

# The law of the Republic of Armenia on trademarks (comes into force from July 1, 2010)

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## Chapter 1: General provisions

### Article 1. Purpose of the Law

This Law regulates the relationships regarding the registration, legal protection and use of trademarks and service marks (hereinafter "trademark").

### Article 2. Conceptions used in Law

The main conceptions used for the purposes of this law are the following:

**Trademark** – any sign represented graphically, which is used to distinguish goods and/or services of one person from goods and/or services of another person;

**Person** - natural person or legal entity;

**Well-known trademark** – a trademark, which has become widely recognised in certain social circles in the territory of the Republic of Armenia by the date of submission of an request for declaring it as a well-known trademark or by an earlier date stated in the request, for those goods and/or services, with respect to which the trademark was used;

**Collective trademark** – a trademark of an economic association of manufacturers or service providers, a union of legal entities or other voluntary association founded by persons in the order established by law (hereinafter "association"), which is used to denote the goods and/or services of those persons;

**Certification trademark** – a trademark, which is used to certify certain characteristics of goods or services;

**Geographical indication** – title of a territory (settlement), of a certain area or, in exceptional cases, of a country, which directly or indirectly identifies the territory, area or country of origin of a product, and the specific quality, standing or other characteristics of that product are primarily conditioned with the geographical origin, while the production and/or reprocessing and/or preparation of that product take place in that particular geographical area;

**Designation of origin** – the geographical name of a territory (settlement), a certain area or, in exceptional cases, a country, which serves as a designation of a product, which has originated from that territory, a certain area or country, and the quality or characteristics (qualities) are primarily or totally provided by geographical conditions, including natural and human factors, and the production, reprocessing and preparation of which take place in that particular geographical area;

**Application** – a package of documents filed with the State Authorized Body for the registration of a trademark, in accordance with the order established by this Law;

**Applicant** – a person, on behalf of whom an application was filed;

**Proprietor of Trademark** – a person whose trademark has been granted a protection under this Law in the Republic of Armenia;

**State Register** – an official database that contains data on registrations of trademarks which is maintained by the State Authorized Body in accordance with the order established by this Law, regardless of the carrier on which it is fixed;

**Licence** – an authorisation to use a trademark given by the proprietor of the trademark (licensor) to any other party (licensee), based on a licensing contract;

**Sub-licence** – an authorisation given by a licensee to a third party to use a trademark on the bases of a sublicensing contract;

**Disclaimer** – refusal to grant legal protection to any element of the trademark;

**Paris Convention** - Paris Convention for the Protection of Industrial Property, signed on 20 March 1883, with all subsequent amendments and supplements;

**TRIPS Agreement** - Agreement on Trade-Related Aspects of Intellectual Property Rights, signed in Marrakesh, Morocco on 15 April 1994;

**Madrid Agreement** - Madrid Agreement Concerning the International Registration of Marks, signed on 14 April 1891, with all subsequent amendments and supplements;

**Protocol Relating to the Madrid Agreement** – Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, signed on 28 June 1989;

**Administrative Instructions** - Administrative Instructions for the Application of the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating Thereto;

**Nice Classification** – a classification, established for the purposes of registration of marks, based on the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks under Nice Agreement, signed on 15 June 1957, with all subsequent amendments and supplements;

**International Application** – an application for the international registration of a trademark, filed in accordance with the Madrid Agreement or the Protocol Relating to the Madrid Agreement or, when needed, in accordance with both agreements.

**International Registration** – registration of a trademark, which is filed in accordance with the Madrid Agreement and/or the Protocol Relating to the Madrid Agreement;  
International Bureau - International Bureau of the World Intellectual Property Organisation;

**International Bureau** – the international bureau of the World Intellectual Property Organization

**International Register** – an official database of information on international registrations, which is administered by International Bureau, in accordance with the order established by the Madrid Agreement and the Protocol Relating to the Madrid Agreement, regardless of the carrier on which it is fixed;

**Date** – day, month, year;

**mutatis mutandis** – with the necessary changes made (within the meaning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS));

**State Authorized Body** – State Body authorized by the Government of the Republic of Armenia to exercise functions concerning issues of Intellectual Property subject matters as well as carries out the functions with regard to granting protection to trademarks in accordance with this Law and its Statute;

**Board of Appeal** - Board established in the State Authorized Body to solve the disputes connected with legal protection of trademarks;

**Notification** – delivery of notification which is done by an ordered letter through notifying about delivery or other means of communication, among them electronically or by hand-out receipt;

**Database** – basic collection of applications of trademarks, which content is confirmed by State Authorized Body.

### Article 3. **Legislation on Trademarks**

1. The legislation governing trademarks shall include the Civil Code of the Republic of Armenia, this Law and other legal acts.
2. If international treaties of the Republic of Armenia provide rules other than those provided for by this Law, the rules of international treaties shall apply.

### Article 4. **Rights of Foreign Persons**

1. Foreign persons shall, in accordance with international treaties to which the Republic of Armenia is a party, or under the principle of reciprocity, enjoy the rights provided by this Law and bear liability on an equal basis with the citizens and legal entities of the Republic of Armenia.

2. For the purpose of benefiting from the principle of reciprocity, the existence of reciprocity shall be proved by the person seeking to benefit from it.

#### **Article 5. Functions of the State Authorized Body**

1. Within the frameworks of this Law the main functions of the State Authorized Body shall be the following:

(1) receiving and considering applications for the registration of trademarks, conducting examination thereof, state registration of trademarks and issuing registration certificates on behalf of the State;

(2) receiving notifications on international registrations from the International Bureau, conducting examination thereof and granting legal protection to those trademarks in the territory of the Republic of Armenia;

(3) receiving and considering requests on declaring trademarks as well-known;

(4) maintaining State Register;

(5) registration assignments, licenses, pledges of trademarks, in cases provided by law, registration of franchising;

(6) providing information on services of trademarks;

(7) representing the Republic of Armenia in the field of Intellectual Property in foreign and international organisations;

(8) acting as a receiving State Body for applications filed under the procedures of the Madrid Agreement and the Protocol Relating to the Madrid Agreement;

(9) proceedings with regard to registration of trademarks and issuance of certificates;

(10) carrying out other functions within the scope of its competences.

2. The State Authorized Body shall, in accordance with international agreements of the Republic of Armenia and within the frameworks of agreements concluded with foreign organisations, carry out examination of trademarks, and shall direct the resources derived within the frameworks of those treaties to the development of the Intellectual Property protection system, including training of personnel, incentives for them, as well as to technical and technological re-equipment, which shall be carried out in accordance with the decision of the Authorized Body.

3. The State Authorized Body shall publish information concerning registered trademarks and

other information relating to its activities in its “Industrial Property” official bulletin.

4. The State Authorized Body provides an opportunity for public access to the data on trademark applications and registered trademarks electronically.

5. The State Authorized Body has a Board of Appeals the Statute of which and the procedure for examination of appeals shall be approved by the Government of the Republic of Armenia. The decisions of the Board of Appeals shall be considered as final decisions of the State Authorized Body. Any decision of the Board of Appeals may be subject to judicial appeal.

#### **Article 6. State Fees**

State fees shall be charged for the purposes of implementing certain operations with regard to acquisition and protection of rights under this Law. Types of state fees, their amount and time limits for their payment, refund of state fees, decreasing the amount of fees, as well as grounds for exempting from state fees and the procedure thereof shall be provided by law.

### **Chapter 2: Legal protection of trademarks**

#### **Article 7. Legal Protection of Trademarks**

1. In the territory of the Republic of Armenia, a trademark shall be granted legal protection:

(1) by virtue of state registration in accordance with the order established by this Law;

(2) by virtue of declaring the trademark as well-known in the Republic of Armenia;

(3) by virtue of international registration in accordance with the Madrid Agreement and the Protocol Relating to the Madrid Agreement.

2. Legal protection of a trademark shall extend to the goods and/or services for which the trademark has been registered.

3. The list of the goods and services for which the trademark has been registered may be extended by the proprietor of the trademark only by filing a new application in accordance with the procedure established by this Law.

#### **Article 8. Signs which may be Registered as Trademarks**

The following signs represented graphically may be registered as trademarks:

(1) words, phrases, names, or slogans;

(2) letters or figures;

(3) pictures, images or symbols;

(4) three-dimensional images, in particular the shape of goods or of their packaging (container);

(5) holograms, colours, combinations of colours or their compositions;

(6) sounds;

(7) any combinations of signs referred to in subparagraphs 1 to 5 of this Article.

#### **Article 9. Absolute Grounds for Refusal of Trademark Registration**

1. A sign shall not be eligible for registration where it:

(1) does not meet the requirements of Article 8 of this Law;

(2) is devoid of any distinctive character;

(3) consists exclusively of indexes or signs which serve, in trade, to indicate the time of production of the goods or of rendering of the service, type, quality, quantity, intended purpose, value, geographical origin or other characteristics of the goods and/or services;

(4) consists exclusively of signs or indexes which have become common in the current language or acquire the fair reputation in trade practices;

(5) represents exclusively the outward appearance of the goods which results from the nature (features) of the goods that is necessary to obtain a technical result or depict the purpose (functionality) of the goods, or gives substantial value to the goods;

(6) is contrary to public policy or to principles of humanism or morality, or undermines national or spiritual values;

(7) is liable for deceiving the public in regard to the geographical origin, quality, nature, or producer of the goods or services;

(8) reproduces or includes state emblems, flags or symbols, official state names or their abbreviations, full or abbreviated names of international and intergovernmental organisations, official symbols, as well as hallmarks denoting state control, guarantee and fineness, stamps, seals, awards, and other distinguishing signs (in accordance with Article 6ter of the Paris Convention), or is resemble to them so as to create a likelihood of confusion;

(9) reproduces marks or emblems, which are not protected by Article 6ter of the Paris Convention, but represents particular public interest;

(10) includes symbols of great importance, in particular religious or cultural heritage, if it contains elements disgracing religious or moral values;

(11) reproduces or includes elements which are identical with or which possess a confusingly resemble with the images or official names of the cultural heritage of the Republic of Armenia or the international cultural heritage, or confusingly resemble with images of cultural values kept in funds and collections, where the registration is claimed in the name of a person who is not the proprietor thereof and does not hold a relevant authorisation;

(12) consists of or includes a geographical indication and has been filed for such goods, which are not originated from the area bearing this indication, if the use of that mark in the Republic

of Armenia misleads the public as for the real origin of the goods. This provision shall also apply to the geographical indication which, despite that indicates the real origin of the goods, nevertheless confuse the public so as if the goods are originated from another area;

(13) consists of or contains a geographical indication ascertaining wines, for wines not originated from the area bearing the geographical indication specified or a geographical indication ascertaining spirits, for spirits not originated from the area bearing the geographical indication specified, even if the real origin of the product is specified or the geographical indication is used in a translated version or in conjunction with such expressions as "sort", "type", "style", "imitation" and similar to them.

2. Subparagraphs 1. (2) - (4) of this Article shall not apply if the applicant produces sufficient evidence, that as a result of use, before the filing of the application, the mark assumed the distinctive feature with respect to the goods and/or services for which it was filed for registration.

3. Signs referred to in subparagraphs 1(8) and (9) of this Article may be included in the trademark as non protected elements, if they do not prevail over and there exists an authorisation by the appropriate Authorized Body;

4. Geographical indication and appellations of origin protected in the Republic of Armenia may be included in the trademark only in the case, when the applicant has acquire the right to use it, in accordance with the order established by law. The use of a geographical indication of other countries shall be permitted in the trademark if it is not contrary to the requirements of this Law, is registered in the country of origin and the applicant holds an authorisation to use it. Geographical indications and appellations of origin included in the trademark shall be considered as non protected elements in the trademark.

#### **Article 10. Relative Grounds for Refusal of Trademark Registration**

1. A sign shall not be subject to registration where it:

(1) is identical to an earlier trademark, which is registered for the same goods and/or services;

(2) If because of its identity with or similarity to an earlier trademark when the goods and/or services denoted by it, as well as its identity and similarity, is creating likelihood of confusion for the consumers, including correlation with the earlier trademark (confusingly similar);

(3) is identical or similar to an earlier trademark and is to be registered for goods and/or services which are not similar to those goods and/or services, for which the earlier trademark is registered, in the case the earlier trademark has a reputation in the Republic of Armenia and if the use of the claimed trademark would lead to unfair advantages due to the distinctive feature or the reputation of the earlier trademark, or would be prejudicial to the distinctive feature or the reputation of the earlier trademark;

(4) is identical or confusingly similar to the trade name of a person, which in the territory of the Republic of Armenia has acquired rights to that name prior to the date of application for the registration of the trademark or prior to the date of priority and which has, prior to that date, carried out actual activities in the field of production or services of the same or similar products (which the registration of the trademark has been applied for), where such identity or

similarity will be prejudicial to the reputation of the trade name;

(5) is identical or similar to a geographical indication or appellations of origin of goods protected in the Republic of Armenia, with the exception of cases when in the trademark, which is applied for registration, those goods are included as non protected elements and the application is filed by a person authorized to use the geographical indication or the designation of origin of goods:

(6) reproduces or includes, with an earlier date of priority, subject matters of industrial design, utility model or any other subject matters of Industrial Property protected in the Republic of Armenia;

(7) reproduces or includes literary, scientific or artistic works protected under the Law on Copyright, the names thereof, quotations, extracts (fragments) and characters thereof, if the rights have been acquired before the date of priority of the filing trademark ( if there is an existence of such priority date).

(8) reproduces or includes the name, surname or pseudonym of a well-known person or a portrait of any other person where the similarity to them leads to confusion.

2. For the purposes of paragraph 1 of this Article, earlier trademarks shall be the following:

(1) trademarks, which date of filing application precedes the priority date of the filing trademark that is in the discussion, or if a priority has been claimed in accordance with Article 42 of this Law, or if, in accordance with Article 42 of this Law, it has been claimed a priority to that priority date, shall be constituted as:

(a) trademarks protected in the territory of the Republic of Armenia by virtue of registration;

(b) trademarks protected in the territory of the Republic of Armenia by virtue of an international registration;

(2) trademark applications claimed for registration as referred to in subparagraphs (1) (a) and (b) of this paragraph, subject to granting of legal protection to them in the future;

(3) trademarks which have, by the date of filing application of trademarks or by the date of priority claimed in accordance with Article 42 of this Law, been declared as well-known in the Republic of Armenia in accordance with the order established by this Law.

3. The registration of a sign, under paragraph 1 of this Article, as a trademark may not be refused if an earlier trademark or the proprietor of an earlier trademark, or his/her successor or, in some cases, the appropriate State Authority has confirmed their consent thereto, with the exception of identical trademarks, which have been claimed for similar goods and/or services.

4. A trademark shall be subject to refusal if:

(1) the it is filed by the agent or representative of a third person who is the proprietor of the trade or service mark in a country party to Paris Convention or member to the World Trade Organization, without the authorisation of that proprietor, unless the agent or representative justifies his action.



(2) the trade mark is identical with, or similar to, an earlier trade mark which was registered for identical or similar goods or services and conferred on them a right which has expired for failure to renew within a period of a maximum of two years preceding application, unless the proprietor of the earlier trade mark gave his agreement for the registration of the later mark or did not use his trade mark;

(3). The trade mark is liable to be confused with a mark which was in use abroad on the filing date of the application and which is still in use there, provided that at the date of the application the applicant was acting in bad faith. The applicant's actions are considered to be in bad faith if at the moment of filing the application the applicant knew or could know about the existence of such a trademark. The applicant's actions are considered to be in bad faith as well if for the purpose of registration of the trademark the applicant has provided such fake and groundless documents without the presence of which the registration of the trademark would not be possible.

#### Article 11. **Disclaimers**

1. A trademark may not contain elements which are not eligible for registration as separate trademarks.

2. Where a trademark contains elements referred to in paragraph 1 of this Article and if there are valid reasons which can cause doubts for the registration of the trademark regarding its protection, such elements may, upon the request of the applicant, be declared as disclaimed elements by the decision of the State Authorized Body or the Court.

3. If the grounds leading to the declaration of the elements of the trademark as disclaimed are eliminated, a new application for the registration of the trademark containing such elements may be filed without the restriction referred to in paragraph 2 of this Article.

4. Disclaimer shall not affect the exclusive right of the proprietor to the trademark.

#### Article 12. **Exclusive Right to the Trademark**

1. The proprietor of the registered trademark shall have an exclusive right to prevent third parties, without his consent, to use any sign in the course of trade which:

(1) is identical to the registered trademark and is used in relation to goods and/or services for which the trademark is registered;

(2) is identical or similar to the registered trademark, which is used in relation to the goods and/or services which are identical or similar to the goods and/or services for which the trademark is registered, where the use of such sign creates a likelihood of confusion on the part of public, including association with the registered trademark;

(3) is identical or similar to the trademark registered for other goods and/or services, where the latter has a reputation in the Republic of Armenia and the use of that sign would cause unfair advantage for the trademark or be prejudicial to the distinctive feature or the reputation of the trademark.

2. The proprietor of the trademark may, in accordance with paragraph 1 of this Article, prevent third parties from taking the following actions:

(1) affixing the sign on the goods or on the packaging thereof, as well as, in case of a three-dimensional trademark, its use as packaging of such goods;

(2) offering the goods, their sale or storage for these purposes, or supplying or offering services under that sign;

(3) importing or exporting goods under that sign;

(4) using the sign on documents and in advertising;

(5) using the sign on the Internet or on other global computer telecommunication networks, in particular by any modes of addressing, including Internet domains;

(6) reproduction, storing or selling of the goods for the purposes referred to in subparagraphs (1) to (4) of this paragraph.

3. The following shall, inter alia, be considered an infringement of the distinctive feature of the sign as referred to in paragraph 1(3) of this Article:

(1) the sign is used as a trade name and, due to the similarity of the sign to the registered trademark, this use is confusing the public as to the goods and/or services for which the trademark is registered;

(2) the reproduction or presentation of the sign in advertisements or in the media creates an impression that it constitutes a generic name of certain goods and /or services.

4. The exclusive right to the trademark shall become effective as against third parties on the date of publication by the State Authorized Body of official information on the registration of the trademark or on the date of entering in the International Register information on granting legal protection to the trademark in the Republic of Armenia.

The trademark proprietor may require compensation within the limits of the damage caused against actions stated in paragraph 2 and 3 of this Article after official publication of the application or information on international registration of the trademark, which shall be prohibited after the publication of information on registration of the trademark or the publication of the registration in the International Register on granting legal protection to the trademark in the Republic of Armenia.

The court may not make a substantive decision based on a relevant claim before the publication of information on the registration of the trademark or the publication of the registration in the International Register on granting legal protection to the trademark in the Republic of Armenia.

5. The proprietor of the trademark may place, next to the trademark, a warning mark in the form of encircled letter “R” or wording on the protection of the trademark in the Republic of Armenia. If there is not entitlement to include the “R”, the previous act would be considered unfair practices.

6. Goods, packaging and labels thereof on which trademarks are used unlawfully, shall be deemed fake and imitated.

### **Article 13. Limitation on the Exclusive Right**

1. Exclusive right shall not extend to the elements of the trademark which are not eligible for registration as a separate trademarks under this Law, in particular to the elements of descriptive character, upon the condition of fair use without violation of the rights of the trademark proprietor and third parties as well.

2. Exclusive right shall not entitle the proprietor of the trademark to prohibit third parties to use, in accordance with fair practices accepted by the public, in the process of production and commercial activity:

(1) their forename (name) or seat (address);

(2) indications concerning the kind, quality, quantity, intended purpose, value, geographical origin of the goods or of the service supplied, as well as the geographical origin or other characteristics of the production of the goods or of the service supplied;

(3) the trademark where it is necessary to indicate the intended purpose of a product and/or service, in particular as complex or auxiliary parts, executing the use of which is not prejudicial to the lawful interests of the proprietor of the trademark or of third parties and does not mislead the public;

(4) the trademark in comparative advertising if such advertising is not prohibited by law.

### **Article 14. Exhaustion of the Rights to a Trademark**

1. The proprietor of the registered trademark shall not be entitled to prohibit the use by third parties of the trademark in relation to goods which have been denoted and put in commercial circulation by the proprietor or with his consent in any country.

2. Provisions of paragraph 1 of this Article shall not apply if the prohibition of use of a trademark is conditioned by its proprietor implementing the Investments Project approved by the Government of the Republic of Armenia.

3. Provisions of paragraph 1 of this Article shall not apply if the proprietor provides argued objection to further sale of the goods, especially if in the process of marketing the characteristics of these goods are altered naturally or by interference.

### **Article 15. Presentation of a Trademark in Dictionaries**

1. If the presentation of a registered trademark in a dictionary, encyclopaedia or other similar reference publications gives the impression that it constitutes the generic name or common name for the goods or services for which the trademark is registered, the appropriate publisher must, at the request of the proprietor of the trademark, ensure the presentation of the trademark at the latest in the next edition of the publication, accompanied the placing of the trademark by an indication.

2. Provisions of paragraph 1 of this Article shall also apply to publications in electronic form.

## **Article 16. Registration of a Trademark Without the Authorization of the Proprietor of the Trademark**

1. Where an agent or representative of the proprietor of the trademark or any other person, which is protected in one of member states of Paris Convention has filed an application of registration without permission of the trademark proprietor the latter is entitled to oppose the registration for the claimed trademark or demand its cancellation or the assignment of that trademark in his favour, unless such agent, representative or other person justifies his/her action.

2. In the case specified in paragraph 1 of this Article the proprietor of the trademark shall be entitled to bring an action before the court to prevent the use of the trademark, without the latter's permission, by his/her agent, representative or other person.

## **Article 17. Use of the Trademark and Consequences of Non-use**

1. For the purpose of this Article use of the trademark shall be considered:

1) the placing of the trademark on goods for which the trademark is registered or on the packaging thereof;

2) application of the trademark in advertisements, publications, as well as official forms, posters, only in such cases when application of the mark on the goods or on the packaging thereof is impossible;

3) application of the actions mentioned in clause 2 of this paragraph for services

2. The registration of a trademark may, on the basis of court decision as a result of hearing of a claim filed by any person or a counter claim for the rights protection, be cancelled with regard to all or part of the goods and/or services for which it is registered where within a continuous period of five uninterrupted years after the date of the registration of the trademark or, in case of filing the claim (counter claim) at a later date, the proprietor or the person entitled by this Law has not put the trade mark to genuine use during an uninterrupted period of five years immediately proceeding filing the claim or the counter claim. The evidence on use of the trademark shall be presented by the right holder or the person having a right to use that trademark according to this Law.

3. A trademark shall be considered to be in genuine use if the right holder or the person having a right to use that trademark according to this Law has used the trademark with regard to goods or services produced for a certain uninterrupted period of time or with periodically resumption or being in commercial circulation, provided that the mentioned use corresponds with the level of consumption of that good or service.

4. The claim or counter claim for the revocation of trademark may not be satisfied if during the interval between the period of filing the claim or counter claim the trademark has become a subject to assignment or license contract or genuine use of the trademark has commenced or resumed. However, if the commencement of resumption of genuine use has taken place three months prior to the filing the claim or counter claim for of the trademark and the latter period began at the earliest on expiry of the continuous period of five years of non-use then the use

shall not be taken into consideration if the preparation of the commencement or resumption of the genuine use of the trademark has occurred only after the proprietor becomes aware that the claim or counter claim for revocation may be filed.

5. Registration of the trademark may not be terminated in relation to all or part of the goods and/or services on the basis established by paragraph 2 of this Law, where:

(1) the right holder or the person having right to use the trademark according to this Law provides facts that the use of the trademark was prevented due to insuperable, unforeseen circumstances beyond his control;

(2) the right holder or the person having right to use the trademark according to this Law, in such a way that it was distinguished from the registered one by non altered particular elements of its distinguishing feature;

(3) the trademark has been placed in the Republic of Armenia on goods and/or on the packaging thereof solely for export purposes.

### **Chapter 3: Duration of protection of a trademark**

#### **Article 18. Duration of Registration of a Trademark**

Trademarks shall be registered for a period of ten years from the date of filing of the application.

#### **Article 19. Renewal of Registration of a Trademark**

1. Registration of a trademark may be renewed in respect of all or a part of goods and/or services on each time, but not longer than for ten years.

2. Registration of the trademark shall be renewed on the request of the proprietor of the trademark or a person authorised by him/her filed with the State Authorised Body and examined within one month.

3. The request shall be submitted during the last year of the current term of trademark registration validity.

4. The registration of the trademark may also be renewed upon the request submitted within a period of six months following the expiry of the registration of the trademark, provided that an additional state fee is paid.

5. Renewal of the registration of the trademark shall take effect from the day following the preceding period of ten years.

6. The State Authorised Body shall make an entry in the state register and in the trademark certificate (at the request of the proprietor) on the renewal of the registration of the trademark and publish information thereon in the “Industrial Property” official bulletin.

7. The blank form of the request, the order of its wording and consideration shall be established by the Government of the Republic of Armenia.

8. The request may not be refused without giving the applicant an opportunity to submit his/her documentations for the renewal of the registration of the trademark.

9. Where any information or indication in the request submitted in accordance with this Article gives rise to reasonable doubts as to their reliability, the State Authorised Body may demand relevant evidence.

10. The State Authorised Body shall notify the proprietor during the ninth months of the current term of trademark registration validity.

## **Chapter 4: Termination of rights to a trademark**

### **Article 20. Renunciation of a Trademark**

1. A trademark may be renounced by the proprietor in respect of all or a part of the goods and/or services for which it is registered.

2. The renunciation of a trademark shall be carried out by submitting a written request to the State Authorised Body by the proprietor of the trademark or a person authorised by him/her. The rights to a trademark shall be terminated on the date of entering the information on the renunciation of the trademark in the state register.

3. In case of registration of a licence contract, the renunciation shall only be entered in the State Register if the proprietor of the trademark proves that he/she has notified the licensee of his/her intention to renunciation.

### **Article 21. Revocation of the Registration of a Trademark**

1. The registration of a trademark shall be revoked on the basis of a claim filed with the court or of a counterclaim in proceedings on protection of rights, where:

(1) within an uninterrupted period of five years after the date of the registration of the trademark or, in case of filing the claim (counter claim) at a later date, the trademark was not used or not put into genuine use in the Republic of Armenia by the proprietor or the person having right to use the trademark according to this Law with respect to the goods and/or services for which that trademark is registered taking into consideration the provisions of Article 17 of this Law;

(2) in consequence of activity or inactivity of the proprietor, the trademark has become the name of generic use for the goods or services in respect of which it is registered;

(3) use of the trademark by the proprietor or with his consent in respect of goods or services may confuse the consumer, particularly concerning the nature of such goods and/or services, quality or geographical origin for which it is registered.

2. Where the grounds for revocation of registration of the trademark exist in respect of only some of the goods and/or services for which the trademark is registered, the registration of the trademark shall be declared to be revoked partially in respect of those goods or services only.

3. The provisions established by paragraphs 1 and 2 of this Article shall apply mutatis mutandis to trademarks protected in the Republic of Armenia by virtue of an international

registration.

4. In accordance with paragraphs 1 to 3 of this Article, on the basis of the decision of the court the proprietor wholly or partially loses his/her rights in respect of the trademark on the date of entry into force of the decision by the court.

#### **Article 22. Absolute Grounds for Invalidity of Trademark Registration**

1. The registration of a trademark shall be declared invalid on the basis of a claim or a counterclaim filed with the court in proceedings on protection of the rights, where the trademark has been registered in breach of the provisions of Article 9 of this Law.
2. The registration of a trademark not in compliance with clauses 2, 3 or 4 of paragraph 1 of the Article 9 of this Law may not be declared invalid if, after the registration, in the process of its use, it has acquired a distinctive feature in respect of the goods and/or services for which it is registered.
3. Where the grounds for invalidation pertain to the part of goods and/or services, for which the trademark is registered then the registration may be recognized invalid for that part of goods and/or services only.

#### **Article 23. Relative Grounds for Invalidity of Trademark Registration**

1. The registration of a trademark may be declared invalid on the basis of a claim or a counterclaim filed with the court in proceedings on protection of the rights, where:
  - (1) there is an earlier trademark as referred to in Article 10 (2) of this Law and the conditions provided in clauses 1-3 of paragraph 1 of the same Article are present;
  - (2) there is an earlier right as referred to clauses 4-8 of paragraph 1 of Article 10 of this Law and the conditions provided in that subparagraph are present;
  - (3) the grounds stated by any of the clauses of paragraph 4 of this Law are present.
2. The use of a trademark may be prohibited on the basis of another earlier right, in particular with a right in respect to a name or an image, copyright, to a protected geographical indication or appellation of origin, as well as with a right in respect of a protected invention, utility model or industrial design.
3. A trademark may not be declared invalid where the proprietor of a right, pursuant to paragraph 1 of this Article, or his successor in title or, where appropriate, the State Authorised Body consents to the registration of the trademark before the declaration of invalidity of the trademark or before the filing of the counterclaim.
4. Where the proprietor of a right pursuant to in paragraph 1 of this Article has filed an earlier claim or a counterclaim for protection of rights for invalidity of the trademark may not mention any other right except the mentioned ones for its justification.
5. If the grounds for invalidity relating only to the specific goods and/or services, for which the trademark is registered, the trademark shall be declared invalid in accordance with those

goods and/or services only.

6. The proprietor of an earlier trade mark with the petition of the proprietor of the trademark who has filed a claim with a court in accordance with clause 1 of paragraph 1 of this Article, opposing his earlier trademark shall present evidences that for a period of five uninterrupted years preceding the date of publication of official information on the registration of the trademark the earlier trademark has been in genuine use in the Republic of Armenia with respect to those goods and/or services for which the trademark was registered and that the opposition refers to those goods and/or services or that not putting the trademark into genuine use was conditioned with insuperable, unforeseen circumstances beyond his control that at the date of publication of the official information on the registration of the trademark the earlier trademark had been registered at least for five years. The claim shall be refused if such evidences are not present. Where the earlier trademark was used only with respect to the part of goods and/or services, for which the mark was registered then during the proceedings the earlier trademark may be opposed only to that part of goods and/or services.

#### **Article 24. Limitation of Rights in Consequence of Acquiescence**

1. Where the proprietor of an earlier trademark or the proprietor of any other earlier right, has acquiesced, for a period of five successive years, in the use of a later trademark, while being aware of such use, shall no longer be entitled, on the basis of paragraph 1 of the Article 23 of this Law to file a claim or a counterclaim with a court for invalidation of the trademark or prohibition of the use of the later trademark in respect of the goods and/or services for which the later trademark has been used, unless registration of the later trade mark was applied for in bad faith.

2. In the cases referred to in paragraph 1 of this Article, the proprietor of a later trademark shall not be entitled to oppose the use of the earlier right.

#### **Article 25. Consequences of Revocation and Invalidity of Trademark Registration**

1. Where, in cases provided by this Law, a trademark registration has been revoked in whole or partially, the validity of registration of the trademark shall be terminated in whole or partially as from the date of filing with the court of the relevant claim or counterclaim for the protection of rights. The court may, at the request of one of the parties, fix an earlier date on which one of the grounds for revocation occurred.

2. Where a trademark has been declared invalid in whole or partially, it shall be deemed that from the date of filing the application, the trademark did not register in applicable extent pursuant to the provisions of this Law.

3. In cases of compensating the damage caused by negligence or unfair activity on the part of the proprietor of the trademark, as well as in cases of enforcement of the provisions on unjust enrichment, the revocation or invalidity of a trademark registration shall not affect:

(1) any decision on infringement which has become final and been enforced prior to the decision on revocation or invalidity of the registration of the trademark;

(2) any contract concluded prior to the decision on revocation or invalidity of the registration of the trademark, thus much as it has been executed before the applicable decision – making.



However, on the basis of concepts of justice, may be claimed the compensation in a reasonable extent, on grounds of justified circumstances, which have been paid according to the contract.

## **Chapter 5: Assignment of rights to a trademark**

### **Article 26. Assignment of Rights to a Registered or Claimed Trademark**

1. Rights to a registered or claimed trademark may, in whole or partially, be assigned to a third party through a contract or by way of succession irrespective of transfer of rights in legal entity, which is the right holder.
2. Rights to a registered or claimed trademark may be assigned in respect of all or part of the goods and/or services for which it is registered or has been claimed for.
3. The new legal status of the trademark resulting from the assignment of right to a registered or claimed trademark shall become effective with respect to third parties on the date of making relevant entry in the State Register or in the trademark database .
4. For the purpose of registration the assignment of rights to a trademark, one of the parties performing the assignment shall submit the following to the State Authorised Body:
  - (1) a request for registration to the assignment of rights;
  - (2) a document certifying the assignment of rights;
  - (3) the receipt for payment of the state fee established by law;
  - (4) the document certifying the authorisation of the representative (if any).
5. The State Authorised Body shall, within a period of one month following the receiving of the receipt pursuant to paragraph 4 of this Article, carry out their examination and, provided that they meet the requirements of this Law, shall enter the assignment of rights in the State Register or in the trademark database.
6. The State Authorised Body shall refuse registration of the assignment of rights where it is clear that because of the assignment the trademark is likely to mislead the public concerning the nature, quality or geographical origin of the goods or services in respect of which it is registered, with the exception of cases, where the assignee of rights agrees to restrict the registration of the trademark in respect of goods and/or services for which there is no risk for misleading.
7. Where a trademark is, without the authorisation of the proprietor, registered in the name of the agent or representative of the proprietor of that trademark or in the name of any other person in a country which is a party to the Paris Convention, the proprietor shall be entitled to demand the assignment of the rights in his/her favour, with the exception of cases, if such agent or representative or other person proves the lawfulness of his action.
8. The information relating to the assignment of the rights to a registered trademark shall be published in the “Industrial Property” official bulletin.
9. The parties to the assignment of the rights to a trademark or third parties may dispute the decisions of the State Authorised Body provided by paragraph 5 of this Article before the Board of Appeals within a period of three months following the date of publication.

## Article 27. **Granting of a Licence**

1. The proprietor of a trademark (licensor) may, under a licensing contract, permit any other person (licensee) to use the trademark with respect to all or part of the goods and/or services for which it is registered.

2. The license may be;

(1) exclusive when it is granted to only one licensee and excludes the use of a trademark by the proprietor and granting the license to third parties;

(2) non-exclusive if it does not exclude the use of a trademark by the proprietor and granting the license to third parties;

(3) unique if it is granted to only one licensee which excludes granting the license to third parties but does not exclude the use of the trademark by the proprietor.

3. The licence shall be registered in the state register upon submission by one of the parties to the licensing contract of the following documents to the State Authorised Body:

(1) a request for registration the licence;

(2) the license contract, an extract from the licence contract or a declaration on licence signed by the licensor and the licensee;

(3) the receipt for payment of the state fee established by law;

(4) the document certifying the authorisation of the representative (if any);

4. The license contract, an extract from the licence contract and the declaration on licence must contain the following data:

(1) surname, forename (name) and the seat (address) of the licensor;

(2) surname, forename (name) and the seat (address) of the licensee;

(3) registration number of the trademark for which the licence is granted;

(4) type of the licence;

(5) the list of the goods and/or services for which the licence is granted;

(6) duration of the licence;

(7) the territory of licence validity.

5. The State Authorised Body shall, within a period of one month following the receiving of the receipt pursuant to paragraph 3 of this Article, carry out their examination and, provided that they meet the requirements of this Article, shall enter the registration of the licence in the State Register.

6. The licence shall become effective in respect of third parties from the date of its registration in the State Register. The information on the registered licence shall be published in the "Industrial Property" official bulletin.

7. The proprietor of the trademark may present a claim in accordance with Article 12 of this Law in respect of a licensee who has breached any of the provisions of the licence contract.

8. Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of the trademark only if its proprietor consents thereto. In the case of exclusive licence the licensee may file such a claim if the licensor of the trademark, after receiving the notification, does not file the appropriate claim within a reasonable time.

9. A licensee shall, for the purpose of obtaining compensation for damages, be entitled to be a party in the proceedings on protection of rights brought by the proprietor of the trademark.

10. Subsequent corrections to the terms of licensing contract specified in paragraph 4 of this Law, as well as the declaration of revocation of the licence shall be entered in the State Register upon submission by one of the parties to the licensing contract of the following documents to the State Authorised Body:

(1) a request on registration the changes in license or the declaration of revocation;

(2) a document certifying the changes of the licence or its declaration of revocation, or a declaration on changes of the licence or its revocation, signed by the licensor and the licensee.

11. The blank forms of the requests specified in this Article, the order of their completion, submission and consideration shall be defined by the Government of the Republic of Armenia.

12. The requests provided by this Article may not be refused before the applicant has been given the opportunity to present facts for registration of the licence or its amendment.

13. The State Authorised Body may request relevant evidence if any denotations in the requests or authenticity of documents submitted in accordance with this Article, raises reasonable doubts.

14. The provisions of this Article shall apply mutatis mutandis to sub-licences and, in cases provided for by law, to franchising.

#### **Article 28. The rights on Pledging to a Trademark and Ban Thereof**

1. Rights to a trademark may, in accordance with the order established by law, be guaranteed (pledge) or banned (temporary limitation of the rights to use, possess and alienate).

2. Being notified by the relevant competent authority on pledging the trademark or its ban, the State Authorised Body shall enter the relevant data in the State Register and publish information thereon in "Industrial Property" official bulletin.

#### **Chapter 5: Assignment of rights to a trademark**

## **Article 26. Assignment of Rights to a Registered or Claimed Trademark**

1. Rights to a registered or claimed trademark may, in whole or partially, be assigned to a third party through a contract or by way of succession irrespective of transfer of rights in legal entity, which is the right holder.
2. Rights to a registered or claimed trademark may be assigned in respect of all or part of the goods and/or services for which it is registered or has been claimed for.
3. The new legal status of the trademark resulting from the assignment of right to a registered or claimed trademark shall become effective with respect to third parties on the date of making relevant entry in the State Register or in the trademark database .
4. For the purpose of registration the assignment of rights to a trademark, one of the parties performing the assignment shall submit the following to the State Authorised Body:
  - (1) a request for registration to the assignment of rights;
  - (2) a document certifying the assignment of rights;
  - (3) the receipt for payment of the state fee established by law;
  - (4) the document certifying the authorisation of the representative (if any).
5. The State Authorised Body shall, within a period of one month following the receiving of the receipt pursuant to paragraph 4 of this Article, carry out their examination and, provided that they meet the requirements of this Law, shall enter the assignment of rights in the State Register or in the trademark database.
6. The State Authorised Body shall refuse registration of the assignment of rights where it is clear that because of the assignment the trademark is likely to mislead the public concerning the nature, quality or geographical origin of the goods or services in respect of which it is registered, with the exception of cases, where the assignee of rights agrees to restrict the registration of the trademark in respect of goods and/or services for which there is no risk for misleading.
7. Where a trademark is, without the authorisation of the proprietor, registered in the name of the agent or representative of the proprietor of that trademark or in the name of any other person in a country which is a party to the Paris Convention, the proprietor shall be entitled to demand the assignment of the rights in his/her favour, with the exception of cases, if such agent or representative or other person proves the lawfulness of his action.
8. The information relating to the assignment of the rights to a registered trademark shall be published in the “Industrial Property” official bulletin.
9. The parties to the assignment of the rights to a trademark or third parties may dispute the decisions of the State Authorised Body provided by paragraph 5 of this Article before the Board of Appeals within a period of three months following the date of publication.

## **Article 27. Granting of a Licence**

1. The proprietor of a trademark (licensor) may, under a licensing contract, permit any other person (licensee) to use the trademark with respect to all or part of the goods and/or services for which it is registered.

2. The license may be;

(1) exclusive when it is granted to only one licensee and excludes the use of a trademark by the proprietor and granting the license to third parties;

(2) non-exclusive if it does not exclude the use of a trademark by the proprietor and granting the license to third parties;

(3) unique if it is granted to only one licensee which excludes granting the license to third parties but does not exclude the use of the trademark by the proprietor.

3. The licence shall be registered in the state register upon submission by one of the parties to the licensing contract of the following documents to the State Authorised Body:

(1) a request for registration the licence;

(2) the license contract, an extract from the licence contract or a declaration on licence signed by the licensor and the licensee;

(3) the receipt for payment of the state fee established by law;

(4) the document certifying the authorisation of the representative (if any);

4. The license contract, an extract from the licence contract and the declaration on licence must contain the following data:

(1) surname, forename (name) and the seat (address) of the licensor;

(2) surname, forename (name) and the seat (address) of the licensee;

(3) registration number of the trademark for which the licence is granted;

(4) type of the licence;

(5) the list of the goods and/or services for which the licence is granted;

(6) duration of the licence;

(7) the territory of licence validity.

5. The State Authorised Body shall, within a period of one month following the receiving of the receipt pursuant to paragraph 3 of this Article, carry out their examination and, provided that they meet the requirements of this Article, shall enter the registration of the licence in the State Register.

6. The licence shall become effective in respect of third parties from the date of its registration in the State Register. The information on the registered licence shall be published in the "Industrial Property" official bulletin.

7. The proprietor of the trademark may present a claim in accordance with Article 12 of this Law in respect of a licensee who has breached any of the provisions of the licence contract.

8. Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of the trademark only if its proprietor consents thereto. In the case of exclusive licence the licensee may file such a claim if the licensor of the trademark, after receiving the notification, does not file the appropriate claim within a reasonable time.

9. A licensee shall, for the purpose of obtaining compensation for damages, be entitled to be a party in the proceedings on protection of rights brought by the proprietor of the trademark.

10. Subsequent corrections to the terms of licensing contract specified in paragraph 4 of this Law, as well as the declaration of revocation of the licence shall be entered in the State Register upon submission by one of the parties to the licensing contract of the following documents to the State Authorised Body:

(1) a request on registration the changes in license or the declaration of revocation;

(2) a document certifying the changes of the licence or its declaration of revocation, or a declaration on changes of the licence or its revocation, signed by the licensor and the licensee.

11. The blank forms of the requests specified in this Article, the order of their completion, submission and consideration shall be defined by the Government of the Republic of Armenia.

12. The requests provided by this Article may not be refused before the applicant has been given the opportunity to present facts for registration of the licence or its amendment.

13. The State Authorised Body may request relevant evidence if any denotations in the requests or authenticity of documents submitted in accordance with this Article, raises reasonable doubts.

14. The provisions of this Article shall apply mutatis mutandis to sub-licences and, in cases provided for by law, to franchising.

#### **Article 28. The rights on Pledging to a Trademark and Ban Thereof**

1. Rights to a trademark may, in accordance with the order established by law, be guaranteed (pledge) or banned (temporary limitation of the rights to use, possess and alienate).

2. Being notified by the relevant competent authority on pledging the trademark or its ban, the State Authorised Body shall enter the relevant data in the State Register and publish information thereon in "Industrial Property" official bulletin.

### **Chapter 6: Well known trademarks**

#### **Article 29. Legal Protection of a Well-known Trademark**

1. A trademark may be recognised as a well-known trademark if, as a result of its use, it has become widely recognised in certain social circles in the territory of the Republic of Armenia, for those goods and/or services for which the trademark was used.

2. A trademark is recognised as a well-known trademark in the Republic of Armenia and is legally protected regardless of the fact whether it is registered or not.

3. In the Republic of Armenia, a trademark is recognised as well known by the Board of Appeals.

4. The legal protection to a trademark, which is recognised as well-known, shall be granted without time limit.

#### **Article 30. The Scope of Legal Protection of a Well-known Trademark**

1. The proprietor of a trademark that has been recognised as well-known in the Republic of Armenia, in addition to the rights established in Article 12 of this Law, has the right to prohibit the use, by other persons in the course of their industrial or commercial activities, without the prior authorization of the proprietor, of a sign, which is the reproduction, imitation or translation of a trademark recognised as well-known, which can cause confusion with the latter and is used in respect of goods that are identical and/or similar to it.

2. The proprietor of a trademark that has been recognised as well-known in the Republic of Armenia, in addition to the rights established in Article 12 of this Law, has the right to prohibit the use by other persons in the course of their industrial or commercial activities, without his prior authorization of such a sign, which may not be used in respect of goods and/or services of similar types and may be perceived as the reproduction, imitation or translation of a trademark recognised as well-known and can cause confusion if the use of that sign for those goods and/or services implies a correlation between these goods and/or services for which the well-known trademark is used, and such a use can cause damage to the interests of the proprietor of the trademark that was recognised as well-known.

3. For the realization of the rights prescribed by paragraphs 1 and 2 of this Article, the proprietor of a trademark that has been recognised as well-known has the right of applying to the court. If the opposing trademark, during the period of five years prior to the date of applying to the court, was used continuously and in a reasonable extent in the course of industrial or commercial activities if then this circumstance serves as a basis for the refusal of the claim.

#### **Article 31. Recognition of a Trademark as Well-known**

1. In order to declare a trademark well-known, any interested party may submit a request with the Board of Appeals. The request must refer only to one trademark.

2. The request must contain reproduction and description of the trademark, as well as the date since when the trademark is claimed to be recognized as well-known.

3. The following must be attached to the request:

1) documents containing information on the proprietor or user of the trademark;

2) the list of goods and/or services, for which the trademark is used;

3) documents that, in certain social circles, testify the level of being the trademark as well-known for those goods and/or services for which the particular trademark is used;

4) documents testifying information on the date starting of use the trademark and the period of use.

5) documents containing information on the geographical territory of using the trademark in the Republic of Armenia;

6) the receipt for payment of the state fee established by law;

4. The board of Appeals discusses the request on the recognition of a trademark as well-known in the Republic of Armenia and makes a corresponding decision within a period of two months after receiving the request.

5. A trademark may not be recognised as well-known, if:

1) the documents provided in paragraph 3 of this Article are incomplete or unreliable or are not sufficiently convincing that the trademark actually has become widely recognised in certain social circles in the territory of the Republic of Armenia for those goods and/or services, for which it was used;

2) a trademark has become widely recognised in certain social circles in the Republic of Armenia for similar goods and/or services after the date of priority of a registered trademark of another person, which is the same or confusingly similar and may mislead the consumer.

6. In the decision on recognition of a trademark as well-known in the Republic of Armenia, the following must be indicated:

1) surname, forename (name) and the seat (address) of the proprietor of the well-known trademark;

2) the list of goods and/or services for which the trademark was recognised as well-known;

3) the date since when the trademark was recognised as well-known in the Republic of Armenia.

7. Based on the decision on recognition of a trademark as well-known in the Republic of Armenia the State Authorised Body, within a period of one month, shall make a corresponding entry in the database of well-known trademarks, issue a certificate of a well-known trademark to the proprietor and publish information on the recognition of the trademark as well-known in the "Industrial Property" official bulletin.

## **Chapter 7: Collective marks and certification marks**

### **Article 32. Collective Marks**

1. Collective marks are used to distinguish goods and/or services of members of one union (group of persons, hereinafter "union") from goods and/or services of other persons. Unions of makers, producers, service providers, merchants have the right to register a collective mark, which are entitled to have rights and obligations, sign contracts and execute other legal documents, file a claim with the court, in the order established by Law.



2. Regardless of the provisions established in clause 3, paragraph 1 of Article 9 of this Law, within the meaning of paragraph 1 of this Article, collective marks may be such marks or indexes, which can serve as designations of geographical origins of goods and/or services. A proprietor of a collective mark shall have no right to prohibit the use of such marks or indexes in commercial activities of third persons, provided that the use of these marks or indexes by third persons meets the requirements of fair use in industrial or commercial activities. In particular, existence of such a trademark shall not preclude third persons from using a geographical indication.

3. Taking into consideration the provisions of Articles 33-38 of this Law, the provisions of this Law are equally applied with respect to collective marks.

4. A collective mark or an application for a collective mark may correspondingly, in accordance with the order established by the Government of the Republic of Armenia, be transformed into a person's trademark or an application for a trademark, and vice versa.

### **Article 33. Regulations for the Use of a Collective mark**

1. An applicant of a collective mark, together with the application, shall submit Regulations for the use of a collective mark to the State Authorised Body, and the Regulations shall be approved by the union, in accordance with the order established by Law.

2. Regulations for the use of a collective mark stipulate conditions of membership in a union for persons having the right to use the trademark which must be equal for all the members of the union, as well as conditions for the use of the trademark, including sanctions, if any. Regulations for the use of a collective mark, for cases provided in paragraph 2 of Article 32 of this Law, must authorise any person whose goods and/or services originate from the corresponding geographical area, become a member of the union which is the proprietor of the collective mark.

3. The State Authorised Body shall publish in the "Industrial Property" official bulletin the Regulations for the use of a collective mark, together with information on the registration of a collective mark.

### **Article 34. Refusal to Register a Collective mark**

1. Besides grounds, provided in this Law, for the refusal to register a collective mark, registration of a collective mark may be refused also if the requirements of Articles 32 and 33 are not fulfilled or if Regulations for the use of a collective mark is contrary to public interests or principles of morality.

2. Registration of a collective mark shall be refused also in cases when there is a risk of confusing the consumer regarding the nature or purpose of a trademark and especially in cases when it is not perceived as a collective mark.

3. Registration of a collective mark shall not be refused if the applicant, by making amendments in the Regulations for the use of a collective mark, eliminates unconformity to the requirements provided in paragraphs 1 and 2 of this Article.

### **Article 35. Amendments to the Regulations for the Use of a Collective mark**

1. The proprietor of a collective mark shall inform the State Authorised Body on any amendments made to the Regulations for the use of a collective mark.
2. Amendments shall not be entered in the State Register of trademarks if the amended Regulations for the use of a collective mark do not meet the requirements of Article 33 of this Law or contain grounds for refusal as established by Article 34 of this Law.
3. Amendments to the Regulations for the use of a collective mark enter into force since the date of entering a corresponding record in the State Register of trademarks.

#### **Article 36. Filing an Application for the Protection of Rights in Regard to Collective marks**

1. The proprietor of a collective mark may, on behalf of persons who have the right to use the collective mark, demand compensation for the damages caused in the course of unlawful use of the trademark.
2. Provisions of paragraphs 8 and 9 of Article 27 of this Law on the rights of a licensee are applied in relation to all persons who have the right to use a collective mark.

#### **Article 37. Grounds for the Deprivation of Rights Relating to a Collective mark**

In addition to deprivation of rights on grounds provided in this Law, a proprietor of a collective mark may be deprived of rights as a result of filing a claim or counterclaim with the court concerning protection of rights, if:

- 1) the proprietor has not taken relevant measures to prevent such use of the collective mark that contradicts the conditions provided in the Regulations for the use of a collective mark.
- 2) the manner of the use of a collective mark by its proprietor may confuse the consumer within the meaning of paragraph 2 of Article 34 of this Law.
- 3) amendments to Regulations for the use of a collective mark were recorded in the State Register of trademarks with a breach of paragraph 2 of Article 35 of this Law, with the exception of the case when the proprietor of the collective mark, by making new amendments to the Regulations for the use of a collective mark, has eliminated the occurred unconformity.

#### **Article 38. Grounds for the Invalidation of Registration of a Collective mark**

In addition to grounds for declaring invalidity, provided by this Law, a registration of a collective mark can be declared invalid as a result of filing a claim or counterclaim with the court concerning protection of rights, if it does not meet the requirements established in Article 34 of this Law, with the exception of the case when the proprietor of a collective mark, by making new amendments to the Regulations for the use of a collective mark, has eliminated the occurred unconformity.

#### **Article 39. Certification marks**

1. Certification marks may be registered with the Authorised State Body by accredited

certification bodies, which, in accordance with the procedure established by Law, certifies the conformity of goods and/or services. Certification marks may not be registered in the name of legal entities, which produce, import, sell goods or deliver services.

2. Taking into consideration provisions of this Article, provisions of this Law shall be equally applied in relation to certification marks.

3. The applicant, in addition to documents provided by Article 40 of this Law, together with the application to register a certification mark, shall submit the following documents:

1) Regulations for the use of a certification mark;

2) a permission or a document, which confirms the competence of the applicant to implement certification activities, or, in appropriate cases, the registration of the certification mark in the country of origin.

4. In accordance with Regulations for the use of a certification mark, the following are defined: persons, who shall have the right to use the trademark; those elements and characteristics that must be certified by a certification mark; the procedure for the verification of those characteristics and realization of supervision over the use of the certification mark by the certification body; punitive measures provided for breaching the Regulations; fees established for the use of the trademark; and procedures for the adjustment of disputes.

5. Using a certification mark shall be permitted to any person who provides goods or delivers services, which conform to the characteristics stipulated by the Regulations for the use of a certification mark and its requirements.

6. The proprietor of a certification mark shall permit authorised persons to use the certification mark for those goods and/or services, which conform to the characteristics stipulated by the provisions of Regulations for the use of a certification mark.

7. If a person, who has the right to use a certification mark, does not follow the provisions of the Regulations for the use of a certification mark, its right holder may withdraw the permission to use the trademark given to that person or apply other punitive measures established by the Regulations.

8. In addition to grounds for the refusal of registration of a trademark, registration of a certification mark may be refused if the mark does not comply with the provisions of paragraphs 1 and 3 of this Article, as well as with norms of legislation on certification.

9. A certification mark may not be assigned, pledged or be subject to taxation. In case of liquidation of a legal entity, which was the right holder of a certification mark, that mark may be transferred to another legal entity, in accordance with the procedure established by law.

10. In addition to grounds for the invalidation of trademarks, the registration of a certification mark may be declared invalid by the Court based on the request submitted by any party, if the registration does not comply with the requirements of paragraphs 1-9 of this Article.

11. It shall not be subject to registration or use for other purposes if the protection of a certification mark is terminated within a period of ten days after that date.

12. The State Authorized Body shall publish the regulations of the Certification Body together with the information on registration of the certification mark in its Official Bulletin “Industrial Property”.

## **Chapter 8: Registration of a trademark**

### **Article 40. Application for Registration of a Trademark**

1. The application for registration of a trademark shall be filed with the State Authorised Body in written or electronic form. The application shall be filed directly by the applicant or through his representative.

2. Natural persons, who do not have permanent residence in the Republic of Armenia, and foreign legal persons, which do not have a real and effective commercial or industrial entity in the Republic of Armenia, shall file the application and conduct proceedings provided by the procedure for the examination of applications in the State Authorised Body through trademark attorneys or other representatives. The requirements for patent attorneys established by the legislation of the Republic of Armenia shall mutatis mutandis apply to trademark attorneys.

3. The application must refer only to one trademark.

4. The application shall be filed in Armenian. Documents attached to the application may be submitted in other languages. In such case, applicants representing the Republic of Armenia must submit Armenian translations of those documents together with the application, while foreign applicants must submit corresponding translations within a period of two months from the date of filing the application.

5. The Application form, the order of completion and submission (including electronically) are established by the Government of the Republic of Armenia.

6. An application must be supplemented by the following:

1) payment receipt of the state fee for the filing of the application and its examination, as established by law;

2) document certifying the power of the representative, if the application is filed through a representative;

3) a request for claiming a priority (if necessary);

4) a permission issued by the authorized body, in cases prescribed by clauses 8 and 9 of paragraph 1 of Article 9 of this Law (if necessary);

5) consent of the proprietor, in cases prescribed by clauses 6, 7 and 8 of paragraph 1 of Article 10 of this Law (if necessary);

6) Regulations for the use of a collective mark (if necessary);

7) Regulations for the use of a certification mark (if necessary).

7. An application must contain the following:

- 1) information identifying the applicant and his representative (if any);
- 2) a distinct image (reproduction, among them, in the case of sound trademark, the pentagram) and description of the claimed sign;
- 3) a list of goods and/or services for which the registration of the mark is claimed, grouped in accordance with the Nice classification corresponding to the date of filing of the application, in ascending order of numbers of classification;
- 4) a statement that the claimed mark is three-dimensional (in appropriate case);
- 5) a statement that the claimed mark is holographic (in appropriate case);
- 6) a statement that the claimed mark is a sound mark (in appropriate case);
- 7) a statement that colour combination is the distinctive feature of the mark (in appropriate case);
- 8) a statement to the elements of the claimed mark, which are considered as unprotected (in appropriate case);
- 9) a transliteration of the mark or its verbal elements, also their Armenian translation (in appropriate case);
- 10) a statement that the claimed mark is a collective mark (in appropriate case);
- 11) a statement that the claimed mark is a certification mark (in appropriate case);
- 12) a statement on the date of priority of filing and the grounds thereof.

8. Registration of a trademark may be claimed for one or more classes of goods and/or services in one application. An additional fee shall be paid, in the order established by law, for more than one classes of goods and/or services included in the application.

#### **Article 41. Date of Filing of an Application**

1. The date of filing the application shall be established by the date, when, to the State Authorised Body, submitted the following;

- 1) a statement, which evidently or presumably makes clear that the registration of a trademark is claimed;
- 2) a statement, which makes possible to identify the applicant;
- 3) statements, which allow the State Authorised Body to communicate with the applicant or his/her representative (if any);
- 4) a quite distinct image (reproduction) of the sign in respect of which the application is filed;

5) the list of goods and/or services for which a trademark is claimed.

6) payment receipt of the state fee established by law.

2. If submitted documents do not meet the requirements of paragraph 1 of this Article, the State Authorised Body in accordance within five days from the date of receipt of those documents, a written form notify the applicant, suggesting to fulfil the requirements within a period of two month.

3. If submitted documents do not meet the requirements of paragraph 1 of this Article, and requirements of the State Authorised Body were not fulfilled within the period of time prescribed by paragraph 2 of this Article, the date of filing shall not be established, no date of filing of an application shall be recorded, the application shall be considered as not-filed and the documents submitted shall be returned to the applicant.

4. If submitted documents do not meet other requirements of paragraph 1 of this Article, but requirements of the State Authorised Body were fulfilled within a period of time prescribed by paragraph 2 of this Article, the date of receiving of the application is established by paragraph 1 of this Article, from provided elements and statements by the date of receiving of the last.

#### **Article 42. Priority of a Trademark and the Right for Priority**

1. The priority of a trademark is established by the date of filing of the application to the State Authorised Body.

2. If a person or his/her successor in title, in accordance with the established order, has filed an application to a State party to the Paris Convention or a member of the World Trade Organisation for the registration of a trademark (first application), if then from the date of filing, within a period of six months, the applicant files an application to the State Authorized Body in respect of goods and /or services or a part of goods, he/she shall enjoy the right of first application, which is established by the right of priority of a trademark (international priority).

3. If a person or his/her successor in title has exhibit goods and/or services under a trademark at an international exhibition held in a State party to the Paris Convention or a member of the World Trade Organisation (first exhibition), then, filing the application with the State Authorised Body for the same trademark for the same goods and/or services or a part of them within a period of six months from the date of the first exhibition, the applicant enjoys the right of priority (exhibition priority) to the trademark, from the date of first exhibition. An exhibition is recognised as international if it is officially organised, and if producers and service providers from several countries participate in it, and if information regarding the exhibition has been made accessible, in appropriate forms, for the public.

4. Any applicant who wishes to benefit from the right of priority, in accordance with provisions of paragraphs 2 and 3 of this Article, submits to the State Authorised Body a copy of the first application, which is certified by the body that received the first application, and its Armenian translation or the certificate received from the authority of the international exhibition, where for the first time the goods and/or services were exhibited under that

trademark. An applicant who wishes to benefit from the right of priority must submit a corresponding request together with the application or within a period of two months from the date of filing the application, and submit the listed documents within a period of three months from the date of filing the application and pay the state fee established by law.

5. If the State Authorised Body finds that the requirements established in paragraph 4 of this Article are not fulfilled, the application regarding the enjoyment of the right of priority provided in paragraphs 2 or 3 of this Article is considered as non-filed.

## **Chapter 9: The process of registration of a trademark**

### **Article 43. Preliminary Examination of an Application**

1. In accordance with Article 41 of this Law, within a period of one month from the date of filing the application, the State Authorised Body shall:

1) register the application, give the serial number and enter the information into the database of trademark applications;

2) conduct an examination of the application in the order established by the Government of the Republic of Armenia, during the process of which it shall check whether the documents of the application meet the requirements specified in Article 40 of this Law.

2. If, in the course of the preliminary examination, it is revealed that the application does not meet the requirements established in Article 40 of this Law, the State Authorised Body notifies the applicant on the necessity to eliminate all the unconformity of documents within a period of two months, as well as on the date of filing an application and its serial number.

3. If, in the course of the preliminary examination, it is revealed that the application has been filed in accordance with the requirements established in Article 40 of this Law or, within the time period established by paragraph 2 of this Article, all unconformities mentioned in the notification have been eliminated, the State Authorised Body shall make a decision on publication of the application and carrying out substantive examination. State Authorised Body shall notify the applicant about the decision made, notifying as well the number and the date of filing the application.

4. If, in accordance with the notification provided in paragraph 2 of this Article, in the case if the unconformities are not eliminated, the State Authorised Body shall make a decision to consider the application as withdrawn and notify the applicant within a period of five days.

5. In case of failure to follow the provisions of Article 42 of this Law, concerning the claim for priority, the applicant shall be deprived of his rights for claiming priority with that application.

6. At any stage of the examination of an application, the applicant or his representative may withdraw the application filed for the registration of a trademark or restrict the list of goods and/or services contained therein.

7. At any stage of the examination of an application, provided that the state fee is paid, in the order established by law, the applicant may submit a request on making changes in the application only by amending the applicant's name or forename, surname and/or seat, as well as if there is a necessity to eliminate the omissions or clarify the wording, provided that such

amendments shall not substantially change the image of the claimed mark and the list of goods and/or services for which an application was filed. The amendments in the request shall not be taken into consideration by the State Authorised Body, if such amendments shall substantially change the image of the claimed trademark or the list of goods and/or services indicated in the application, which cause the necessity to update with non-similar types of goods and/or services.

8. Goods or services may not be considered of the similar type based on registration or publication of the State Authorised Body those are included in the same class of the Nice classification.

9. Goods or services may not be considered of similar types on the grounds that in a record of registration or publication of the State Authorised Body those are included in different classes of the Nice classification.

#### **Article 44. Publication of the Application, Third Party Remarks and Oppositions**

1. The State Authorized Body shall, on the basis of the decisions on publication of the application and carrying out substantive examination in accordance with paragraph 3 of Article 43 of this Law, within a period of one month following the day of the decision, publish the application in the “Industrial Property” Official Bulletin, where the number of the application and the filing date, the forename, surname or name and the seat of the applicant, the image of the trademark claimed as well as the list of the goods and/or services for which the registration of the trademark is claimed shall be published.

2. Any person may, within a period of two months following the publication of the application, present a written remark to the State Authorized Body against the registration of the claimed trademark, stating that its registration is subject to refusal on the grounds stated by Article 9 of this Law.

3. The State Authorized Body shall, within a period of five days after receiving the remark presented in accordance with paragraph 2 of this Article, notify the applicant in written, inviting the latter to present his considerations within a period of one month following the day of receiving the notification. Where the applicant presents no considerations within the mentioned period the remarks shall be discussed on the bases of the existing materials.

4. The right holder of the trademark or well-known trademark, as well as holders of earlier rights in geographical indications or designations of origin, industrial designs or utility models, protected name or surname, pseudonym, portrait, the holders of earlier rights in copyrighted works in the field of literature, science and art protected in the Republic of Armenia and any other interested person may, within a period of two months following the publication of the application, present a written opposition to the State Authorised Body against the registration of the claimed trademark, stating that its registration is subject to refusal on the grounds established by Article 10 of this Law.

5. The opposition shall be deemed to be submitted if it is accompanied by the payment receipt of the state fee established by Law.

6. The State Authorised Body shall, within five days following the day of receipt of the opposition, examine it and in case of its conformity with the submission conditions stated in paragraph 4 of this Article, notify the applicant in written about the opposition, inviting him



to present his considerations with a period of one month after receiving the notification. Where the applicant presents no considerations within the mentioned period the opposition shall be discussed on the bases of the existing materials.

7. The opposition not complying with the conditions stated in paragraph 4 of this Article shall be deemed not presented, and the State Authorised Body shall, within five days after receiving it, notify the person presenting it.

#### **Article 45. Substantive Examination of a Trademark**

1. The State Authorised Body shall, within a period of three months from the day of publication of the application, carry out a substantive examination of the application in the order established by the Government, with the aim to check the compliance on conditions of protection established by this Law.

2. The procedure of the mentioned time period shall be suspended upon receipt of the remark or opposition stated in paragraphs 2 and 4 of Article 44 of this Law within the time period stated in paragraph 3 and 6 of the same Article. In case of receiving more than one remark or opposition with regard to the same application, the start date of suspension shall be considered the date of sending the first one, and the end shall be considered the date of receiving the last one, conditioned with the termination of the time period stated in paragraph 3 or 6 of Article 44 of this Law .

3. The State Authorised Body examines the following according to the 1 paragraph of this Article:

1) existence of absolute grounds for refusal of registration provided by Article 9 of this Law;

2) existence of relative grounds for refusal of registration provided by Article 10 of this Law (based on information at its disposal).

3) remarks and oppositions received in accordance with paragraphs 2 and 4 of Article 44 of this Law.

4. The State Authorised Body shall carry out the examination and make decision on registration of the claimed trademark on the bases of the results of examination in accordance with paragraph 3 of this Article, taking into consideration the decision (if any) mentioned in paragraph 4 of Article 46 of this Law. The State Authorised Body shall, within a period of five days, notify, in written form, the applicant or his representative (if any), as well as the person presenting remark or opposition about the decision made in the result of examination.

5. If, in the course of an examination, it reveals that:

1) a claimed mark is not subject to registration on the absolute and/or relative grounds for refusal established in Article 9 and/or Article 10 of this Law for all goods and/or services listed in the application for registration, the State Authorised Body shall make a decision on refusal the registration of the claimed mark;

2) a claimed mark is not subject to registration on absolute and/or relative grounds for refusal established in Article 9 and/or Article 10 of this Law for a part of goods and/or services listed

in the application for registration, the State Authorised Body shall make a decision on registration of claimed mark, in respect of the rest of the goods and/or services listed in the application (a partial registration).

3) registration of a claimed mark, is not subject for refusal as a result of absence of absolute and/or relative grounds for refusal established in Article 9 and/or Article 10 of this Law for the goods and/or services listed in the application for registration, the State Authorised Body shall make a decision on the registration of claimed mark, in respect of all the goods and/or services listed in the application.

6. Decisions on refusals of the State Authorised Body must be justified. Decisions made in accordance with clauses 1 and 2 of paragraph 5 of this Article must indicate all the reasons and grounds.

7. Where the trademark contains an element which is not distinctive, and may not be registered separately as a trademark on the grounds established in Article 9 of this Law, and where the inclusion of said element in the trademark could raise doubts as to the extent of protection of the trademark, and where the applicant has not declared on self-protection of the trademark thereof, the State Authorised Body shall notify the applicant, suggesting, within a period of three months, to provide a declaration on the refusal of claiming of exclusive right in respect of those elements.

8. Where the applicant, within the time period provided in paragraph 7 of this Article, fails to submit the declaration or the request concerning only to a part of the said elements, the State Authorised Body shall make a decision on the refusal of registration of the trademark.

9. In accordance with paragraph 7 of this Article, in case of receiving a declaration the State Authorised Body, within the established time period, shall indicate that fact in the decision on the registration of a trademark, and together with the information on trademark registration, publish the information on non-accordance of self-protection to those elements.

10. The applicant or his representative shall have the right to submit a request, containing solid arguments, on re-examination to the State Authorised Body within two months from the day of receiving of the decision on refusal of the registration or the decision on a partly registration of a trademark.

11. The State Authorised Body shall, within a period of two months, following the day of receipt of re-examination, examine the arguments and make a decision on invalidation of the previous decision and register the trademark in respect of all or only for a part of the goods and/or services listed in the application or keep valid the decision on refusal of the registration of the trademark or the decision on a partial registration.

12. As a result of re-examination, within a period of five days, the State Authorised Body shall notify the applicant or his representative (if any), in a written form, on the decision made.

13. The application for the registration of a trademark shall not be refused before the applicant has been given the opportunity to withdraw or make changes in the application or provide facts to support the registration of the trademark.

#### **Article 46. Examination of Remarks and Oppositions**

1. The State Authorized Body shall carry out a substantive examination on considerations presenting by the applicant with respect to remarks and oppositions within the time period established by paragraphs 3 and 6 of Article 44 of this Law in compliance with the requirements stated in the Rules on examination of trademark.

2. The examination of remark shall, in case of presenting a justified request by the applicant, be suspended before the end of term mentioned in the request.

3. The examination of opposition shall be suspended in the cases and time periods as follows:

(1) an earlier application for registration of trademark or industrial design has opposed with the claimed trademark;

(2) the earlier trademark or industrial design which lies under the opposition if its registration in the process of invalidation or cancellation until a final decision on the case is made;

(3) one of the parties has submitted a justified request before the end term mentioned in it. The examination of opposition shall be recommenced after the re-examination of the grounds of suspension.

4. The State Authorised Body shall, in the result of examination of remark and opposition, make one of the following decisions:

(1) on satisfying the remarks or oppositions in whole or in part and refusal of registration of the trademark with respect to all goods and/or services listed in the application;

(2) on refusal of remarks or oppositions.

5. The decisions mentioned in paragraph 4 of this Article shall be considered for making a decision on examination of a trademark in accordance with Article 45 of this Law, about which as well the person submitting remarks or oppositions shall be notified within a period of five days. In case of non-agreement with a mentioned decision the person submitting the remark or opposition may, dispute the registration of the trademark in the order established by Articles 22 or 23 of this Law.

#### **Article 47. Appeals Against a Decision on Refusal of Registration of a Trademark or Partial Registration of a Trademark**

An applicant or his representative may appeal the decision on refusal of the registration of the trademark or partial registration of the trademark, made by the State Authorised Body after the re-examination, applying to the Board of Appeals, within three months from the day of receiving of the decision.

2. The appeal shall be considered as filed, if provided a payment receipt of state fee established by law.

3. In the course of examination of the appeal, the Board of Appeals shall make the following decisions:

1) to uphold the appeal in whole or partly and to register the claimed trademark in respect of all or a part of the goods and/or services;

2) to refuse the appeal and leave into force the decision of re-examination on refusal or partial registration of a trademark.

4. The decision made by the Board of Appeals shall enter into force from the date of it was made. The decision of the Board of Appeals shall be sent or handed over to the appellant within a period of ten days.

5. The applicant or his representative may oppose the decision of the Board of Appeals judicially, within period of six months from the date of receiving the decision.

#### **Article 48. Registration of a Trademark**

1. In accordance with paragraphs 5 and 11 of Article 45, as well as paragraph 3 of Article 47 of this Law, if the State Authorised Body makes a decision on registration of the trademark in respect of all or a part of the goods and/or services listed in the application, it shall, within ten days, notify the applicant or his representative on the necessity to pay the state fee established by Law and to provide the payment receipt, within a period of three months from the date of receiving the notification.

2. If the State Authorised Body does not receive the payment receipt of the state fee established by law within the said period or within a later period established by Law, it shall consider the application as withdrawn and notify the applicant or his representative about the decision within a period of ten days.

3. Within one month from the date of receiving the payment receipt of the state fee established by law, the State Authorised Body shall enter the registration of the trademark in the State Register under a serial number. The image of the trademark, information on its right holder, dates of priority and registration of the trademark, the list of goods and/or services for which trademark is registered, and other information established by paragraph 2 of Article 50 of this Law.

4. Within two months from the date of registration of the trademark in the State Register the State Authorised Body shall publish information concerning the registration of the trademark in the "Industrial Property" official bulletin.

#### **Article 49. Certificate of Registration of a Trademark**

1. The State Authorized Body shall, within a period of one month after the publication of information according to paragraph 4 of Article 48 of this Law, hand (in case of necessity by post) a registration certificate to the proprietor of the trademark or his representative. The form of the certificate and the list of contained information shall be established by the Government of the Republic of Armenia.

2. The Certificate of registration of a trademark is a legal document certifying the entry of the trademark in the State Register and the exclusive rights of the proprietor of the mark to the registered trademark in respect of goods and/or services listed in the certificate.

3. If the proprietor of the trademark loses the certificate of registration of the trademark or it becomes unusable, the proprietor of the trademark may submit a request to the State Authorised Body requesting issuance of a duplicate of the certificate, attaching the payment

receipt of the state fee established by law.

4. Where a trademark is registered in the name of more than one person the management, possession and use of the exclusive rights in trademark shall be regulated by the contract signed between those persons. In the absence of contract the disputes shall be solved judicially.

5. If the registration of a trademark is declared invalid or null, the court adjudicates to declare the certificate of registration of a trademark void.

#### **Article 50. The State Register**

1. The State Authorised Body maintains the State Register where the information provided by the Government of the Republic of Armenia as well as by this Law is entered. Information on any entry into the State Register or any subsequent change of an entry shall be published in the "Industrial Property" official bulletin.

2. The list of data to be included in the State Register and the procedure of maintenance of the State Register shall be established by the Government of the Republic of Armenia .

3. Any person shall have a right to use data contained in the State Register, and their accessibility is provided by the State Authorised Body.

4. Pursuant to a request submitted by any person, provided that the state fee established by law is paid, the State Authorised Body, in accordance with the procedure established by the Government of the Republic of Armenia, provides extracts from the State Register.

#### **Article 51. Separation (division) of an application or a registration of a trademark**

1. Any application, which is filed for two or more goods and/or services, can be separated, based on the applicant's request, into two or more applications (hereinafter separate applications), sharing the goods and/or services listed in the basic application among those applications. Such an application may be filed to the State Authorised Body:

1) prior to the making a decision by the State Authorised Body on the registration or refusal of registration of a trademark at any phase of examination of the application;

2) at any phase of consideration of appeals against a decision on registration of a trademark;

2. Any registration of a trademark, which has been done for two or more goods and/or services, may be separated, based on a request of the proprietor of the trademark, into two or more registrations (hereinafter separate registrations), sharing the goods and/or services listed in the basic registration among those registrations. Such a separation is allowed:

1) during any process implemented in the State Authorised Body, which is related to consideration of appeals filed by third parties against registration of a trademark;

2) during any process, which is connected to an appeal to the decision made by the State Authorised Body in accordance with the earlier procedure.

3. Separate applications and separate registrations maintain the date of basic application or the

date of registration of the trademark, and the priority date, if any.

4. The payment receipt of the state fee established by law shall also be submitted together with the request on separation of an application or a trademark.

5. An application or registration of a trademark shall be considered separate since the date of making a corresponding entry in the database of applications or the State Register.

6. The State Authorised Body publishes the information on separate registrations in the "Industrial Property" official bulletin.

7. The form of request on separation of an application or separation of a registration of a trademark and the procedure for the submitting of the request shall be established by the Government of the Republic of Armenia.

8. In case of raising of solid doubts concerning any confidence of a sign or index pursuant to this Article, the State Authorised Body may demand relevant evidences

9. A request may not be refused unless the person who submits the request has not received an opportunity to present arguments to support separation of an application or a registration of a trademark.

#### **Article 52. Making Changes in the Application and in the State Register**

1. The applicant or the proprietor of the trademark must notify the State Authorised Body of the following:

1) changes in his name or forename, surname or the seat (address);

2) changes of his representative or his seat (address);

3) changes on detached non-essential elements of claimed or registered trademark where, in the opinion of the State Authorised Body, the change will not affect the distinctive feature of the trademark;

4) reduction of the list of goods and/or services;

5) change of the applicant or the proprietor of the trademark;

6) changes on correction of technical omissions.

2. Changes made in the request or in the State Register shall be attached to the request and submitted to the State Authorised Body by the payment receipt of the state fee established by law.

3. The form of a request on making changes in the State Register or in the application shall be established by the Government of the Republic of Armenia.

4. The State Authorised Body shall carry out an examination within one month from the date of receiving the request on making changes in the State Register or application, in case if the requirements provided by the paragraphs 1-3 of this Article are met, to set entries into

database of applications or State Register.

5. Changes made in the State Register shall enter into force from the date of their entering and shall be published by the State Authorised Body in the "Industrial Property" official bulletin.

6. A request may not be refused unless the person who has submitted the request obtains an opportunity to provide arguments to support the changes made in the application or in the State Register.

7. The State Authorised Body shall set corresponding entries in the database of applications and the State Register and correct the omissions that it was made on its own initiative or based on a request without charging the state fee.

8. If a request submitted in accordance with this Article causes solid doubts regarding the existence of an omission or a change being made, the State Authorised Body may demand relevant evidence.

#### **Article 53. Removal of a Trademark from the State Register**

1. A trademark shall be excluded from the State Register if:

- 1) the registration of the trademark is declared invalid or void by a court decision;
- 2) the registration of the trademark has not be renewed according to the procedure provided by Article 19 of this Law;
- 3) the proprietor of the trademark has applied to exclude the trademark from the State Register;
- 4) the proprietor of the trademark has been liquidated.

2. The State Authorised Body shall exclude the trademark from the State Register, if it has received:

- 1) an effective court decision to declare the registration of the trademark invalid or void;
- 2) a written request of the proprietor of the trademark to exclude the trademark from the State Register;
- 3) a notice provided by the State Authorised Body, stating that the proprietor of the trademark has been liquidated.

3. In case of failure to renew the registration of the trademark according to the procedure provided by Article 19 of this Law, the trademark shall be exclude from the State Register on the initiative of the State Authorised Body.

4. Information on exclusion of the trademark from the State Register shall be published in the "Industrial Property" official bulletin.

#### **Article 54. Restitution of Rights**

1. The applicant, proprietor of a trademark or any other party of the procedure at the State Authorised Body, despite the fair undertaken measures, was unable to keep a time limit for exercising of the procedure at the State Authorised Body, may submit a request for restitution of rights if the lapse of time leads into direct loss of any right or an opportunity for appeal in accordance with this Law.
2. The request for restitution of rights shall be submitted to the State Authorised Body in a written form within two months from the date of termination caused by lapse of time, during the process of which the unexecuted actions shall be recovered. The request on restitution of rights may be submitted not later than within one year from the date of termination of lapse of time.
3. The request on restitution of rights must be argued and include facts and evidences, which will justify the non-compliance with the time limit. The request shall be deemed to be submitted after receiving a payment receipt of the state fee established by law.
4. Provisions of this Article shall not apply with respect to those time limits, which are established in paragraphs 2 and 4 of Article 44, Article 63, as well as in paragraph 2 of this Article.
5. A restitution of rights is not allowed in the case when in the time period from the date of termination of rights in respect of an application or a trademark until the date of submission of a request for the restitution of rights another application for a registration of a trademark has been filed, which, in accordance with this Law, may be opposed.
6. Where the proprietor of a trademark whose rights were restored, may not present a claim to a third party who in respect of the trademark from the date of termination until the official publication of the information on restitution of rights, in good faith, has put goods on the market or supplied services under a sign which is identical with or similar to the trademark as to lead into confusion.
7. A third party referred to in paragraph 6 of this Article may, within a period of two months from the date of publication of the information on restitution of the rights, appeal to the Board of Appeals against the decision on restitution of rights of the proprietor of a trademark, provided that the established state fee is paid.
8. A request of a third party referred to in paragraph 6 of this Article may not be refused unless the person who has submitted the request obtains an opportunity to present arguments to support the restitution of rights.
9. In case to cause of solid doubts concerning any confidence of a sign or index pursuant to this Article, the State Authorised Body may demand relevant evidences.

#### **Article 55. Extension of Time Limits and Restoration of Lapse of Time**

1. A proprietor of the trademark or an applicant or any other party of the procedure in the State Authorised Body may:

- 1) Prior to the expiry of the initial term, submit a request to the State Authorised Body for the



extension of time limit for the fulfilment of a procedural action;

2) In case of non-compliance with a time within two months from the date of expiry of the initial time limit, submit a request to the State Authorised Body on restoration of lapse of time and continuation of the process to provide the unexecuted action within a period of two month.

2. Extension of time pursuant to clause 1 of paragraph 1 of this Article must not exceed six months from the date of completion of established time limits.

3. The request for the fulfilment of actions provided by paragraph 1 of this Article shall be considered as submitted only if a payment receipt of the state fee established by law is received.

4. Provisions of this Article shall not apply to the time limits, which are established in paragraph 1 of this Article, as well as in paragraph 4 of Article 19 of this Law, paragraph 2 of Article 41, paragraphs 2, 3 and 4 of Article 42, paragraph 2 of Article 43, paragraph 5 of Article 47, paragraphs 2 and 4 of Article 44, paragraph 5 of Article 46, Article 62 and clause 1 of paragraph 2 of Article 65.

5. A request may not be refused unless the person who has submitted the request obtains an opportunity to present arguments to support the extension of time limits or restoration of lapse of time.

#### **Article 56. Registration of a Trademark in Foreign States**

Persons who have residence in the Republic of Armenia shall have the right to register a trademark in foreign countries or implement its international registration.

### **Chapter 10: International registration of trademarks**

#### **Article 57. Basic Provisions**

Provisions of this Law shall be applied mutatis mutandis with respect to international registrations provided in accordance with the Madrid Protocol or the Madrid Agreement for which the Republic of Armenia is the country of origin or which are in force in the Republic of Armenia, unless international agreements provide otherwise.

#### **Article 58. International Application**

1. An international application for a trademark registered in the State Register of Trademarks, pursuant to Article 3 of the Madrid Agreement, or, where appropriate, an international application for a trademark entered in the database of trademarks or registered in the State Register, pursuant to Article 3 of the Protocol Relating to the Madrid Agreement, whereas the country of origin is the Republic of Armenia, shall be filed with the International Bureau by the State Authorised Body.

2. The international application referred to in paragraph 1 of this Article may be filed by any person, who has a real and effective commercial or industrial entity in the territory of the Republic of Armenia, or, if there is no such an entity, has a residence in the Republic of Armenia, or, if there is no residence in the Republic of Armenia, is a citizen of the Republic of Armenia or whose country of origin is the Republic of Armenia.

3. The date of registration of a trademark in the State Register shall be considered as the date of filing of an international application based on a registered trademark, if it was filed with the State Authorized Body prior to the date of registration of the trademark.

4. An international application must be composed in accordance with General Instructions and must include special notes regarding the countries, for which the protection of international registration or territorial extension of protection is sought.

#### **Article 59. Fees for International Registration**

1. For filing an application for an international registration state fees established by law and by the Madrid Agreement and/or the Protocol Relating to the Madrid Agreement shall be paid. State fees established by law shall be transferred to the State budget, and fees provided by the Madrid Agreement and by the Protocol Relating to the Madrid Agreement shall be transferred to the International Bureau.

2. Failure to pay state fees referred to in paragraph 1 of this Article and failure to make payments shall result in declaring the international application as not filed.

#### **Article 60. The process of Examination of an International Application by the State Authorized Body**

1. Within one month from the date of receiving of an international application, the State Authorized Body shall make a consideration and examination on conformity of application documentation in order provided by the provisions of paragraph 4 of Article 62 of this Law, and conformity of information included in the application with data contained in the State Register or, in appropriate cases, data contained in the database of applications for trademarks.

2. If an international application meets the requirements of this Law and conditions provided by General Instructions, the State Authorized Body shall note the date of filing the application with the State Authorized Body, and afterwards shall send one copy of the application to the International Bureau, and another copy – to the applicant, as a verification of the receiving of the application.

3. The date of international application, for which the Republic of Armenia is the country of origin, shall be considered the date of filing an international registration with the State Authorized Body within the meaning of paragraph 4 of Article 3 of the Madrid Agreement, or, where appropriate, within the meaning of paragraph 4 of Article 3 of the Madrid Protocol, provided that the International Bureau has received the application within a period of two month. Otherwise, the date of international registration shall be considered the date of receiving of the international application by the International Bureau.

4. If errors or lapses are revealed in accordance with the provisions of paragraph 1 of this Article, for the elimination of which consent of the applicant is required, in particular, correction of the list of goods and/or services, the State Authorized Body shall notify the applicant about it and suggest to correct errors or lapses within a period of reasonable time, taking into consideration provisions of paragraph 3 of this Article.

## **Article 61. Request for Subsequent Designation**

1. The proprietor of an international registration, for which the Republic of Armenia is the country of origin, may later submit a request for territorial extension of the registration noting one or more countries, which have not been mentioned in the prior international application, for all or a part of goods and/or services listed in the international registration, by submitting, through the State Authorized Body, a corresponding request to the International Bureau.
2. The payment receipt of the state fee established by law shall be presented as an attachment to the request referred to in paragraph 1 of this Article.
3. Provisions of paragraph 2 of Article 63 and Article 64 of this Law shall be applied mutatis mutandis with respect to the request for subsequent designation.
4. Subsequent territorial extension of protection shall enter into force since the date of making a corresponding entry in the International Register and shall be terminated at the same time with the termination of the corresponding international registration.

## **Article 62. Process Relating to International Registration Notified by the International Bureau**

1. A process of filing remarks and oppositions according to Article 44 of this Law and a process of conducting an substantive examination in accordance with Article 45 of this Law shall be applied, based on the same conditions that are provided for applications directly filed with the State Authorized Body, with respect to any notification of international registration received from the International Bureau, in which the Republic of Armenia is designated or in appropriate cases that refer to subsequent territorial extension of protection with respect to the Republic of Armenia.
2. Remarks and oppositions against an international registration with designation of the Republic of Armenia or territorial extension with respect to the Republic of Armenia may be filed with the State Authorized Body, within six months from the date of official publication of information on international registration or territorial extension with respect to the Republic of Armenia by the International Bureau. Submitted remarks and oppositions shall be considered in the order established by Article 46 of this Law.
3. If, in the course of examination of a trademark in accordance with paragraph 1 of this Article it is revealed that the international registration does not meet the requirements of this Law, or if remarks or oppositions have been submitted against the international registration in question, which has been upheld in whole or partly, the State Authorized Body makes a decision on a preliminary refusal to provide legal protection in the Republic of Armenia to the trade mark for all goods and/or services or, in appropriate cases, for a part of goods and/or services and notifies the International Bureau about it.
4. Following the decision on a preliminary refusal referred to in paragraph 3 of this Article, any process provided by this Law between the State Authorized Body and the proprietor of the trademark shall be conducted through a representative of the latter, unless international agreements, which the Republic of Armenia is a party to, provide otherwise.
5. Pursuant to the final decision regarding an international registration, the State Authorized Body shall notify the International Bureau of the following:

1) refusal to provide legal protection to a trademark for all goods and/or services listed in the international registration, or

2) providing legal protection to a trademark for part of the goods and/or services listed in the international registration, or

3) providing legal protection to a trademark for all goods and/or services listed in the international registration.

6. The State Authorized Body in the established order shall notify the International Bureau of all final decisions of the courts that refer to international registration

#### **Article 63. The process of International Registration in the Republic of Armenia**

1. Any international registration, where the Republic of Armenia is designated, started from the date of international registration or, in appropriate cases, from the date of subsequent designation of the Republic of Armenia, shall have the same effect as in cases if a trademark would have been submitted for registration directly to the State Authorised Body.

2. If the State Authorized Body fails to notify the International Bureau of a refusal of registration pursuant to paragraph 3 of Article 62 of this Law, or if a refusal has been revoked partly or in whole, from the date provided in paragraph 1 of this Article, the protection of a trademark in the Republic of Armenia shall be the same as in cases where a trademark has been registered directly with the State Authorised Body.

3. If protection of a trademark has been refused in accordance with clause 1 of paragraph 5 of Article 62 of this Law, it shall be considered that the current international registration has not been granted validity in the Republic of Armenia in accordance with paragraphs 1 and 2 of this Article.

#### **Article 64. Replacement of a National Registration of a Trademark by an International Registration**

Upon request of the proprietor of a trademark which earlier has been registered in the State Register of TradeMarks, the State Authorised Body, in accordance with Article 4bis of the Madrid Agreement and Article 4bis of the Protocol Relating to the Madrid Agreement, shall take notice replacement of the registration of that trademark for the same goods and/or services, in the name of the same proprietor, by a subsequent international registration extended to the Republic of Armenia. Information regarding the replacement shall be entered into the State Register without infringing the rights of the proprietor acquired earlier.

#### **Article 65. Conversion of an International Registration into a National Application**

1. Pursuant to the Protocol relating to the Madrid Agreement, a proprietor of an international registration where the Republic of Armenia is designated, in accordance with Article 9 quinquis of the Madrid Protocol, may apply to the State Authorised Body with a request for a conversion of an international registration into an application for registration of the same trademark, if, based on a request from the State Authorised Body of the country of origin, the international registration is terminated for all or a part of the goods and/or services listed in

the corresponding registration.

2. The application provided in paragraph 1 of this Article shall be examined through the same procedure as would have applied if it were submitted directly to the State Authorised Body on the day of international registration, or on the day of subsequent territorial extension to the Republic of Armenia. And if the internationally registered trademark has received priority, then a trademark presented by the above mentioned application shall enjoy the same priority, provided that:

1) the application has been filed within three months from the date of removal of the international registration from the International Register;

2) goods and/or services listed in the application include goods and/or services listed in the international registration with respect to the Republic of Armenia;

3) the application meets the requirements established by this Law;

4) the payment receipt of the state fee established by the Law is attached to the application.

3. A document provided by the International Bureau must be presented as an attachment to the Application for Conversion, which must contain the image of the trademark and the list of goods and/or services, for which the Republic of Armenia has been noted prior to the exclusion of the international registration from the International Register.

4. If, on the day of exclusion of the international registration from the International Register, the time limit for notifying of a preliminary refusal provided by paragraph 2 of Article 5 of the Protocol Relating to the Madrid Agreement has been expired, and if as of that date the State Authorised Body has not made a decision on refusal and there is no court claim regarding termination of protection of the trademark in question, the process shall not be applied pursuant to Article 62 of this Law, and the State Authorised Body carries out the registration of the trademark in accordance with Article 48 of this Law.

## **Chapter 11: Transitional provisions and entry into force of this law**

### **Article 66. Transitional Provisions**

1. Before the entry into force of this Law, registrations of registered trademarks shall continue to keep valid in accordance with the requirements established by this Law.

2. Trademarks including designations of origin, the registration of which with regard to the designation of origin was made before the entry into force of this Law, shall be complied with the requirements established by this Law and by the Law of the Republic of Armenia “On Geographical Indications” before December 31, 2010.

3. The validity of registrations of trademarks, which have not been brought to conformity with the requirements pursuant to paragraph 2 of this Article, shall be terminated, as of January 1, 2011.

4. Examination of applications filed with the State Authorised Body, before the entry into force of this Law, the preliminary examination of which is in process shall be conducted in the order established by this Law.

5. Examination of applications filed with the State Authorised Body, before the entry into force of this Law, the preliminary examination of which is fulfilled, shall be conducted in the order established by this Law, without application of provisions established by Article 44, paragraph 2 of Article 45, clause 3 of paragraph 3 of Article 45 and Article 46 of this Law.

6. The Law of the Republic of Armenia “on Trademarks, Service Marks, and Appellations of Origin” (HO(ՀՕ)-41) adopted on March 20, 2000 shall be declared invalid.

**Article 67. Entry into Force of this Law**

This Law shall come into force since July 1, 2010.

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