may be brought before the courts by the party against whom the decision was made, unless paragraph

three specifies otherwise. Legal proceedings shall be brought within two months after the date on which notification of the decision was sent to the party in question. Information on the time limit for bringing legal proceedings shall be included in the notification of the decision. Legal proceedings shall be brought against the State represented by the Board of Appeal.

The decision of the Board of Appeal in a case concerning the transfer of an application or registration may not be brought before the courts. The same applies to a decision by which the Board of Appeal rejects or dismisses an opposition, rejects or refuses a request for an administrative review pursuant to Section 40 or upholds a decision by the Norwegian Industrial Property Office on such a rejection, dismissal or refusal.

Chapter 7. Assignment and Licence, etc.

Section 53. Assignment

A trademark right may be transferred alone or together with the undertaking to which the trademark is linked.

If an undertaking changes ownership, the right to trademarks linked to the establishment transfers with it, unless agreed otherwise.

Section 54. Licence

A proprietor of a trademark may grant another person the right to use the trademark in an industrial or commercial undertaking (licence). The licensee may not transfer his right further, unless agreed otherwise. The proprietor of a trademark may invoke the provisions in Chapter 8 in relation to a licensee who fails to comply with the provisions of the licence agreement with regard to the duration of the licence, the form in which the trademark may be used, the goods or services for which it may be used, the geographical territory in which the trademark may be used or the quality of the goods or services for which the trademark may be used.

Section 55. Attachment, etc.

A trademark right may not be subject to attachment or any other separate enforcement proceedings on the part of creditors.

Section 56. Entry of assignments and licences in the Trademark Register, etc.

Legal proceedings concerning a registered trademark may always be brought against the person registered as the trademark proprietor in the Trademark Register, and notifications from the Norwegian Industrial Property Office to the proprietor of the trademark may always be sent to this person. If the right to a registered trademark has been assigned to another person, this shall be entered in the Trademark Register and published if one of the parties so requests. Section 78 applies correspondingly.

A licence for a trademark that has been registered or for which an application for registration has been filed shall be entered in the Trademark Register and published if one of the parties so requests. The same applies if a registered licence has been assigned or has lapsed.

Chapter 8. Sanctions against Trademark Infringement

Section 57. Prohibitions against infringement

Any person who has infringed another person's rights pursuant to this Act, or aided and abetted thereto, may by judgment be prohibited from repeating this action. Any person who has made significant preparations with a view to carrying out an action that would constitute an infringement, or who has in some other manner acted in a way that gives particular grounds for fearing that the person in question will commit an infringement, may be prohibited by judgment from carrying out the action.

Section 58. Compensation and damages for trademark infringements

For trademark infringements committed with intent or through negligence, the infringer shall pay the rightholder:

- a) compensation corresponding to a reasonable licence fee for the exploitation, as well as damages for any loss resulting from the infringement that would not have arisen in connection with licensing,
- b) damages for any loss resulting from the infringement, or
- c) compensation corresponding to the gain obtained as a result of the infringement.

The compensation and damages are stipulated on the basis of the provision in letters a to c that is most favourable for the rightholder.

If the infringement was committed intentionally or through gross negligence, the infringer shall, if the rightholder so demands, pay compensation corresponding to double a reasonable licence fee for the exploitation instead of compensation and damages stipulated pursuant to the first paragraph.

The first and second paragraphs apply correspondingly to aiding and abetting.

For infringements that have taken place in good faith, the infringer shall, insofar as this is not seen as unreasonable, pay compensation corresponding to a reasonable licence fee for the exploitation or corresponding to the gain procured as a result of the infringement.

The liability under the first to third paragraphs may be reduced pursuant to the Act of 13 June 1969 No 26 on compensatory damages Section 5-2. The holder of a collective mark may also claim damages for losses incurred by others who have a right to use the mark.

Section 59. Measures to prevent infringements

In order to prevent an infringement, the court may, insofar as this is deemed to be reasonable, order preventive measures to be taken in relation

to products that constitute an infringement of a trademark right, and in relation to materials and implements that are principally used, or intended to be used, for the manufacture of such products. Such measures can, among other things, entail products and materials and implements being:

- a) recalled from the channels of commerce,
- b) definitively removed from the channels of commerce,
- c) destroyed, or
- d) handed over to the rightholder.

The decision concerning whether such measures shall be imposed and the choice between possible measures shall be made on the basis of an assessment of proportionality. Among other things, account shall be taken of the gravity of the infringement, the effects of the measures and third party interests.

The first paragraph applies correspondingly in cases as mentioned in Section 57 second sentence.

Measures imposed pursuant to this section shall not be contingent on the rightholder paying compensation to the party against whom the measure is directed, and they do not affect the rightholder's right to compensation or damages pursuant to Section 58. Measures shall be carried out for the defendant's account unless special grounds indicate otherwise.

Section 59a Communication of information about judgments in infringement cases

In a judgment in an infringement case, the court may order that information about the judgment shall be communicated in a suitable manner for the infringer's account. This applies correspondingly to aiding and abetting infringement and in cases as mentioned in Section 57 second sentence.

Section 60. Basis for acquittal in civil cases

In civil cases concerning infringement of a registered trademark, it can only be presumed that the registration is invalid or can be deleted pursuant to the provisions in Sections 35 to 37 if invalidity or deletion has already been pronounced in a legally binding decision by a court or a final decision by the Norwegian Industrial Property Office.

Section 61. Penalties

Any person who with intent commits or aids and abets the commission of a trademark infringement is liable to fines or imprisonment for a term of up to one year.

If especially aggravating circumstances exist, the penalty shall be fines

or imprisonment for a term of up to three years. When assessing whether especially aggravating circumstances exist, particular importance shall be attached to the loss inflicted on the rightholder, including any damage to the rightholder's commercial reputation, the gain procured by the infringer, and the extent of the infringement in other respects. A public prosecution will only be instituted if the aggrieved person so requests unless this is required by the public interest. In the case of infringements of collective marks, only the mark holder is deemed to be the aggrieved party.

Section 61a Exploitation before registration is announced

If any person, without the consent of the applicant, exploits a trademark for which an application for registration has been submitted during the period between the application being submitted and the announcement of the registration, Section 57, Section 58 first to third and fifth and sixth paragraphs, Sections 59 and 59 a shall apply correspondingly insofar as the application leads to registration.

The limitation period for claims pursuant to this section does not start to run until the trademark is registered.

Chapter 9. Provisions in Respect of Legal Proceedings

Section 62. Mandatory legal venue

The following actions must be brought before Oslo District Court:

- a) actions concerning a review of a decision made by the Norwegian Board of Appeal for Industrial Property Rights as mentioned in Section 52
 - b) actions concerning invalidity or deletion of a trademark registration pursuant to Section 35 to 37
 - c) civil actions concerning infringements of a registered trademark.
- Oslo District Court is the venue for applicants and trademark proprietors who are not domiciled in Norway.

Section 63. Right to bring legal proceedings

If a licence has been granted to use a trademark, both the trademark proprietor and the licensee may bring legal proceedings concerning trademark infringement within the licensee's territory, unless agreed otherwise.

In the event of infringement of the right to a collective mark, only the trademark proprietor may bring legal proceedings.

Section 64. Notification of legal proceedings

A person who brings legal proceedings concerning invalidity or deletion of a trademark registration pursuant to Sections 35 to 37 shall also give notification of this to the Norwegian Industrial Property Office and by registered post to each licensee entered in the Trademark Register with an address. A licensee who brings legal proceedings concerning trademark infringement shall notify the trademark proprietor accordingly.

If the plaintiff does not prove that the necessary notifications have been given, the court may set a time limit for giving such notification. If the time limit is not met, the case shall be rejected.

Section 65. Transmission of rulings

The court shall transmit to the Norwegian Industrial Property Office a transcript of decisions in civil cases concerning trademark registrations or applications.

Chapter 10. International Registration of Trademarks

Section 66. Definitions

An international trademark registration is a registration of a trademark by the International Bureau of the World Intellectual Property Organization (WIPO) under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, adopted at Madrid on June 27, 1989 (the Madrid Protocol).

The Norwegian Industrial Property Office is the trademark authority in Norway in cases concerning the international registration of trademarks.

Section 67. Application for international registration of trademarks

A person who is a Norwegian citizen or domiciled or operating an industrial or commercial establishment in Norway and has a trademark registration or has filed an application for such a registration in Norway, may apply for international registration of the trademark by filing an application with the Norwegian Industrial Property Office.

The application shall be in writing and in English and include an indication of:

- a. the name and address of the applicant
- b. the number(s) and date(s) of the Norwegian trademark registration(s) or application(s) on which the international registration is to be based
- c. a representation of the trademark
- d. a list of the goods or services for which the trademark is to be registered
- e. a list of the designated countries or international organisation for which registration is requested

The application shall further meet the requirements set forth by the King in regulations. The stipulated fee shall be paid.

Section 68. The Norwegian Industrial Property Office's processing of the application

The Norwegian Industrial Property Office shall ensure that the conditions set forth in Section 67 are met and that the information in the application is in accordance with the information stated in the Norwegian trademark registration(s) or application(s) on which the international application is based.

If the application meets the requirements specified in paragraph one, the Norwegian Industrial Property Office shall transmit the application to the International Bureau.

If the application does not meet the requirements specified in paragraph one, the Norwegian Industrial Property Office shall notify the applicant

of this and provide information about the possible effects of the deficiencies. The applicant shall be given a reasonable time limit to comment on and, if possible, remedy the deficiencies. If the applicant has not commented on or remedied the deficiencies within the prescribed period, the application shall be rejected.

Section 69. Request for registration to take effect in other countries, etc.

Any person or legal person who is a Norwegian citizen or domiciled or operating an industrial or commercial establishment in Norway and has an international registration based on a Norwegian registration or application and wants the international registration to take effect in other countries or in international organisations may file an application for this to the International Bureau or the Norwegian Industrial Property Office.

The application filed with the Norwegian Industrial Property Office shall be in writing in English and include an indication of:

- a. the name and address of the applicant
- b. the number of the international registration
- c. the country or countries or international organisations for which the registration is requested
- d. whether the application applies to all of the goods or services the international registration covers or only specified goods or services.

Section 70. Request for an international trademark registration to take effect in Norway

When the Norwegian Industrial Property Office receives notification from the International Bureau with a request from the proprietor for an international trademark registration to take effect in Norway, the Norwegian Industrial Property Office shall examine whether the requirements for registration set forth in Sections 14 to 16 are met. If the requirements for registration are met, the Norwegian Industrial Property Office shall record the international trademark registration in the Trademark Register and publish a notification stating that it has taken effect in Norway.

If the requirements for registration have not been met, the Norwegian Industrial Property Office shall refuse, in full or in part, to grant the international registration effect in Norway. The International Bureau shall be notified of such refusal within 18 months after the Norwegian Industrial Property Office received notification as stated in paragraph one.

In the event of refusal, the proprietor of the international registration may, subject to the requirements set forth in regulations, request that the Norwegian Industrial Property Office reassess whether the international registration is to take effect in Norway.

Section 23 applies correspondingly to the Norwegian Industrial Property Office's processing of a request for an international trademark registration to take effect in Norway. Section 19 applies if the proprietor of the international registration has invoked priority.

Section 71. Opposition

Any person may, within three months after the publication date, file an opposition against an international trademark registration taking effect in Norway. Section 26 applies correspondingly to the filing and publication of oppositions. Sections 27 and 28 apply correspondingly to the processing of oppositions.

If a condition for registration pursuant to Sections 14 to 16 has not been met, the Norwegian Industrial Property Office shall rule that the international registration will not take effect, in full or in part, in Norway if the time limit pursuant to Section 70, paragraph three, sentence two, has not expired, or the Norwegian Industrial Property Office has, within the prescribed period, given the International Bureau notification that an opposition may be filed after the expiry of the time limit and notification of the opposition has been sent within one month after the expiry of the time limit for opposition.

If the conditions for registration have been met, the Norwegian Industrial Property Office shall reject the opposition.

The proprietor of the international registration and the person making the opposition shall be notified of the Norwegian Industrial Property Office's decision in opposition cases. When a final decision has been made in the case, the outcome shall be recorded in the Trademark Register and published.

Section 72. Effects of an international trademark registration

A recordal in the Trademark Register that an international trademark registration has effect in Norway shall have the same effect as if the trademark was registered in this country. The recordal is effective from the date on which the registration is deemed to have been made with the International Bureau, or from the date of a subsequent designation of Norway.

The registration is effective for ten years from the date on which the registration with the International Bureau is deemed to have been made.

It may be renewed for ten years at a time as set forth in the Madrid Protocol. When the Norwegian Industrial Property Office receives notification from the International Bureau of renewal of an international registration, this shall be recorded in the Trademark Register and a notice thereof published.

An entry in the Trademark Register that an international registration has effect in Norway may be cancelled pursuant to Sections 30 and 45 and declared invalid or deleted pursuant to the provisions in Chapter 5. Cancellation pursuant to Sections 30 and 45 shall take place within the prescribed period pursuant to Section 70, paragraph three, sentence two. The International Bureau shall be notified of the assignment and licensing of the right to international trademark registrations. Legal actions concerning the trademark may always be brought against the person registered as the proprietor in the international register.

Section 73. Relationship between a national and an international trademark registration

If a person has both an international registration which is effective in Norway and a Norwegian registration of the same trademark, the international registration replaces the Norwegian registration if the international registration has effect in Norway from a later date than the Norwegian registration, and all goods or services covered by the Norwegian registration are included in the list of goods or services covered by the international registration as it applies to Norway. This entails no restrictions to rights already acquired on the basis of the Norwegian registration.

Following a request from the trademark proprietor, the Norwegian Industrial Property Office shall record the replacement of the Norwegian registration with the international registration in the Trademark Register and publish a notice thereof.

Section 74. The effect when an international trademark registration ceases

If an international registration ceases to apply in full or in part, its effect in Norway ceases at the same time to the corresponding extent. This shall be recorded in the Trademark Register and a notice thereof published.

Section 75. Conversion to a national trademark registration

If an international registration that has effect in Norway ceases to apply in full or in part as a result of the lapse of the national registration or application on which it is based, and the proprietor subsequently files

a request with the Norwegian Industrial Property Office to register the trademark in Norway, such registration shall take effect from the date on which the international registration took effect in Norway if the request is filed within three months after the date on which the international registration ceased, and the goods or services specified in the request were covered by the international registration as it applied in Norway. If an international registration that has effect in Norway ceases to apply in full or in part as a result of termination of the Madrid Protocol and the proprietor subsequently files a request with the Norwegian Industrial Property Office to register the trademark in Norway, such registration shall take effect from the date on which the international registration took effect in Norway if the request is filed within two years after the date on which the termination took effect, and the goods or services specified in the request were covered by the international registration as it applied in Norway.

Section 76. Access to documents

Any person may request access to documents at the Norwegian Industrial Property Office in cases under this Chapter. Section 25, paragraphs two and three, apply correspondingly.

Chapter 11. Miscellaneous Provisions

Section 77. Address for correspondence

Notifications from the Norwegian Industrial Property Office to an applicant, a registration proprietor, an opposing party or a party requesting an administrative review under Section 40 are always considered to have been submitted when they have been sent to the address that the person in question specified most recently to the Norwegian Industrial Property Office. The address is recorded in the Trademark Register. For applicants and trademark proprietors who have a representative, notification may be sent to the representative.

If the registered address proves to be incorrect, the notification or a summary of it, including information that the document is available at the Norwegian Industrial Property Office, shall be included in Norsk Varemerketidende (the Norwegian Trademark Journal),

If service or any other procedural notification cannot be submitted at the registered address or the representative, paragraph two applies correspondingly to a court. In such case, the document shall be considered to have been served or notification to have been given four weeks after publication in Norsk Varemerketidende (the Norwegian Trademark Journal).

If an applicant or registration proprietor has otherwise appointed a representative to represent him in matters concerning the application or registration, the name and address of the representative shall be recorded in the Trademark Register. The same applies if an opposition party or a party requesting an administrative review has appointed a representative to represent him in matters concerning the opposition or the review request.

Section 78. Proof of registration in the country of origin

A person who applies to register a trademark without operating an industrial or commercial establishment in Norway and who is not domiciled in a state that is a party to the Paris Convention of 20 March 1883 for the Protection of Industrial Property or the WTO Agreement of 15 April 1994 Establishing the World Trade Organization shall prove that the trademark is registered for the person in question in his country of origin for the goods or services to which the application applies.

Paragraph one does not apply if the applicant's country of origin does not require corresponding proof for trademarks for which registration is applied for there by the owners of industrial or commercial undertakings in Norway.

Section 79. Right of registration as in the country of origin

The King may set forth in regulations that a trademark that is registered in a foreign state may be registered in Norway on specific conditions in the same way as it is registered in the foreign state.

If a trademark is registered under paragraph one that could not otherwise have obtained protection by registration in Norway, the registration protection does not apply to any greater extent or for any longer period than in the foreign state.

Section 80. Effect of non-compliance with time limits

A party who, in relation to the Norwegian Industrial Property Office, has failed to comply with a time limit set forth in or in accordance with the provisions in Chapter 2, 4 or 6 or Section 68, paragraph three, and has consequently suffered a loss of rights shall, if he so requests, nevertheless have a case processed if it is substantiated that the party and his representative, if any, have shown the due diligence that can reasonably be expected. The request shall be filed in writing with the Norwegian Industrial Property Office within two months after the obstacle that led to the non-compliance with the time limit ceased and no later than four months after the expiry of the time limit. The action omitted shall be carried out within the same time limit. The stipulated fee shall be paid.

Paragraph one does not apply to time limits referred to in Section 19 on priority, the time limit for appealing decisions as specified in Section 49, paragraphs two and three, or the time limit for legal proceedings under Section 52, paragraph two, sentence two.

Section 81. About the Trademark Register, etc.

The Norwegian Industrial Property Office shall keep the Trademark Register and publish a journal in which registrations, etc. are published.

Any person shall be entitled to view the Trademark Register and receive certified printouts of it. The stipulated fee shall be paid for printouts. The stipulated fee shall be paid for copies of documents that are public under this Act. The fee rates for printouts and copies according to this paragraph shall be set to a level where the total income does not exceed the actual costs of communicating the information, with reasonable level of profit added.

Section 82. Regulations to the Act (fees, etc.)

The King may, in regulations, issue further provisions to supplement and implement this Act. The King may, inter alia, issue provisions on:

- a. filing and processing applications and oppositions , including the right to use a language other than Norwegian in correspondence with the Norwegian Industrial Property Office
- b. international applications and registrations
- c. dividing and merging applications and registrations and fees for this
- d. the length of time limits set according to this Act
- e. keeping of the Trademark Register and access to it
- f. publications under the Act
- g. the journal published by the Norwegian Industrial Property Office
- h. fee rates and payment of fees.

Chapter 12. Final Provisions

Section 83. Implementation and transitional provisions

This Act takes effect from the time determined by the King.¹ From the time at which the Act enters into force, Act no. 4 of 3 March 1961 on trademarks and Act no. 5 of 3 March 1961 on collective marks are repealed. Section 32, sentence one, applies only to applications filed after this Act has entered into force.

Applications to register trademarks and collective marks that are filed before the Act enters into force shall be considered to meet the requirements for the content of the application if the provisions on this in Act no. 4 of 3 March 1961 on trademarks and Act no. 5 of 3 March 1961 on collective marks and their regulations are met.

A registration of a trademark or collective mark that is made before the Act enters into force may only be cancelled following an opposition or invalidated to the extent to which this would be justified in accordance to Act no. 4 of 3 March 1961 on trademarks and Act no. 5 of 3 March 1961 on collective marks. However, the provisions on deletion in Sections 36, 37, 42 and 43 also apply to registrations made before the Act enters into force. Except from this the Act also applies to registrations made before the Act enters into force.

¹ From July 2010 according to decree no. 936 of 25 June 2010.

Section 84. Amendments to other Acts