



REGISTRATION OF TRADE MARKS IN ROMANIA **“Dragomir si Asociatii” Law Offices**

In order to obtain the protection of a trade mark in Romania it is possible to apply for three types of registration:

- 1) according to the provisions of the Madrid Agreement – the trade mark will be protected in the countries set out in the Madrid Agreement;
- 2) according to the EC Directive 89/104 – the trademark will be protected in the member states of the European Union;
- 3) as a national trade mark, according to the national legislation of Romania – the trade mark will be protected only in Romania.

The present memorandum is limited to the registration procedure of a national trademark.

The registration of trade marks in Romania is submitted to the provisions of Law 84/1998 regarding the trade marks and geographical indications (“the Law”) and to the Regulations for implementing the Law 84/1998 concerning the trade marks and geographical indications (“the Regulations”).

The Law defines the trade mark as a sign capable of graphic representation serving to differentiate the goods or services of a natural or legal person from those of other persons. The trade marks can be constituted by distinctive signs such as: words (including personal names), designs, letters, numerals, figurative elements, three-dimensional shapes and, particularly, the shape of goods or of packaging thereof, combinations of colours, together of any combination of such signs.

The protection of a trade mark in Romania is achieved after the fulfilment of the registration procedure established by the Law and the Regulations. The Romanian institution responsible with the registration of the trade marks is The State Office for Patens and Trademarks (“Oficiul de Stat pentru Inventii si Marci” – OSIM).

It is advisable that before starting the registration procedure, a preliminary documentary research to be performed to the OSIM in order to establish whether the trademark was registered before by another person. Such a research can be performed in a period of time between 1-2 hours and 25 working days, depending of the emergency.



The registration procedure starts with filling the application form which is available free of charge from OSIM.

The application can be presented directly at the General Registry of OSIM (with acknowledgement of receipt), or it can be sent by registered letter with acknowledgement of receipt.

The applicant should pay to OSIM two kinds of fees: the registration fee when the application is registered at OSIM and the examination fee within three months from the date when the application is registered at OSIM.

If the applicant is a foreign citizen or a foreign legal person, the Law requires that he should be represented in the proceedings before OSIM by an authorized trade mark agent from Romania.

The application must contain at least the following elements:

- the express request for the trademark registration;
- indications concerning the applicant's identity (where the applicant is a foreign citizen or a foreign legal person, in the application must be indicated his/her citizenship or the country where the head-quarters are located);
- a list comprising the goods and/or services for which the registration of the trademark is required (in accordance with the Nice Classification);
- a sufficiently clear reproduction of the trademark whose registration is applied for.

Within a month from the application receiving, OSIM examines whether the application fulfils the conditions mentioned above. If all the conditions are fulfilled, OSIM decides to set down the filing date and to record the data contained in the application into the National Register of Trademarks.

In case that not all of the above mentioned conditions are fulfilled, OSIM shall notify the applicant about the ascertained shortcomings which the applicant should remedy within three months from the date of filling the application.

When the applicant fails to complete the application within three months from the date this fact has been notified, OSIM shall decide to reject the application and shall reimburse the application filing and the examination fees.

Within six months from the date of the examination fee payment, OSIM should proceed to the substantive examination of the application, meaning that it will be verified if the trade mark is distinctive and if there are any prior registered trademarks which could be conflicting with the one applied for.



It is possible that after the examination to result that there is a legal ground that hinders the registration of the trade mark. In this case, OSIM transmits to the applicant a provisional notice of refusal, inviting him to present his observations concerning the refusal within three months. If the applicant's observations are justified, OSIM shall decide the registration of the mark.

The trademark is protected for a ten years period, starting from the date of the application. The registration of a trade mark can be renewed at the end of the ten years period on payment of the prescribed fee.

The rights conferred by the registration of the mark can be transferred to third parties by assignment or by license. Both the assignment and the license should be registered at OSIM.

Theodor Nita, *Attorney at Law*
“Dragomir&Associates” Law Offices