



Rules for the Recognition of a Trademark as a Well-Known Trademark in the Republic of Belarus

Order No. 2, dated August 9, 2001

Approved by the State Patent Committee of the Republic of Belarus

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The present Rules for the Recognition of a Trademark as a Well-Known Trademark in the Republic of Belarus (hereinafter referred to as “the Rules”) are laid down pursuant to Article 5, paragraph (1), subparagraph 1.3 of the Law of the Republic of Belarus on Trademarks and Service Marks No. 2181-XII (hereinafter referred to as “the Trademark Law”), dated February 5, 1993 (published in the *Vedomosti* [Gazette] of the Supreme Council of the Republic of Belarus, 1993, No. 13, Article 128; registered in the National Register of Legal Acts, 2000, No. 106, 2/222) and determine the procedure for and requirements in respect of the recognition of a trademark as a well-known trademark in the Republic of Belarus by virtue of Article 2, paragraph (1) of the Trademark Law, and Article 6*bis*, paragraph (1) of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as “the Paris Convention”), dated March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967, and as amended on October 2, 1979.

Chapter 1 General Provisions

1. For the purposes of these Rules, a trademark well known in the Republic of Belarus shall be understood to mean a trademark protected on the territory of the Republic of Belarus by virtue of its state registration, or a trademark enjoying protection on the territory of the Republic of Belarus without registration by virtue of an international treaty to which the Republic of Belarus is party, which trademark was recognized as such pursuant to the procedure established by the present Rules.

2. A trademark recognized as a well-known trademark in the Republic of Belarus may, in accordance with Article 25, paragraph (1), subparagraph 1.2 of the Trademark Law, and Article 6*bis* of the Paris Convention, serve as a basis for rejecting another party’s request for



the registration of such party's trademark, or invalidating the registration of another party's trademark, which is identical with or confusingly similar to the well-known trademark, intended for use in respect of any goods and/or services.

3. The determination of whether a trademark is a well-known trademark in the Republic of Belarus shall be made by the Examination Appeal Board of the State Patent Committee of the Republic of Belarus (hereinafter referred to as "the Appeal Board") and based on the results of the examination of an application for the recognition of a trademark as a well-known trademark in the Republic of Belarus.

4. The examination of an application for the recognition of a trademark as a well-known trademark in the Republic of Belarus shall be governed by the "Rules for the Filing of Complaints and Oppositions and Review Thereof by the Examination Appeal Board of the State Patent Committee of the Republic of Belarus" approved by Order No. 1, dated May 17, 2001, of the State Patent Committee of the Republic of Belarus (registered in the National Register of Legal Acts, 2001, No. 55, 8/6151), and by these Rules.

Chapter 2

Application for the Recognition of a Trademark as a Well-Known Trademark

5. The application for the recognition of a trademark as a well-known trademark (hereinafter referred to as "the application") shall be filed with the Appeal Board by the owner which deems its trademark as well known, or by its representative duly authorized to do so (hereinafter referred to as "the applicant").

6. The application shall indicate from what date the applicant deems its trademark as well known on the territory of the Republic of Belarus.

7. The application shall contain information with respect to factors from which it may be inferred that the trademark is well known. That information may, for example, include information concerning the following:

7.1. the degree of knowledge or recognition of the trademark in the relevant sector or sectors of the public in the Republic of Belarus, in particular, the degree of recognition of the trademark by actual and/or potential consumers of the relevant goods;

7.2. the duration, extent and geographical area of any use of the trademark on the territory of the Republic of Belarus. Information to this effect may include the following: the date of commencement of the trademark's use; a list of locations where goods and/or services have been sold, in respect of which the trademark has been used; the sales volumes of such goods and/or services; the manner in which the trademark was used; the mean annual number of consumers of such goods and/or services; the market position of the manufacturer in a particular economic sector, etc.;

7.3. the duration, extent and geographical area of any promotion of the trademark, including advertising or publicity and the presentation, or fairs or exhibitions, of the goods and/or services to which the trademark applies;



7.4. the duration and number of any registrations, and/or any applications for registration, of the trademark in foreign countries, to the extent that they reflect use or recognition of the trademark;

7.5. the extent to which the trademark was recognized as well known in any foreign country, including the country from which the trademark originates or from which the owner of the trademark comes;

7.6. the value associated with the trademark;

7.7. the results of a poll among consumers of the relevant goods and/or services on whether the trademark is well known, to be conducted by an independent specialized agency.

7.8. The applicant may provide any other information with respect to factors from which it may be inferred that the relevant trademark is well known in the Republic of Belarus.

8. Any information submitted by the applicant shall be confirmed by appropriate documents.

9. Five copies of a depiction of the trademark shall be attached to the application and filed together therewith. These shall be made on dense and durable paper (a photograph, a print, etc.), its size being 8cm by 8cm.

If the designation is a label, then the label itself may be attached.

If a designation is three-dimensional, then, where appropriate, an overall view thereof shall be filed together with all necessary projections of the filed designation in order to enable viewers to get a conclusive impression thereof, and the life-sized trademark itself.

Any designation shall be filed in such color or color combination in respect of which it is claimed that the trademark is well known.

Graphically, any such depiction shall be of high quality.

10. The application shall be accompanied by a document attesting payment of the prescribed fee.

Chapter 3

Review of the Application

11. In considering the application, the Appeal Board shall take into account all the information submitted to it by the applicant in accordance with Chapter 2, clause 7 of these Rules.

12. Where appropriate, the applicant may be requested to provide the Appeal Board with additional information in confirmation of the fact that the applicant's trademark is indeed well known in the Republic of Belarus.

13. The applicant is not permitted to attach additional material to the application on his own initiative if such material contains the applicant's request for the recognition of its



trademark as well known beginning from a date other than the date indicated in the application later than one month before the date when the Appeal Board meets for the first time in respect of the relevant trademark.

14. The trademark shall be recognized as well known in the Republic of Belarus where the Appeal Board ascertains that factual material provided by the applicant in order to ground its claims is sufficient to confirm that the applicant's trademark is well known in the Republic of Belarus.

Where the Appeal Board ascertains that information provided by the applicant is insufficient to confirm that the applicant's trademark is well known in the Republic of Belarus, the application shall be refused.

15. Where information submitted by the applicant fully confirms that its trademark is well known in at least one relevant sector of the public in the Republic of Belarus, such trademark shall be recognized as well known in the Republic of Belarus. Relevant sectors of the public may, in particular, include:

15.1. actual and/or potential consumers of the type of goods and/or services to which the trademark applies;

15.2. persons involved in channels of distribution of the type of goods and/or services to which the trademark applies;

15.3. business circles dealing with the type of goods and/or services to which the trademark applies.

16. The trademark may be recognized as well known in the Republic of Belarus from a date other than the date indicated in the application if factual material submitted by the applicant fails to confirm that the applicant's trademark is well known as from the date indicated in the application.

Chapter 4

Decision of the Appeal Board

17. In the event that the Appeal Board decides to approve the application and recognize the trademark as well known in the Republic of Belarus, such decision shall contain the following information:

- the date of the decision;
- a depiction of the well-known trademark;
- the date from which the trademark is recognized as well known in the Republic of Belarus;
- the name of the owner of the well-known trademark and the address of its location or residence.



18. In the event that the Appeal Board decides to refuse the application, such decision shall state the grounds on which the refusal is based.

19. Any interested party may lodge a request for appeal against the decision of refusal of the Appeal Board in accordance with the legislation concerning the filing of complaints against the Appeal Board's decisions.

Chapter 5

Publication of Information of the Well-Known Trademark

20. The trademark recognized as well known shall be entered in the List of Well-Known Trademarks in the Republic of Belarus. The List shall be kept by the State Patent Committee of the Republic of Belarus.

21. The State Patent Committee of the Republic of Belarus shall, immediately after the decision of the Appeal Board takes effect, publish information relating to the recognition of the trademark as well known in its official bulletin. The publication shall include the following:

- a depiction of the well-known trademark;
 - the name of the owner of the well-known trademark;
 - the effective date of the decision to recognize the trademark as well known in the Republic of Belarus;
 - the date from which the trademark is recognized as well known in the Republic of Belarus.
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