

**Law on Trademarks**  
**(No. 137 of June 21, 1995)**

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**Part I**  
**General Provisions**

**1.** A trademark is a sign that consists of words, letters, numerals, drawings or the shape of goods or their packaging, or a combination thereof, intended to distinguish goods or services of various undertakings and registered in the Trademark Register (hereinafter referred to as “the Register”) kept by the Industrial Property Office (hereinafter referred to as “the Office”).

**2.—(1)** The following are excluded from registration:

(a) a sign that is not capable of being represented graphically;

(b) a sign that is devoid of the ability to distinguish goods or services;

(c) a sign that consists exclusively of signs or indications serving in trade to designate the kind, quality, quantity, intended purpose or value of goods or services, and of indications of geographical origin or of the time of production of the goods or rendering of the service;

(d) a sign that consists exclusively of signs or indications that have become customary in everyday language or in the *bona fide* and established practices of the trade;

(e) a sign that consists exclusively of the shape of goods, results from the nature of the goods themselves or is necessary to obtain a technical result or gives substantial value to the goods;

(f) a sign that is contrary to public policy or to accepted principles of morality;

(g) a sign that is capable of deceiving the public, notably as to the nature, quality or geographical origin of the goods or services;

(h) a sign the use of which would be contrary to the obligations of the Czech Republic under international treaties.

(2) A sign as referred to in paragraph (1)(b) to (d) may be registered if the applicant proves that it has acquired distinctive character in relation to his goods or services following its use in business, such use having started at least two years before the filing of the trademark application (hereinafter referred to as “the application”).

**3.—**(1) The Office shall not register a sign identical to a trademark that is applied for or registered by another owner for identical or similar goods or services with earlier priority rights, or including elements of a mark that is applied for or registered with which it is liable to cause confusion.

(2) The Office shall not register a sign identical to a trademark that has lapsed according to Article 24(1)(a) where the application is filed before the expiration of a period of two years from the date of lapse of the trademark, unless registration of the mark is applied for by the person in whose name the trademark was registered on the day when it lapsed or by his successor in title.

(3) The Office shall not register a sign infringing legally protected earlier rights of third parties on receipt of duly and reasonably declared objections under Article 9.

## **Part II** **Trademark Application Procedure**

### *Trademark Application*

**4.—**(1) Registration of a sign as a trademark on the Register (hereinafter referred to as “registration of a trademark”) shall be requested by the filing of an application with the Office.

(2) The application may be filed by any natural or legal person (hereinafter referred to as “the applicant”) in relation to goods and services covered by his economic activity on the filing date of the application.

**5.—**(1) The application shall contain:

(a) the request for registration of a trademark;

(b) the forename and surname or title of the applicant or his trade name, the address of his residence and place of business when the applicant is a natural person, or of the headquarters when the applicant is a legal person;

(c) the wording or a representation of the trademark and, in the case of a three-dimensional mark, a representation of its outer surface;

(d) a list of the goods or services for which the mark is to be registered.

(2) The list of goods and services referred to in paragraph (1)(d) shall mention the classification under the international treaty.<sup>1</sup>

**6.**—(1) A filing of an application that complies with the requirements referred to in Article 5(1) shall confer on the applicant a right of priority over any person filing an application later for an identical or confusingly similar trademark in respect of identical or similar goods or services.

(2) The right of priority under the international treaty<sup>2</sup> must be claimed by the applicant in the application, and proof of the right must be furnished within a period of three months from the filing date of the application, otherwise it shall not be respected by the Office.

**7.**—(1) At the request of the applicant the Office shall allow alteration of the applied sign with respect to the title of the applicant, or his forename and surname or his trade name, or the applicant's headquarters or place of residence or business, provided that the change occurred after the filing of the application, and provided that such alteration makes the particulars given therein consistent with reality without affecting the general nature of the trademark. No other alteration of the particulars mentioned in Article 5(1)(c) shall be authorized after the filing of the application.

(2) After the filing of the application the applicant may restrict the list of goods or services in respect of which the trademark is to be registered; the restriction may not be withdrawn.

(3) Until the trademark is registered, the applicant may divide an application that lists several goods or services. The priority right shall be preserved also for divided applications provided that they list only goods or services listed in the original application.

(4) The applicant may, in a written contract, transfer his application right in respect of all the goods or services or only some of them to another entrepreneur who is qualified to be an owner of the trademark according to this Law.

#### *Examination and Publication of the Application*

**8.**—(1) The Office shall subject the application to an examination.

(2) Where an application for registration of a trademark does not satisfy the prescribed requirements, the Office shall invite the applicant to remedy the defects within a fixed term. If the application does not satisfy the conditions of Article 5(1), the Office shall fix a term of two months for the defects to be remedied; in that case the date of filing of the documents with the defects removed shall be regarded as the filing date of the application.

(3) When the sign applied for does not satisfy the registration requirements laid down by this Law, the Office shall refuse the application.

(4) Where the application meets all the prescribed formalities and the sign is not refused from registration under paragraph (3), the Office shall publish the application in the Gazette of the Industrial Property Office (hereinafter referred to as "the Gazette").

#### *Objections to Registration of a Trademark*

**9.**—(1) Legally justified objections to the registration in the Register of a published trademark may, within three months from the date of publication, be filed with the Office by:

(a) the owner of or applicant for a confusingly similar trademark with an earlier priority right, where that trademark is registered or applied for the same or similar goods or services;

(b) the owner of an earlier identical or confusingly similar trademark which, before the filing of the application was a well-known mark under an international treaty,<sup>3</sup> in the Czech Republic and characteristic of its owner in relation to his goods or services (hereinafter referred to as “well-known mark”);

(c) the holder of an identical or confusingly similar sign that has become characteristic in the Czech Republic in the previous two years, before the filing of the application, for the identical or similar goods or services of that owner;

(d) an entrepreneur registered before the filing date of the application in the trade or a similar register, where his trade name or a substantial part of it is identical or confusingly similar to the published sign and where he produces identical or similar goods or renders identical or similar services in connection with which the published sign is applied for, or where such goods constitute his commercial activity;

(e) a natural person, whose forename and surname or representation or pseudonym are identical or confusingly similar to the published denomination, where the registration of the denomination might interfere with his personal rights;

(f) the owner of earlier rights from another form of industrial property where the subject thereof is identical or confusingly similar to the published sign;

(g) any person to whom the copyright in an author’s work identical or confusingly similar to the published sign belongs, where its use might interfere with the said copyright.

(2) The period for filing objections to the registration of a published sign in the Register may not be extended.

### *Objection Procedure*

**10.**—(1) The Office shall examine whether the objections have been filed by an authorized person within the period laid down by law and whether the objections are legally justified and supported by such documents as will enable it to proceed.

(2) The Office shall terminate the objection procedure where the filing of objections is late, has been effected by an unauthorized person, is not justified or is not supported by the documentation necessary for the procedure. The Office shall be obliged to inform the person who has filed the objections accordingly.

(3) The Office shall inform the applicant of duly filed objections and invite him to submit observations within the time limit set. The time limit shall not be shorter than 10 days.

(4) Where the applicant does not submit observations within the time limit set, the Office shall terminate the procedure; the applicant shall have been informed of this consequence in the invitation.

**11.**—(1) Where objections have been duly filed and the applicant has submitted observations, the Office shall examine whether or not the registration of the sign applied for in the Register will infringe the rights of third parties.

(2) Where the Office finds that the sign applied for does not infringe the prior rights of third parties that are protected by law, it shall refuse the objections; it shall submit its written decision to the applicant and to the person who has filed the objections.

(3) Where the Office finds that the sign applied for does not satisfy the conditions for registration in the Register, it shall refuse the application and submit its written decision to the applicant and to the person who has filed the objections.

### *Registration of the Trademark*

**12.**—(1) The Office shall register the trademark in the Register where the circumstances mentioned in Articles 2 and 3 do not constitute an obstacle to registration. The Office shall inform the applicant accordingly.

(2) After registration of the trademark in the Register, the applicant becomes the trademark owner. At the request of the owner the Office shall issue a certificate attesting registration of the trademark in the Register.

(3) The Office shall announce in the Gazette the registration of the trademark in the Register within not more than six months following the registration.

### **Part III Rights in the Trademark**

**13.**—(1) The owner of a trademark shall have the exclusive right to affix his mark on the goods or services for which it has been registered or to use it in relation to such goods or services.

(2) The owner of a trademark shall be entitled to use the circled ® symbol in conjunction with the trademark.

**14.**—(1) No one may use a trademark without the authorization of its owner or use a sign that is identical or confusingly similar to the mark for identical or similar goods and services as those for which the trademark is registered, or use it in relation to such goods and services, especially to affix it on the goods and their packaging, offer or place goods on the market under the sign, or store for that purpose, import or export goods under the sign, or use such sign in a trade name, in correspondence or in advertisements.

(2) The owner of the trademark shall be entitled to demand of any person who places or intends to place goods or services on the market information concerning the origin of the goods, or documentation on the goods or services themselves, on which an identical or confusingly similar sign to his trademark has been affixed. The owner shall prove his entitlement to the trademark by showing the certificate of trademark registration or an extract from the Register.

(3) The Customs Office, at the request of the owner of the trademark, shall refuse to release goods that are of commercial character for free circulation<sup>4</sup> where the sign thereof infringes the rights of the trademark owner. The owner shall prove his entitlement to the trademark by showing the certificate of trademark registration or an extract from the Register.

(4) The trademark owner shall be entitled to demand of the editor of a publication in which his trademark is reproduced that he publish the particulars of the trademark, including the registration number thereof.

**15.**—(1) The owner of the trademark may request the competent court to order a prohibition on the use of his trademark or a confusingly similar sign for identical or similar goods or services, and the withdrawal from the market of objects to which it has been affixed in a manner that infringes his rights.

(2) The owner of a well-known mark may exercise his right under paragraph (1) notwithstanding the identicalness or similarity of the goods or services where use of the well-known trademark on different goods or services might suggest a relationship between the goods or services so marked and the owner of the well-known trademark, and where the interests of the owner of the well-known trademark might be prejudiced by such use.

(3) Where harm has been done by the infringement of trademark rights, the injured party shall be entitled to compensation therefor. Where infringement of trademark rights has caused an immaterial prejudice, the injured party shall be entitled to adequate satisfaction, which may be given in monetary form.

#### *Restriction of the Rights in the Trademark*

**16.**—(1) The owner of a trademark shall be obliged to acquiesce to third parties using, in commercial relations, their forename, surname, pseudonym, title or trade name, the address of their residence, information concerning the type, quality, quantity, purpose, value, geographical origin or time of production of goods or rendering of services, or another character of a product or service, even where those data are identical or confusingly similar to the trademark or form part of the trademark, but only on condition that the data are used in accordance with established practice in trade or fair competition.

(2) The owner of the trademark shall be obliged to acquiesce to third parties using a sign identical to the trademark in commercial relations where it is necessary for stating the purpose of the product, and especially in accessories or spare parts, or the kind of services rendered in accordance with established practice in trade or fair competition.

(3) The owner of the trademark shall be obliged to acquiesce to the use of an identical or confusingly similar sign which, in the period of two years before the filing of the application, has become characteristic for the identical or similar goods or services of its holder, such use being made by that holder in the Czech Republic.

#### *Exhaustion of Rights*

**17.** The trademark shall not entitle the owner to prohibit the use of the trademark on goods that have been introduced to market under the trademark by him or with his authorization unless, after their introduction to the market, there has been a substantial change or deterioration in their standard or character.

#### *Licenses*

**18.**—(1) The right to use a trademark may be granted by license contract<sup>5</sup> in respect of all or only some of the goods or services for which it was registered.

(2) The licensee may be only a natural or legal person the subject matter of whose economic activity is the goods or services for which the trademark is registered.

(3) The right to use the trademark according to the license contract shall be effective as from the date of registration of the said contract in the Register; the owner of the trademark shall be obliged to file a request for its registration with the Office.

#### *Assignment and Transfer of the Trademark*

**19.**—(1) The owner of a trademark may transfer the trademark in respect of all or only some of the goods or services for which it is registered, in a written contract, to another natural or legal person, provided that those goods or services form the subject matter of his

economic activity on the date of conclusion of the contract. The contract for the transfer of the trademark shall be effective as from the date of registration in the Register; the transferee shall be obliged to file a request for its registration with the Office.

(2) The trademark shall be transferred to a new owner in cases specified in special legislation.<sup>6</sup> The transfer of the trademark shall come into force on registration in the Trademark Register; the transferee shall be obliged to apply to the Office for such registration.

(3) If the trademark has been transferred owing to the death of the owner, his heir may not under this Law become the owner of the trademark, and shall have the right only to grant the license, and if need be to transfer the trademark to a third party.

#### *Assignment to the Trademark Owner*

**20.** If a trademark that enjoys protection in a country party to an international treaty<sup>7</sup> has been registered in the Czech Republic in favor of the trade or business representative or sales agent of the original owner (hereinafter referred to as “the trade representative”), that original owner may request the court to order the assignment of the trademark to him, except where the trade representative proves that he was acting in good faith. The Office shall register the assignment of trademark owner in the Register at the request of the owner of the trademark.

#### *Right to Use as Guarantee*

**21.—**1) The trademark may be used as guarantee.<sup>8</sup>

(2) The guarantee of the trademark shall come into effect on registration in the Register; the lien creditor shall be obliged to request registration. The lien creditor shall be obliged to submit to the Office the agreement setting up the lien, provided with officially legalized signatures of the parties concerned, together with the request for registration of the lien on the trademark.

### **Part IV Modification of the Trademark, Term of Protection and Lapse of the Trademark**

#### *Modification of the Trademark*

**22.** The Office shall permit modification of the trademark, at the request of the owner thereof, with respect to the title of the owner, his forename and surname or where applicable the trade name or headquarters, the residence or place of business, in order to reflect changes that have occurred since the registration of the trademark in the Register, provided that the modification brings the data into line with the true situation without changing the general nature of the trademark.

#### *Term of Protection*

**23.—**(1) The term of protection shall be 10 years from the date on which the application was filed with the Office.

(2) The term of protection of the trademark shall be renewed for further periods of 10 years at the request of the owner of the trademark, which request (hereinafter referred to as

“the request for renewal of the registration”) shall be filed with the Office in the last year of the current term of protection, or not later than six months after the said term expires.

#### *Lapse of the Trademark*

**24.**—(1) The trademark shall lapse:

(a) if the term of protection expires and the request for the renewal of the said term is not filed in time;

(b) on the day of delivery to the Office of a declaration by the owner of the trademark that he renounces his rights; that declaration shall have no legal effect if third-party rights exist;

(c) with the lapse of the legal capacity of the owner of the trademark, except where the right to the trademark has been transferred or has passed to a new owner;

(d) on cancellation of the trademark from the Register, effected by the Office in accordance with Articles 25 and 26.

(2) A trademark in respect of which third-party rights exist shall lapse in accordance with paragraph (1)(b) on the day on which the owner of the trademark proves the lapse of those rights, and where necessary submits the consent of the authorized persons to such cancellation.

(3) The Office shall record the lapse of the trademark in the Register.

#### *Cancellation of the Trademark*

**25.**—(1) The Office shall cancel the trademark from the Register if, in the course of proceedings initiated at the request of the third party or *ex officio*, it establishes that:

(a) the trademark has been registered in violation of this Law, in which case it shall be regarded as not having been registered at all; this shall not apply if the trademark has been registered in violation of Article 2(1)(b) to (d) and, through use in business relations, it has acquired the distinctive character of the goods or services of its owner for which it has been registered;

(b) the trademark has not been used in the Czech Republic for at least five years before the initiation of cancellation proceedings, and the owner of the trademark does not give good reasons for the non-use; use of the trademark by a third party under an agreement shall be considered proper use.

(2) The Office shall cancel a confusingly similar trademark from the Register if it establishes, in the course of proceedings initiated at the request of the owner of the trademark having an earlier right of priority, that the contested trademark has been registered for the identical or similar goods or services; the Office shall not effect cancellation if the owner of the trademark with the earlier right of priority has knowingly acquiesced to the use of the contested trademark during the five years following its registration.

(3) The Office shall cancel an identical trademark or a confusingly similar trademark from the Register if it establishes, in the course of proceedings initiated at the request of the owner of a well-known trademark, that the use of the contested trademark would take undue advantage of the distinctiveness of the trademark or of the goodwill associated with the well-known trademark, or would be prejudicial to the trademark, regardless of whether the conflicting trademark has been registered for the identical or similar goods or services. The Office shall not effect cancellation if the owner of the well-known trademark has knowingly

acquiesced to the use of the conflicting trademark in the Czech Republic during the five years following its registration.

(4) The Office shall cancel the trademark from the Register if it establishes, in the course of proceedings initiated at the request of a third party, that the trademark has lost its distinctiveness as a result of the action or inaction of its owner, having become a standard designation in business relations for the goods or services for which the trademark was registered.

(5) If there is a reason for cancellation of the trademark from the Register only in respect of some of the goods or services for which the trademark was registered, the Office shall cancel the trademark in respect of those products or services only.

(6) Cancellation of the trademark from the Register under the foregoing paragraphs may be effected even after the lapse of the trademark itself for other reasons if the requester proves a legal interest therein.

**26.—**(1) The Office shall cancel the trademark from the Register by virtue of a court decision according to which a trademark containing the forename and surname or representation of a natural person, or his pseudonym if any, infringes a person's personal rights, or according to which a trademark containing the title or trade name of a legal person infringes its goodwill, or where applicable its copyright. Cancellation shall take place if the authorized person makes the appropriate request within six months of the court decision becoming legally effective.

(2) The Office shall cancel from the Register a trademark declared identical or confusingly similar by a court decision according to which the use of that trademark is an unlawful competitive activity, as it takes unfair advantage of the distinctiveness or goodwill of a well-known trademark or is liable to detract from it. Cancellation shall take place if the owner of the well-known trademark makes the appropriate request within six months of the court decision becoming legally effective.

(3) Cancellation of the trademark from the Register under paragraphs (1) and (2) shall take place even after the trademark itself lapsed for other reasons if the requester proves a legal interest therein.

## **Part V**

### **Special Provisions on Collective Trademarks**

**27.—**(1) A collective trademark is any sign within the meaning of Article 1 that is capable of distinguishing goods or services originating with members or partners of a legal person established with a view to the common designation of goods or services placed on the market by those members or partners (hereinafter referred to as "business association") from the goods and services of other entrepreneurs.

(2) The conditions governing the use of the collective trademark, including infringement sanctions, shall be set down in a written contract concluded between all the members or partners of the business association.

**28.—**(1) An application for registration of a collective trademark shall be filed with the Office by the business association (hereinafter referred to as "the applicant").

(2) An application for registration of a collective trademark shall contain:

(a) the request for registration of a collective trademark in the Register;

(b) the title, or trade name, and the headquarters of the business association;

(c) the wording or representation of the sign filed for registration as a collective trademark, or where necessary a description thereof; in the case of a three-dimensional designation, a representation of its outer surface;

(d) a list of the goods or services for which the collective trademark is to be registered;

(e) a list of the members or partners of the applicant that are entitled to use the collective trademark.

(3) The list of goods and services under paragraph (2)(d) shall specify the classes provided for in the appropriate international agreement.<sup>9</sup>

(4) A contract under Article 27(2) shall accompany the application for registration of a collective trademark.

(5) The filing of an application for registration of a collective trademark under paragraph (2) shall confer a right of priority on the applicant, over any person who subsequently files an application for registration of an identical or confusingly similar trademark for identical or similar goods or services.

**29.**—(1) The Office shall subject the application for the registration of a collective trademark to examination as provided in Articles 8 to 12, subject to fulfillment of the condition laid down in Article 2(1)(b), which the Office shall assess in the light of Article 27(1).

(2) The applicant for the registration of a collective trademark shall become the owner of the said collective trademark on registration thereof in the Register. At his request the Office shall issue a certificate of registration of the collective trademark in the Register. The Office shall publish the registration of the collective trademark in the Gazette. The certificate of registration of the collective trademark, or where appropriate an extract from the Register, shall be issued on request by the Office to every member or partner of a business association that is recorded in the Register.

(3) The Office shall enter in the Register, at the request of the owner of the collective trademark, any structural change in the membership or partnership of the business association.

**30.**—(1) Members or partners of the business association recorded in the Register shall have the exclusive right to affix the collective trademark on those of their own goods or services for which it has been registered, or to use it in relation to such goods or services.

(2) Members or partners of the business association may also affix the trademark of which they are owners or which they are entitled to use under a license contract to their goods or services in the course of business activities.

**31.**—(1) The owner of a collective trademark shall have the rights provided for in Part III of this Law if there is no other provision in Part V thereof.

(2) Members or partners of the business association shall enjoy the rights provided for in paragraph (1) to the extent specified in the contract.

(3) The Office shall allow any person to inspect the contract on request.

**32.** The collective trademark may not be licensed, may not be assigned to another owner and may not be used as guarantee.

**33.** The term of protection of a registered collective trademark shall be 10 years from the filing date of the application for registration thereof. Renewal of the registration shall be subject to Article 23(2).

**34.**—(1) The collective trademark shall expire under the circumstances provided for in Article 24.

(2) Cancellation of the collective trademark registration from the Register shall be governed by the provisions of Articles 25 and 26, subject to the condition that the fulfillment of Article 2(1)(b) shall be considered in the light of Article 27(1).

(3) The Office shall likewise cancel the collective trademark from the Register where members or partners of the business association fundamentally infringe the contract on the use of the collective trademark.

## **Part VI Relations With Foreign Countries**

**35.**—(1) This Law shall be without prejudice to the provisions of international treaties to which the Czech Republic is party.

(2) Persons not having their residence or headquarters on the territory of the Czech Republic shall enjoy the same rights and be subject to the same obligations as national trademark applicants or owners.

(3) Persons not having their residence or headquarters on the territory of the Czech Republic must be represented by an attorney-at-law, commercial lawyer or patent agent in the trademark procedure.

**36.**—(1) Persons having their residence or headquarters on the territory of the Czech Republic may apply through the Office for international registration of the trademark under the international treaty,<sup>10</sup> or where appropriate for the recording of changes regarding an international registration.

(2) The trademark applicant seeking international registration shall pay such fees for the acts specified in paragraph (1) as are provided for in the international treaty<sup>11</sup>; the Office shall announce in the Gazette the amount of the fees payable under the international treaty.

**37.**—(1) The international registration of a trademark seeking protection on the territory of the Czech Republic shall have the same effects as registration of the trademark in the Register kept at the Office.

(2) The period for filing objections to an international application shall run from the first day of the month following that in which the trademark is published in the relevant periodical of the World Intellectual Property Organization.

(3) If an internationally registered trademark is refused protection on the territory of the Czech Republic, that trademark shall be regarded as not being registered in the Czech Republic.

## **Part VII Common Provisions on Procedure Before the Office**

**38.**—(1) A person engaged in the procedure for the registration of trademarks shall be the applicant for, or as the case may be the owner of, the trademark in respect of which the procedure has been initiated, the person who has filed objections under Article 9 to the registration of the trademark in the Register, the authorized person under Article 20 or the person who has requested cancellation of the trademark from the Register.

(2) All filings with the Office shall be effected in writing in the Czech language. Nationals of the Czech Republic who form part of a national or ethnic minority may effect

filings with the Office in their own language, but they shall, at the expense of the Office, submit translations in the Czech language made by an authorized translator selected from an official list of translators.

(3) No filing may concern more than one trademark; in the case of requests for the recording of changes in the trademark owner identity data or the assignment or transfer of the trademark, for registration of the representative or a change of the representative or for the correction of entries in the Register and in the Gazette, one filing may concern two or more trademarks belonging to the same owner. This provision shall apply to the same request made in respect of a number of applications filed by the same applicant.

(4) In the trademark procedure there can be no excuse for failure to meet the time limits for filing objections, for claiming priority, for requesting cancellation from the Register under Article 26(1) and (2) and for requesting renewal of the term of protection; in the procedure no term for action may be extended after one year has elapsed since the act should have been performed. Rights acquired in good faith during the period between the end of the term and the excuse for it shall not be affected.

(5) If the person engaged in the procedure who filed the request for the initiation thereof fails to comply with an invitation by the Office to remove defects or complete the filing by a specified time, and if the deficiency or defects in filing are such that the procedure cannot otherwise continue, the Office shall terminate the procedure and call the person's attention to that fact. The Office shall terminate the procedure even at the request of the person who filed the request for initiation thereof.

(6) The Office shall decide on the basis of the contents of the file, and especially on the basis of the proof that the persons engaged in the procedure have put forward in support of their statements.

(7) A period of one month from the taking of the decision shall be allowed for appealing against a decision of the Office. No extraordinary legal remedies may be sought against decisions of the Office.

(8) Unless otherwise provided in this Law in relation to trademark procedure, the Code on Administrative Procedure<sup>12</sup> shall apply, except those on the suspension of the procedure, the declaration of honor, time limits for decisions and measures to remedy inaction.

**39.**—(1) The requester shall be obliged to post a bond to cover the cost of the procedure on filing the request for the initiation of the trademark cancellation procedure under Article 25 and the appeal against the decision of the Office under Article 38(6). This shall be refunded where it is proved in the course of the procedure that the request for the initiation of the procedure was well-founded.

(2) The bond under paragraph (1) shall be 2,500 Czech crowns.

#### *Register and Gazette*

**40.**—(1) The Office shall keep the Register in which the decisive data concerning trademarks shall be recorded. The Trademark Register shall be a public register accessible to all persons.

(2) The Office shall issue the Gazette in which applications under Article 8(4) and subsequently registrations and renewals, transfers, cancellations and other important facts concerning trademarks shall be published.

## **Part VIII**

### **Common, Transitional and Final Provisions**

#### *Full Powers for the Issue of Implementing Regulations*

**41.**—(1) The Office shall lay down the details of trademark procedure in a decree which shall specify the formalities for filing applications, those for objecting to the registration of a sign in the Register, those for requesting renewal of trademark registrations and recording additional facts in the Register and those for seeking the cancellation of trademarks from the Register, together with details of trademark file-keeping and particular data concerning trademarks that have to be entered in the Register and published in the Gazette.

(2) In case of filing an application for international registration, the Office shall lay down further formalities governing the trademark application by decree.

#### *Transitional Provisions*

**42.**—(1) Procedures concerning trademark applications that have not been completed on the entry into force of this Law shall be completed in accordance with this Law, the applicant being obliged, at the invitation of the Office, within a time limit set by it, to remedy the deficiencies affecting the application in accordance with the requirements laid down in this Law.

(2) Relations concerning trademarks recorded in the Register prior to the entry into force of this Law shall be dealt with according to the provisions of this Law. The occurrence of those relations and rights arising in connection with them prior to the entry into force of this Law shall be considered in the light of the provisions applicable at the time of their occurrence.

(3) The owner of a trademark that has been declared famous according to preceding Law may also seek the cancellation of an identical or confusingly similar trademark under the provisions of Article 23(3) of Law 174/1988 Coll. during the period of validity of that trademark, but not later than 10 years following the entry into force of this Law. During that period the owner of the famous trademark may file objections under Article 9 of this Law to the registration of the identical or confusingly similar sign in the Register without regard to the goods or services for which the contested sign has been applied for.

#### *Repeal Provisions*

**43.** The following shall be repealed:

1. Trademark Law No. 174/1988 Coll.
2. Decree No. 187/1988 Coll. of the Office for Inventions and Discoveries on the Procedure Relating to Trademarks.

**44.** This Law shall enter into force on October 1, 1995.

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\* *Entry into force:* October 1, 1995.

*Source:* Communication from the Czech authorities.

*Note:* Translation by the International Bureau of WIPO on the basis of an English translation communicated by the Czech authorities.

\*\* Added by the International Bureau of WIPO.

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<sup>1</sup> Decree of the Minister of Foreign Affairs No. 118/1979 Collection of Laws on the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, of June 15, 1957, revised at Stockholm on July 14, 1967, and at Geneva on May 13, 1977, wording of Decree No. 77/1985 Collection of Laws.

<sup>2</sup> Decree of the Minister of Foreign Affairs No. 64/1975 Collection of Laws on the Paris Convention for the Protection of Industrial Property, of March 20, 1883, 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, wording of Decree No. 81/1975 Collection of Laws.

<sup>3</sup> Article 6*bis* of the Paris Convention for the Protection of Industrial Property.

<sup>4</sup> Article 98, subsection 2 of Law No. 13/1993 Coll. Customs Law.

<sup>5</sup> Article 508 and following of Law No. 513/1991 Coll. Commercial Law.

<sup>6</sup> E.g. Articles 69 and 259 Commercial Law, Articles 12-17 Law about the State enterprise.

<sup>7</sup> See note 2 *supra*.

<sup>8</sup> Article 151a and following of Law No. 40/1964 Coll. Civil Code, Article 297 and following of Commercial Law.

<sup>9</sup> See note 3 *supra*.

<sup>10</sup> Decree of the Minister of Foreign Affairs No. 65/1975 Collection of Laws on the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, 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 Nice on June 15, 1957, and at Stockholm on July 14, 1964, wording of Decree No. 78/1985 Collection of Laws.

<sup>11</sup> See note 10 *supra*.

<sup>12</sup> Articles 29, 39, 49 and 50 of Law No. 71/1967 Coll. on Administrative Procedure (Administrative Code).