

## REGISTRATION OF MARKS IN BULGARIA

The legal regime of marks in Bulgaria is stipulated by the Marks and Geographical Indications Act (MGIA). It was adopted in 1999. This act is in full compliance with the commitments undertaken by Bulgaria by virtue of the Paris Convention and the TRIPS Agreement. The Statute is also in synchrony with Directive 89/104/EEC of the Council to Approximate the Laws of the Member States Relating to Trade Marks. The MGIA contains definitions of the terms marks and geographical indications; it specifies what rights such objects entitle their owners to; it regulates the cases when the rights are violated; it regulates the procedural conditions to receive protection; judicial interference and border measures are contained therein.

According to the Bulgarian law, a mark is a sign that is capable of distinguishing the goods and services of one person from those of other persons and can be represented graphically. Such signs may be words, including the names of persons, letters, numerals, drawings, figures, the shape of the product or the packaging thereof, a combination of colours, sound signals, or any combination of such signs.

If a sign does not meet the above requirements it shall not be registered as a mark.

The principal feature of a mark needed to have such mark registered, according to the Bulgarian law, is to be distinguishing. Being Distinguishing enables the consumer to choose one of two different products. This most essential function of the mark should enable the consumer, without being afraid of confusion to distinguish the goods and services having other origin by identifying the manufacturer of the product or the entity offering the service. Apart from these features, the Bulgarian law requires that the mark is new, not misleading or descriptive and does not disturb the social order and moral.

In respect of the marks in Bulgaria the two basic principles in the Intellectual Property Law are implemented, and namely:

**The principle of specificity** – each mark must refer to something specific, to some product or service. Bulgaria is a party to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

**The principle of territoriality** – the protection of the rights in a national mark is only applicable to the territory of Bulgaria.

To have a mark protected on the territory of the Republic of Bulgaria, it must be registered. The registration of the mark shall be made in the Patent Office of the Republic of Bulgaria situated in the city of Sofia. The date of filing of the application shall be considered date of acquisition of the right in the mark.

Application to the Patent Office (PO) of the Republic of Bulgaria can be filed by any entity – whether local or foreign. When such entity has no permanent residence or seat on the territory of Bulgaria, it can perform acts before the PO by a local industrial property representative.

Such application must contain a registration request of only one mark, as well as identification of the applicant, image of the mark, list of the goods and services, in respect of which registration of the mark is requested in accordance with the Nice Classification. The application and the documents accompanying it must be written in Bulgarian. Upon its filing a document certifying paid fee must be presented. When priority is claimed, as well as the mark colour, this must be specifically noted in the filing of the application.

Information for the types of charges and their amount is available on the PO page – [www.bpo.org](http://www.bpo.org).

An application that does not meet the formal requirements shall be returned to the applicant. If the formal requirements are complied with, such application shall be published in the official bulletin of the PO and third parties may file objections to the registration of the mark. After the expiry of the deadline for objections, the application shall be subjected to expert examination on its merits, which shall decide whether the sign subject of the application can be registered as a mark.

The law regulates two types of grounds for refusal of registration of marks that are applied for – absolute and relative ones. The absolute grounds are related to the requirements for validity of the mark, and the relative ones – to infringement of the rights of the right-holder of marks registered earlier. When established that the mark subject of an application satisfies the legal requirements, a decision is adopted for registration of the mark and it is to be registered in the State Register of Marks.

The Patent Office shall make a publication in its official bulletin of each registered mark, generally known mark and mark enjoying popularity and the further registrations in respect thereof after the registration in the State Register of Marks.

The term of registration of the mark is 10 years as from the date of filing of the application and it can be renewed without any limitation for further periods of 10 years against payment of respective fee.

In the use of the mark, the owner may show its registration by placing close to it the encircled Latin letter R.

The owner of a right in a mark is bound to actually use the mark on the territory of the Republic of Bulgaria in relation to the goods or services that it is registered for. Otherwise and upon expiry of five years as from the registration, the latter can be cancelled upon request of each party concerned. The registration of a mark can also be cancelled when, as a result from the acts or omissions of the owner, the mark has become a usual sign of the good or service that it is registered for or when the use of the mark by the owner or by another person with the owner's consent for the goods or services that it is registered for, is such that it misleads the consumers about the nature, quality or geographical origin of the goods or services.

The registration of a mark can be stricken off when such mark is registered in violation of the absolute or relative grounds for refusal of a registration.

The difference between the cancellation and striking-off of a registration is in the moment when they take legal effect. In case of cancellation – it is the beginning of the five years period when such mark is not used or the date of filing of the cancellation request. Striking-off has effect as from the moment of filing of the application.

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