

**Act No. 441/2003 Coll.  
on Trade marks and the Amendments to Act No. 6/2002 Coll. on Courts, Judges, Lay  
Judges and State Court Administration and on the Amendments to Certain Other  
Acts (Act on Courts and Judges), as amended**

The Parliament has resolved on the following Act of the Czech Republic:

**PART ONE**

**TRADE MARKS**

**CHAPTER I**

Section 1

This Act shall implement the relevant regulations of the European Union<sup>16)</sup> and shall regulate trade marks.

**GENERAL PROVISIONS**

Trade mark concept

Section 1a

**Signs of which a trade mark may consist**

Under the conditions defined in this Act, a trade mark may consist of any signs, in particular, words, including personal names, colours, designs, letters, numerals, the shape of goods or the packaging of goods, or sounds, provided that such signs are capable of:

- a) distinguishing the goods or services of one undertaking from those of another; and
- b) being represented in the Register of Trade marks (hereinafter referred to as “**the Register**”) in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

Section 2

The following trade marks shall enjoy protection in the territory of the Czech Republic:

- a) trade marks registered in the Register kept by the Industrial Property Office (hereinafter referred to as “**the Office**”) (hereinafter referred to as “national trade marks”);
- b) trade marks with effects in the Czech Republic, registered in the register kept by the International Bureau of the World Intellectual Property Organisation<sup>14)</sup> on the basis of an international application pursuant to the Madrid Agreement concerning the International Registration of Marks (hereinafter referred to as “**Madrid Agreement**”) or of the Protocol Relating to the Madrid Agreement<sup>1)</sup> (hereinafter referred to as “**international trade marks**”);
- c) trade marks registered, pursuant to the Regulation of the European Parliament and of the Council on the European Union Trade Mark<sup>2)</sup> (hereinafter referred to as “European Parliament and Council Regulation”), in the register kept by the European Union Intellectual Property Office (hereinafter referred to as “European Union Trade Mark”);
- d) trade marks which are well known on the territory of the Czech Republic pursuant to Article 6*bis* of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as “the Paris Convention”)<sup>3)</sup> and to Article 16 of the Trade-Related Aspects of Intellectual Property Rights<sup>4)</sup> (hereinafter referred to as “generally well known trade marks”).

### Section 3

For the purpose of this Act, an “earlier trade mark”, taking account of the priority claimed (Section 20), means:

- a) subject to registration and an earlier filing date:
  1. national trade mark;
  2. international trade mark;
  3. European Union trade mark;
- b) European Union trade mark for which is claimed the seniority pursuant to Article 39 and 40 of the European Parliament and Council Regulation on the basis of an earlier trade mark referred to in paragraph a) points 1 and 2 (hereinafter referred to as “**seniority**”) even if the proprietor has surrendered the earlier trade mark or the earlier trade mark has lapsed;
- c) applications for trade marks referred to in paragraphs a) and b), subject to their registration;
- d) well known trade mark the protection of which was acquired prior to the date of application for a later trade mark, if such mark enjoys protection on the date of application for the later trade mark.

### **Grounds for refusal of protection**

### Section 4

The following shall not be registered:

- a) a sign which cannot constitute a trade mark within the meaning of Section 1a);
- b) a sign which is devoid of any distinctive character;
- c) a sign which consists exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of goods or of rendering of services, or other characteristics of goods or services;
- d) a sign which consists exclusively of signs or indications which have become customary in the current language or in bona fide and established practices of the trade;
- e) a sign which consists exclusively of the shape, or another characteristic, which results from the nature of the goods themselves, or which is necessary to obtain a technical result, or which gives substantial value to the goods;
- f) a sign which is contrary to public policy or accepted principles of morality;
- g) a sign which is of such a nature as to deceive the public, for instance, as to the nature, quality or geographical origin of the goods or services;
- h) a sign which consists of, or reproduces in its essential elements, an earlier plant variety denomination registered in accordance with the Czech Republic and European Union legislation, or international agreements to which the Czech Republic or the European Union is a party, providing protection for plant variety rights, and which are in respect of plant varieties of the same or closely related species;
- i) a sign which contains signs which are protected pursuant to Article 6ter of the Paris Convention<sup>3)</sup> and the registration of which has not been authorized by the competent authorities;
- j) a sign which contains badges, emblems and escutcheons other than those mentioned in Article 6ter of the Paris Convention<sup>3)</sup>, if their use is subject to public interest, unless the consent of the competent authority to their registration has been given;
- k) a sign which contains a sign of high symbolic value, in particular a religious symbol;
- l) a sign the use of which is contrary to the Czech Republic or the European Union legislation or contrary to the obligations ensuing for the Czech Republic from international agreements to which the Czech Republic or the European Union is party, in particular those providing protection for designations of origin and geographical indications, traditional terms for wine, and traditional specialities guaranteed.

## Section 5

The sign referred to in Section 4 b) to d) may be registered if the applicant proves that prior to the registration of a trade mark the sign has acquired distinctive character, as a consequence of use of the sign in the trade in relation to the applicant's goods or services for which registration is applied for.

## Section 6 (deleted)

## Section 7

(1) No sign shall be registered if an opposition to the registration of a trade mark ("opposition") has been lodged with the Office by:

- a) the proprietor of the earlier trade mark which is identical to the sign applied for and which is protected for goods or services identical to those for which the sign applied for shall be registered;
- b) the proprietor of an earlier trade mark if, because of its identity with, or similarity to, the earlier trade mark and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association with the earlier trade mark.
- c) the proprietor of an earlier trade mark identical or similar to the sign applied for, irrespective of whether the goods or services for which it is applied are identical with, similar to or not similar to those for which the earlier trade mark is registered, where the earlier trade mark has a reputation in the Czech Republic and, in the case of a European Union trade mark, has a reputation in the European Union and the use of the sign applied for without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;
- d) the proprietor of a trade mark, if the application for registration of the trade mark ("application") has been filed by the trade mark proprietor's representative in his own name and without the proprietor's consent, unless the representative justifies his action;
- e) the user of a non-registered trade mark or another sign used in the course of trade, who acquired, prior to the date of application for registration, rights to the non-registered trade mark or other sign used in the course of trade, if there is a likelihood of confusion on the part of the public because of the identity or similarity of the sign applied for to the non-registered trade mark or other sign and the identity or similarity of the goods or services covered by these signs; the likelihood of confusion includes likelihood of association;
- f) the natural person whose personal rights, in particular, right to a name, right of personal portrayal, and right to protection of personal expressions, may be infringed on by the sign applied for or, possibly, by the entity entitled to assert these rights;
- g) the person holding copyrights, if an author's work may be infringed on by the use of the sign applied for; or
- h) the proprietor of an earlier right in other industrial property, if industrial property rights may be infringed on by the use of the sign applied for.

(2) The opposition may also be lodged by the applicant for registration of the trade mark referred to in Section 3 c) and the applicant for registration of the right in other industrial property pursuant to paragraph 1 h), if such right is registered.

(3) If the person entitled to lodge opposition pursuant to paragraph 1 (hereinafter referred to as "the opponent") grants, after the opposition is lodged, his written consent to the registration of the trade mark applied for, the opposition shall be deemed to be withdrawn and the Office shall terminate the opposition proceeding.

CHAPTER II  
EFFECTS OF A TRADE MARK

Section 8

**Rights conferred by a trade mark**

(1) The proprietor of a trade mark shall have the exclusive right to use the trade mark in relation to the goods or services covered by the trade mark. The proprietor of the trade mark shall prove his rights by means of an abstract from the Register, or by means of a certificate of registration. The proprietor of the trade mark shall have the right to use the sign ® together with the trade mark.

(2) Unless otherwise provided by this Act (Sections 10 to 11), third parties may not use without the consent of the proprietor of the trade mark in the course of trade

- a) any sign identical to the trade mark for goods or services identical to those for which the trade mark is registered;
- b) any sign where, because of its identity or similarity to the trade mark and because of the identity or similarity of the goods or services covered by the trade mark, there exists a likelihood of confusion on the part of the public, including the likelihood of association between the sign and the trade mark;
- c) any sign identical or similar to the trade mark, irrespective of whether the goods or services for which it is used are identical, similar or not similar to those for which the trade mark is registered, where the trade mark has a reputation in the Czech Republic and the use of the sign without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the trade mark.

(3) For the purposes of paragraph 2, the use of a sign in the course of trade shall mean, in particular:

- a) affixing the sign to the goods or their packaging;
- b) offering the goods or putting them on the market or stocking them for those purposes under the sign, or offering or supplying services thereunder;
- c) importing or exporting the goods under the sign,
- d) using the sign on business documents or in advertising;
- e) using the sign as a trade or company name or part of a trade or company name;
- f) using the sign in comparative advertising contrary to other laws<sup>6)</sup>.

(4) The proprietor of an earlier trade mark shall be entitled to prevent third countries from bringing goods, in the course of trade, into the Czech Republic without the goods being released for free circulation where such goods, including the packaging, bear without authorization a trade mark which is identical to the trade mark registered in respect of such goods or which cannot be distinguished in its essential aspects from that trade mark. This shall not apply if, during the proceedings to determine whether the registered trade mark has been infringed, initiated in compliance with the directly applicable European Union regulation<sup>7)</sup>, evidence is provided by the declarant or the holder of the goods that the proprietor of this trade mark is not entitled to prohibit the placing of the goods on the market in the country of final destination.

(5) If a trade mark has been registered in the name of a trademark proprietor's representative without the proprietor's authorization, the proprietor shall be entitled to prohibit this person from using the trade mark, unless he duly justifies his action.

## Section 8a

Where the risk exists that the packaging, labels, tags, security features or devices or authenticity features or devices or any other means to which the trade mark is affixed could be used in relation to goods or services and that use would constitute an infringement of the rights of the proprietor of a trade mark pursuant to Section 8 (2) and (3), the proprietor of the trade mark shall be entitled to prohibit the following acts if carried out in the course of trade:

- a) affixing a sign identical or similar to the trade mark on packaging, labels, tags, security or authenticity features or devices or any other means to which the trade mark may be affixed;
- b) offering or placing on the market or stocking for those purposes or importing or exporting packaging, labels, tags, security or authenticity features or devices or any other means to which the trade mark may be affixed.

## Section 9

### **Reproduction of trade marks in dictionaries**

If the reproduction of a registered trade mark in a dictionary, encyclopedia or similar reference work in printed or electronic form gives the impression that it constitutes the generic name of goods or services, the publisher of the work shall, at the request of the proprietor of the trade mark, ensure that the reproduction of the trade mark is, without delay, but, in the case of works in printed form, at the latest in the next edition of the publication, accompanied by an indication that it is a registered trade mark.

## Section 10

### **Limitation of the effects of a trade mark**

- (1) If the use complies with the business usage and the principles of honest business conduct, the proprietor of a trade mark shall not be entitled to prohibit third parties from using, in the course of trade:
  - a) the name and surname or address of the third party, where the third party is a natural person;
  - b) signs or indications which are not distinctive or which concern the kind, quality, quantity, purpose, value, geographical origin, or time of production of goods or of rendering of the services or other characteristics of goods or services;
  - c) the trade mark for the purpose of identifying or referring to goods or services as those of the proprietor of that trade mark, in particular, where the use of that trade mark is necessary to indicate the intended purpose of a product or service, in particular, as accessories or spare parts.
- (2) The proprietor of a trade mark has to tolerate in the course of trade the use of an identical or similar sign, where the rights to this sign were created prior to the date of filing the application for registration and the use of that sign is in accordance with the laws of the Czech Republic.

## Section 10a

- (1) The proprietor of a trade mark shall be entitled to seek, pursuant to another law<sup>8)</sup>, that the court prohibit the use of a sign only to the extent that the proprietor's rights are not liable to be revoked pursuant to Section 31 (1) a) at the time the infringement action is brought.
- (2) If, on the date of bringing the action, the trade mark has been registered for at least 5 years, the proprietor of the trade mark shall furnish proof that, during the 5 years period preceding the date of bringing the action, the trade mark has been put to genuine use in compliance with Section 13 in connection with the goods or services in respect of which it is registered and which are cited as justification for the action or that there are proper reasons for non-use.

## Section 10b

(1) The proprietor of an earlier trade mark shall not be entitled to seek, pursuant to another law<sup>8)</sup>, that the court prohibit the use of a later trade mark where the later trade mark would not be declared invalid pursuant to Section 12 (1) or (3) or Section 32b (2) or (3).

(2) The proprietor of an earlier trade mark shall not be entitled to seek, pursuant to another law<sup>8)</sup>, that the court prohibit the use of a later European Union trade mark where that later European Union trade mark would not be declared invalid pursuant to Article 60 (1), (3) or (4), Article 61 (1) or (2), or Article 64 (2) of the European Parliament and Council Regulation.

(3) If the proprietor of an earlier trade mark is not entitled to seek that the court prohibit the use of a later trade mark pursuant to paragraph 1 or 2, the proprietor of the later trade mark shall not be entitled to prohibit the use of the earlier trade mark, even though that earlier right may no longer be invoked against the later trade mark.

## Section 11

### **Exhaustion of trade mark rights**

(1) The proprietor of a trade mark shall not be entitled to prohibit its use in relation to goods which have been put on the market in a Member State of the European Union or in another member state of the European Economic Area under that trade mark by the proprietor or with his consent.

(2) Paragraph 1 shall not apply where there exist legitimate reasons for the proprietor to oppose further commercialization of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market.

## Section 12

(1) The proprietor of an earlier trade mark, who has acquiesced, for a period of 5 successive years, in the use of a later trade mark while being aware of such use he shall no longer be entitled on the basis of the earlier trade mark to apply for a declaration that the later identical or similar trade mark is invalid in respect of the goods or services for which the later trade mark has been used, unless the registration for the later trade mark was not applied for in good faith.

(2) The proprietor of a later trade mark shall not be entitled to prohibit the use of an identical or similar earlier trade mark or to apply for a declaration that earlier trade mark is invalid even though the proprietor of the earlier trade mark could no longer invoke his trade mark rights.

(3) The user of the earlier sign as referred to in Section 7 (1)(e), who has acquiesced, for a period of 5 successive years, in the use of a later trade mark, while being aware of such use, he shall no longer be entitled to apply for a declaration that the identical or similar later trade mark is invalid in respect of the goods or services for which the later trade mark has been used unless the registration for the later trade mark was not applied for in good faith.

## CHAPTER III

### USE OF A TRADE MARK

## Section 13

### **Use of a trade mark**

(1) If, within a period of 5 years following registration the proprietor has not put the trade mark

to genuine use in connection with the goods or the services in respect of which it is registered, or if such use has been suspended during an uninterrupted period of 5 years, the consequences pursuant to Sections 10a, 26a, 31 or 32c shall occur, unless there are proper reasons for non-use. With regard to international trade marks designating the Czech Republic, the date of registration shall be considered the date on which the refusal of protection under the Madrid Agreement or the Protocol Relating to the Madrid Agreement can no longer be notified. If the refusal of protection has been notified on the grounds in Section 4, or an opposition has been lodged on the grounds in Section 7, the 5 years period shall be calculated from the date on which decisions in these proceedings become final and can no longer be contested in court. The genuine use of a European Union trade mark shall be determined in accordance with Article 18 of the European Parliament and Council Regulation.

(2) The genuine use of a trade mark for the purpose of paragraph 1 shall also include:

- a) use of the trade mark in a form differing in elements which do not alter the distinctive character of the trade mark in the form in which it was registered, regardless of whether or not the trade mark in the form as used is also registered in the name of the proprietor;
- b) affixing of the trade mark to goods or to the packaging of goods solely for export purposes.

(3) Use of the trade mark with the consent of the proprietor and use of a collective and certification trade mark by an authorized person shall be deemed to constitute use by the proprietor.

Section 14  
**(deleted)**

CHAPTER IV

TRADE MARK AS AN OBJECT OF  
PROPERTY

**Change of ownership**

Section 15

(1) A trade mark may be transferred, separately from any transfer of the undertaking, in respect of some or all of the goods or services for which it is registered. The transfer of the trade mark shall be made in writing by means of a contract.

(2) A trade mark shall be assigned to the new proprietor also in the cases pursuant to other laws<sup>10)</sup>.

(3) The transfer of a trade mark shall come into effect after it is registered. Any contracting party shall be entitled to request the entry of the transfer in the Register.

(4) The assignment of a trade mark shall come into effect towards third parties after it is registered. The right to request the entry in the Register shall be vested in the original proprietor's legal successor or in another authorized person. The transferee may undertake acts towards the Office relating to the trade mark already after the delivery of the request for entry of transfer of trade mark rights.

(5) The Office shall enter the facts referred to in paragraphs 3 and 4 in the Register within 1 month after receiving all documents necessary to do so.

- (6) The request for entry of transfer or assignment of a trade mark shall contain:
- a) information identifying the previous trademark proprietor;
  - b) information identifying the transferee; and
  - c) information on whether the trade mark is transferred or assigned in relation to all or only some of the goods or services for which it is registered, presented in the order of the classes of the international classification<sup>9)</sup>, including the relevant class number.

(7) The request for transfer of a trade mark shall be accompanied by the transfer document or an extract from it or, possibly, by another document substantiating a change in the trade mark proprietor. The trade mark transfer document shall be attached to the request in the case of assignment.

(8) The provisions of paragraphs 1 to 7 shall apply mutatis mutandis to the transfer or assignment of the application.

## Section 16

(1) The proprietor of a trade mark registered in a Union country of the Paris Convention<sup>3)</sup> or in a member state of the World Trade Organization<sup>17)</sup> shall be entitled to file with court a request for entry of change to the trademark proprietor in the Register if the trade mark has been registered in the name of a representative without the trademark proprietor's consent.

(2) As a result of a final court decision, the Office shall, upon request, enter the change to the trademark proprietor in the Register and shall publish this fact public in the Official Journal of the Industrial Property Office ("Official Journal"). The request for change to a trademark proprietor has to be accompanied by the final court decision.

## Section 17

### **Other rights**

(1) A trade mark may be the subject of security or the subject of another real right, or the subject of the enforcement of a decision or of a seizure procedure, and may be included in assets pursuant to other laws<sup>6a)</sup>.

(2) Upon request, the Office shall enter the facts referred to in paragraph 1 in the Register within 1 month from receiving all documents necessary to do so.

(3) The request for entry of other rights shall contain:

- a) information identifying the trademark proprietor and
- b) information identifying the person authorized in relation to other rights

(4) The request for entry of the security in respect of a trade mark shall be accompanied by the security contract and the decision of the court or the administrative authority. The request for entry of the enforcement of a decision or of a seizure procedure shall be accompanied by the decision of the court or the administrative authority or by the seizure order.

(5) The security in respect of the trade mark shall be established upon its entry in the Register, unless otherwise provided in other laws.

(6) The provisions of paragraphs 1 to 5 shall apply mutatis mutandis to the application.

## Section 18

### **Licences**

(1) The right to use a trade mark may be licensed through a licensing contract concluded pursuant to other laws for all or some of the goods or services for which the trade mark is



registered. A licence may be exclusive or non-exclusive.

(2) The proprietor of the trade mark may invoke his rights conferred by his trade mark against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the trade mark may be used, the scope of goods and services for which the licence is granted, the territory in which the trade mark may be affixed, or the quality of the goods manufactured or of the services provided by the licensee.

(3) The licensee shall be entitled to join the proceedings for infringement of trademark rights, initiated by the proprietor of the trade mark pursuant to other laws, for the purpose of obtaining compensation for damages.

(4) The licence shall take effect towards third parties upon its entry in the Register; any of the contracting parties may request the entry in the Register.

(5) An application for entry of a licence in the Register shall contain:

- a) information identifying the licensor;
- b) information identifying the licensee;
- c) information identifying the products or services to which the licence relates or information that the licence relates to all products or services; and
- d) information on whether the licence is exclusive or non-exclusive.

(6) The request for entry of a licence in the Register shall be accompanied by the licence agreement or an extract from it or another document substantiating the provision of the licence.

(7) Any of the contracting parties may file a request for change in, or revocation of, the registered licence.

(8) The provisions of paragraphs 1 to 7 shall apply mutatis mutandis to the licence for application.

#### Section 18a

#### **Joint proprietorship of a trade mark**

(1) If more persons hold rights to an identical trade mark (“joint proprietors”), the relationships among them shall be governed by other laws<sup>19</sup>).

(2) Unless agreed otherwise among the joint proprietors, the entitlement to use the trade mark shall be vested in each of them.

(3) For the licence agreement pursuant to Section 18 to be validly concluded, the consent of all joint proprietors shall be required, unless agreed otherwise. Each of the joint proprietors shall be entitled to invoke claims associated with the infringement of trademark rights independent of one another.

(4) The consent of all joint proprietors shall be required to transfer the trade mark. The joint proprietors shall be entitled to transfer their share without the consent of others only to another joint proprietor. They can transfer their share to a third party only if none of the other joint proprietors accepts the written offer of transfer within 1 month.

(5) The provisions of paragraphs 1 to 4 shall apply mutatis mutandis to the application submitted by more applicants.

## CHAPTER V APPLICATION

### Section 19 **Application**

- (1) An application for a trade mark registration shall be filed at the Office. Each application may concern only one trade mark.
- (2) The application shall contain:
  - a) information identifying the applicant;
  - b) a list of the goods or services in respect of which the registration is requested; and
  - c) wording, graphical or other representation of the sign applied for, meeting the requirements in Section 1a b)
- (3) If an applicant is represented, the application shall contain information identifying the representative and the representation document shall be attached to it.
- (4) If the applicant claims the right of priority pursuant to Section 20, he shall specify in the application the date of the application from which he infers the right of priority, as well as the country in which that application was filed. If the applicant claims the right of priority based on several applications, he shall specify in relation to each product or service the application he infers the right of priority from.
- (5) In the application, the applicant shall specify the type of the trade mark covered by the application for registration. The particular types of trade marks, including the representation requirements, are referred to in Annex No. 1 to this Act.
- (6) The Office shall publish on its website the technical requirements for representation of the sign to be registered in electronic form. If the sign applied for is not represented in electronic form, the applicant shall submit the A8 to A4 size graphical representation capable of reproducing the trade mark clearly in all details and with all features or colours.
- (7) Where the orientation of the sign to be registered is not obvious, it shall be indicated by adding the word “top” to each reproduction. If the sign applied for contains characters other than Latin, the applicant shall transliterate these characters into the Latin script.
- (8) The filing of a sample or a specimen shall not constitute a proper representation of a sign applied for.

### Section 19a

- (1) The goods and services in respect of which trade mark application is filed shall be classified in conformity with the system of International Classification of Goods and Services<sup>9)</sup>. The Office has the international classification of goods and services published on its website for trademark registration purposes.
- (2) The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that sole basis, to determine the extent of the protection sought.
- (3) For the purposes of paragraph 2, the general indications included in the class headings of the international classification or other general terms may be used, provided that they comply with

the requisite standards of clarity and precision.

(4) The general terms, including the general indications of the class headings of the international classification, shall be interpreted as including all the goods or services clearly covered by the literal meaning of the indication or term. The use of such terms or indications shall not be interpreted as comprising a claim to goods or services which cannot be so understood.

(5) Where the applicant requests registration for more than one class, the applicant shall group the goods and services according to the classes of the international classification, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.

(6) Goods and services shall not be regarded as being similar to each other on the ground that they appear in the same class under the international classification. Goods and services shall not be regarded as being dissimilar from each other on the ground that they appear in different classes under the international classification.

#### Section 20

#### **Date of filing of the application**

(1) The Office shall record the date of filing of an application. With the date of filing the application, the applicant acquires the right of priority against any third person who later files an application for an identical or similar trade mark for identical or similar goods or services.

(2) The applicant has to invoke the right of priority ensuing from the Paris Convention<sup>3)</sup> in the application and has to prove it within 3 months after the filing of the application, otherwise the Office shall not grant the right of priority. The right of priority may be invoked in an application filed in any Convention country of the Paris Convention<sup>3)</sup> or in a member country of the World Trade Organization<sup>17)</sup>; if the country of the first application is neither a Convention country of the Paris Convention<sup>3)</sup> nor a member country of the World Trade Organization<sup>17)</sup>, the right of priority based on this application can be granted under the condition of mutuality. The time period for proving the right of priority cannot be extended and the non-observance of this time limit cannot be restituted.

(3) Upon request of the applicant, the Office shall issue a certificate about the granted right of priority (priority certificate).

### CHAPTER VI

### APPLICATION PROCEDURE

#### Section 21

#### **Formal examination**

(1) The Office shall examine whether the application complies with the requirements referred to in Sections 19 and 19a.

(2) If the application does not satisfy the requirements referred to in Section 19 (2), the Office shall request the applicant to remedy the deficiencies within the set time limit, which has to be at least 2 months long. If the applicant complies with the Office's request, the Office shall accord as the date of filing of the application the date on which the deficiencies are remedied.

(3) If the application does not satisfy the requirements referred to in Section 19 (1), (3), (5), (6) or (7) or in Section 19a (1), (2) or (5), the Office shall request the applicant to remedy the deficiencies within the set time limit, which has to be at least 2 months long.

(4) If the deficiencies referred to in paragraphs 2 and 3 are not remedied, the Office shall reject the application.

(5) If the deficiencies referred to in Section 19a (1), (2) or (5) are not remedied in respect of only some of the goods or services, the Office shall reject the application only in so far as those goods or services are concerned.

#### Section 22

### **Substantive examination**

(1) Where, under Section 4, the sign applied for is ineligible for registration, the Office shall refuse the application. Where the sign applied for is ineligible for registration in respect of only some goods or services, the Office shall refuse the application only in so far as those goods or services are concerned. The Office shall publish information on the refusal of the application in the Official Journal.

(2) The application shall not be refused before the applicant has been allowed the opportunity to submit his observations to the grounds, for which the Office intends to refuse the application.

#### Section 23

### **Publication of the application**

If the conditions as laid down in this Act have been fulfilled, the Office shall publish the application in the Official Journal.

### **Observations by third parties and opposition**

#### Section 24

### **Observations**

(1) Any person may, by the end of the time limit for filing an opposition pursuant to Section 25, submit to the Office observations based on the grounds pursuant to Section 4; the Office shall take into account the observations in the course of the registration procedure. A person who has made the observations shall not be a party to the proceedings before the Office.

(2) The applicant shall be informed about the observations and the outcome of their assessment and may comment on them within the time limit set by the Office. The Office shall inform the person who has made the observations about the outcome of their assessment.

(3) The observations referred to in paragraph 1 shall not be based on the grounds pursuant to Section

(4) If the observations are submitted in paper form, they shall be submitted, including the evidence, in two copies.

#### Section 25

### **Opposition**

(1) The persons referred to in Section 7 may file an opposition within a period of 3 months following the publication of the application; notice of opposition to registration of the trade mark may be based on the grounds referred to in Section 7. The time limit for filing the opposition shall not be extended or restituted.

(2) The notice of opposition has to contain reasons and has to be supported by evidence

enabling its examination. The Office shall not consider any amendments to the opposition or any evidence submitted in support of the opposition made after the expiry of the time-limit pursuant to paragraph 1.

(3) The notice of opposition may be filed on the basis of one or more earlier rights provided that all of them belong to the same opponent.

(4) The opposition may be based on a part or all of the goods or services in respect of which an earlier right is protected or in respect of which is applied for and may relate to a part or all of the goods or services in respect of which an application is filed.

(5) The opposition shall contain:

- a) an indication of the goods or services to which the opposition relates or indication that the opposition relates to all of the goods or services stated in the application;
- b) identification of the opponent's earlier rights on which the opposition is based; and
- c) an indication of the goods or services on which the opposition is based or indication that the opposition is based on all of the goods or services protected by the opponent's earlier rights.

(6) If the notice of opposition is submitted in paper form, it shall be submitted, including the evidence, in two copies.

#### Section 26

#### **Opposition proceedings**

(1) The Office shall refuse the opposition if it is not filed within the statutory time limit by the person referred to in Section 7, no reasons, or no evidence is submitted.

(2) Unless the Office refuses the opposition pursuant to paragraph 1, it shall communicate the content of the opposition notice to the applicant and shall set a time limit for the applicant to file observations to the opposition. If the applicant submits no observations to the opposition within the set time limit, the Office shall base its ruling on the opposition on the contents of the file.

(3) If the Office finds that the sign applied for does not infringe the opponent's legally protected earlier rights referred to in Section 7, it shall refuse the opposition.

(4) If the Office finds that the sign applied for infringes the opponent's legally protected earlier rights referred to in Section 7, it shall refuse the application. If there is a reason for refusing the application only in respect of certain goods or services, the Office shall refuse the application only in connection with these goods or services.

(5) The Office shall publish information on the refusal of the application or of the opposition in the Official Journal.

#### Section 26a

#### **Special provisions concerning the proof of use of a trade mark in the opposition proceedings**

(1) If the earlier trade mark has been registered at least 5 years preceding to the date of filing or the date of priority of the application, at the request of applicant the opponent shall furnish proof that, during the 5 years period preceding the date of filing or the date of priority of the

application, an earlier trade mark has been put to genuine use in compliance with Section 13 in connection with the goods or services in respect of which it is registered and on which the opposition is based, or that there are proper reasons for non-use,

(2) The applicant may file the request pursuant to paragraph 1 to the Office at the latest within 2 months from the delivery of the opposition notice to file observations. The time limit for filing the request for proof of use of an earlier trade mark shall not be extended or restituted.

(3) The request for proof of use of an earlier trade mark shall contain:

- a) registration number of the opponent's earlier trade mark;
- b) an indication of the goods or services in respect of which the proof of use of the trade mark is requested, or indication that the proof of use is requested in respect of all of the goods or services on which the opposition is based; and
- c) justification of the admissibility of the request containing an indication that the request concerns earlier trade mark or earlier trade marks pursuant to paragraph 1.

(4) The request shall be submitted through a separate filing and has to be unconditional and clear.

(5) If the request is submitted in paper form, it shall be submitted in two copies.

(6) If the request for proof of use of a trade mark does not comply with the required elements or is filed after the expiry of the time limit pursuant in paragraph 2, it shall be deemed not to have been filed and the Office shall indicate this in the decision on the opposition.

(7) Within 4 months from the delivery of the Office's letter, the opponent shall submit evidence of genuine use of the earlier trade mark or evidence of the existence of proper reasons for non-use. This time limit shall not be extended or restituted. If the evidence of genuine use is submitted in paper form, it shall be submitted in two copies.

(8) If the earlier trade mark has been put to genuine use only in connection with some goods or services in respect of which it is registered, it shall be considered as registered only in connection with these goods or services for the purposes of examining the opposition.

(9) If the opponent fails to prove the genuine use of the earlier trade mark pursuant to paragraph 1 within the statutory time limit or fails to prove the existence of proper reasons for non-use and the earlier right is the only opposed one, the Office shall refuse the opposition.

#### Section 26b

#### **Friendly settlement**

If the applicant and the opponent request jointly, the Office shall, during the opposition proceedings, set a time limit of at least 2 months for a friendly settlement.

#### Section 27

#### **Amendment of the application**

(1) Unless otherwise provided, the application shall not be subject to any changes, in particular, the list of goods and services in respect of which the application has been filed, shall not be extended.

(2) The application may be amended, upon request of the applicant, only by correcting the first name, surname, name, corporate name, domicile residency address, or the company

residence, or errors of wording or of copying or obvious mistakes, provided that such correction reflects reality and does not substantially change the sign applied for. Where the amendment affects the sign applied for or the list of goods or services and is made after the publication of the application, the application shall be published again as amended.

(3) The applicant may at any time withdraw his application. The Office shall terminate the proceedings on the application which has been withdrawn.

(4) The applicant may at any time restrict the list of goods or services in the application. The restriction cannot be withdrawn.

(5) The applicant may divide an application filed for more goods or services. The divisional applications shall preserve the priority date of the original application, provided they contain only the goods or services of the original application.

(6) In the request for an amendment of the application, the applicant shall specify the requested amendment. If the division of application is requested, the applicant shall specify requested division, the list of the goods or services subject to the divisional application and shall group the list of goods or services according to the classes of the international classification<sup>9</sup>), each group being preceded by the number of the class to which that group of goods or services belongs, and the priority date for each of the divisional applications. Where the restriction of the application is requested, the applicant shall specify the goods or services subject to restriction and shall group the list of goods or services according to the classes of the international classification<sup>9</sup>), each group being preceded by the number of the class to which that group of goods or services belongs.

(7) The provisions of paragraphs 1, 2, 4 to 6 shall apply to the registered trade mark *mutatis mutandis*.

## Section 28 **Registration**

(1) Where an application meets the requirements set out in this Act, the proceedings on the application have not been terminated, and where no notice of opposition has been filed within the time limit pursuant to Section 25 paragraph 1 or where the opposition has been refused by a final decision or the opposition proceedings have been terminated by a final decision, the Office shall register the trade mark, together with the date of the registration, and shall issue to the proprietor of the trade mark a certificate of registration.

(2) The Office shall publish the registration of the trade mark in the Official Journal.

(3) The registration of the trade mark shall take effect from the date of registration.

## CHAPTER VII

### DURATION AND RENEWAL OF THE TRADE MARK REGISTRATION

#### Section 29 **Duration and renewal**

(1) Trade marks shall be registered for a period of 10 years from the date of filing of the

application. If the proprietor of a trade mark does not apply for renewal of the registration, the trade mark shall expire. The Office shall inform the proprietor of the trade mark of the expiry of the registration at least 6 months before the said expiry. Failure to give such information shall not involve the responsibility of the state for damages caused in the exercise of state authority pursuant to other laws<sup>20)</sup> and shall not affect the expiry of the registration.

(2) Registration of the trade mark shall be renewed at the request of the proprietor of a trade mark, for further period of 10 years. The request for renewal shall be submitted in the twelve-month period prior to the expiry of the registration, at the latest on the date of expiry. The time limit for submitting the request for renewal of the registration shall not be extended or restituted.

(3) The request for renewal of the registration may be filed at the latest within a further period of 6 month following the expiry of the registration.

(4) If the request is not submitted within the time limits referred to in paragraph 2 or 3, it shall be deemed not to have been filed.

(5) If the request for renewal of the registration is submitted in respect of only some of the goods or services for which the trade mark is registered, the registration shall be renewed for those goods or services only.

(6) If the registration of a trade mark is to be renewed in respect of only some of the goods or services, the proprietor shall indicate those goods or services for which renewal is requested, or those goods and services for which renewal is not requested.

(7) Renewal shall take effect from the date on which the existing registration expires. The Office shall register the renewal and shall publish it in the Official Journal.

#### Section 29a

### **Special provisions concerning renewal**

(1) The proprietor of a trade mark finally revoked or declared invalid by the Office, which is subject to a court review of the decision pursuant to another law<sup>12)</sup>, may submit a request for renewal of the trade mark within the time limits specified in Section 29 (2) or Section 29 (3) as if the trade mark was registered.

(2) If the sign applied for has not been registered within 10 years from the date of filing of the application, the applicant may submit a request for renewal as if the trade mark was registered in the last year of such period. The applicant may submit the request within the time limits specified in Section 29 (2) or Section 29 (3).

## CHAPTER VIII

### SURRENDER, REVOCATION AND INVALIDITY

#### Section 30

### **Surrender of trade mark rights**

(1) The proprietor may surrender his trade mark rights by means of a declaration in respect of some or all of the goods or services for which the trade mark is registered; the surrender shall take effect with the date of delivery of the trade mark proprietor's declaration to the Office



and cannot be withdrawn. The Office shall enter the surrender of the trade mark rights in the Register and shall publish it in the Official Journal.

### Section 31 **Revocation**

(1) The Office shall revoke the trade mark in the proceedings initiated upon application filed by third party if:

- a) within a continuous period of 5 years prior to the application for revocation, the trade mark has not been put to genuine use in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use; the use which commenced or which was resumed following 5 years of non-use of the trade mark within 3 months preceding the filing of the application for revocation shall be disregarded where the preparations for the commencement or the resumption of the use occurred only after the proprietor becomes aware that the application for revocation may be filed;
- b) in consequence of acts or inactivity of the proprietor, the trade mark has become the common name in the trade for a product or service in respect of which it is registered;
- c) in consequence of the use made of the trade mark by the proprietor of the trade mark or with his consent in respect of the goods or services for which it is registered, the trade mark is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

(2) In a proceeding initiated upon application filed within 6 months following the date on which the court decision declaring the use of a trade mark to be unfair competition becomes final, the Office shall revoke the trade mark. The time limit for filing the application for revocation of the trade mark shall not be extended or restituted.

(3) The application for revocation of a trade mark has to contain reasons and, in the case of the application pursuant to paragraph 1 b) or c) or paragraph 2, shall be supported by evidence enabling its examination.

(4) The application for revocation of a trade mark may relate to a part or all of the goods or services for which the trade mark is registered.

(5) The application for revocation of a trade mark shall identify the goods or services to which it relates or information that it relates to all goods or services.

(6) If the application for revocation of a trade mark is submitted in paper form, it shall be submitted, including the evidence, in two copies.

### Section 31a **Proceedings on the application for revocation of a trade mark**

(1) The Office shall communicate the application for revocation of the trade mark to the proprietor of a trade mark and shall set a time limit for the proprietor to file observations to the application and, in the case of the application pursuant to Section 31 (1) a), to submit proof of genuine use. The Office shall decide on the application even if the proprietor submits no observations to the application within the set time limit.

(2) If the evidence of genuine use of a trade mark is submitted in paper form, it shall be submitted in two copies.

(3) If the Office finds that the application for revocation of a trade mark is unjustified, it shall refuse it.

(4) If the Office finds that there is a reason for revocation pursuant to Section 31, it shall revoke the trade mark. If the reason for revocation relates only to some of the goods or services for which the trade mark is registered, the Office shall revoke the trade mark within the scope of these goods or services.

(5) To the extent to which the proprietor's rights are revoked, the registered trade mark shall be considered as mark which, from the date of filing of the application for revocation, does not have the effects stipulated in this Act. Upon request of the party to the proceedings, the Office may state another earlier date of occurrence of the reason for revocation in the decision on the application for revocation of the trade mark.

### Section 32 **Invalidity**

(1) The Office shall declare the trade mark invalid in the proceedings initiated upon application filed by third party, where the trade mark has been registered contrary to the provisions of Section 4 or where the trade mark application was not filed in good faith.

(2) Where the trade mark has been registered contrary to the provisions of Section 4 letter b) or c) or d), it shall not be declared invalid if, in consequence of the use which has been made of it, it has, prior to the initiation of the proceedings, acquired a distinctive character in relation to the goods or services for which it is registered.

(3) The Office shall declare a trade mark invalid in the proceedings initiated upon application of the person mentioned in Section 7 and for the reasons mentioned in that provision.

(4) The conditions for claiming the earlier rights referred to in Section 7 shall be fulfilled already on the date of filing of the trade mark application or on the date of the right of priority of the later trade mark.

(5) Where the trade mark is declared invalid, it shall be considered as never registered.

(6) A trade mark may be declared invalid even after its proprietor surrendered the trade mark or after the trade mark has lapsed or has been revoked.

(7) Where the ground for invalidity exists only in respect of some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

### **Proceedings on the application for a declaration of invalidity of a trade mark**

#### Section 32a

(1) An application for a declaration of invalidity of a trade mark has to contain reasons and has to be supported by evidence enabling its examination.

(2) The application for a declaration of invalidity of a trade mark pursuant to Section 32 (3) may be filed on the basis of one or more earlier rights provided that all of them belong to the same applicant.

- (3) The application for a declaration of invalidity of a trade mark may relate to a part or all of the goods or services for which the trade mark is registered.
- (4) The Office shall communicate the application for a declaration of invalidity to the proprietor of the trade mark and shall set a time limit for the proprietor to file observations to the application. The Office shall decide on the application even if the proprietor submits no observations to the application.
- (5) The application for a declaration of invalidity of a trade mark shall contain:
- a) an indication of the goods or services to which the application for a declaration of invalidity of a trade mark relates or indication that the application relates to all of the goods or services;
  - b) an identification of the applicant's earlier rights on which the application is based, if the application is filed pursuant to Section 32 (3) of this Act; and
  - c) an indication of the goods or services on which the application is based or indication that the application is based on all of the goods or services protected by the applicant's earlier rights
- (6) If the application for a declaration of invalidity of a trade mark is submitted in paper form, it shall be submitted, including the evidence, in two copies.

#### Section 32b

- (1) The Office shall refuse the application for a declaration of invalidity of a trade mark if:
- a) the trade mark is not excluded from registration for the reasons referred to in Section 4 or the conditions of Section 32 (2) are met;
  - b) the application for registration was filed in good faith; or
  - c) the registration of the trade mark did not infringe the third parties' legally protected earlier rights referred to in Section 7.
- (2) The Office shall refuse the application if the applicant fails to prove the genuine use of an earlier trade mark pursuant to Section 32c or fails to prove the existence of proper reasons for non-use and the earlier right is the only opposed one; otherwise, the Office shall disregard such trade mark in the examination of the application.
- (3) An application for a declaration of invalidity of a trade mark on the basis of a conflict of the trade mark with an earlier trade mark shall not succeed if it would not have been successful at the filing date or the priority date of the later trade mark for any of the following reasons:
- a) the earlier trade mark liable to be declared invalid pursuant to Section 4 b), c) or d) had not yet acquired a distinctive character as referred to in Section 5;
  - b) the application for a declaration of invalidity of a trade mark is based on the reason referred to in Section 7 (1) b) and the earlier trade mark had not yet become sufficiently distinctive to support a finding of likelihood of confusion; or
  - c) the application for a declaration of invalidity of a trade mark is based on the reason referred to in Section 7 (1) c) and the earlier trade mark had not yet acquired a reputation.
- (4) Where the seniority is claimed for a European Union trade mark on the basis of a trade mark which the proprietor has surrendered or has allowed it to lapse, the trade mark being the basis for claiming the seniority may be declared invalid or the rights of the proprietor of such trade mark may be revoked subsequently provided that the trade mark would have been liable to be declared invalid or revoked at the time when the proprietor surrendered it or allowed it to lapse, in which case the seniority shall cease to have effect.

### Section 32c

#### **Special provisions concerning the proof of use of a trade mark in the proceedings for a declaration of invalidity of a trade mark**

- (1) If, on the date of filing of the application for declaration of invalidity pursuant to Section 32 (3), an earlier trade mark has been registered for at least 5 years, the applicant shall furnish proof, upon request of the proprietor of the later trade mark, that, during the 5 years period preceding the date of filing of application for a declaration of invalidity, the earlier trade mark has been put to genuine use in compliance with Section 13 in connection with the goods or services for which it is registered and on which the application for declaration of invalidity is based, or that there are proper reasons for non-use. If, on the date of filing of the application for registration of a later trade mark or on the date of the right of priority of a later trade mark, the earlier trade mark has been registered for at least 5 years, the applicant shall furnish proof that the conditions in Section 13 are fulfilled on that date.
- (2) The proprietor of a later trade mark may file the request pursuant to paragraph 1 to the Office at the latest within 2 months from the delivery of the Office communication to the proprietor of the later trade mark for filing observations to the application for a declaration of invalidity. The time limit for filing the request for proof of use of an earlier trade mark shall not be extended or restituted.
- (3) If the request for proof of use of a trade mark does not comply with the required elements or is filed after the expiry of the time limit pursuant to paragraph 2, it shall be deemed not to have been filed and the Office shall indicate this fact in the decision on the application for a declaration of invalidity of the trade mark.
- (4) The request for proof of use of an earlier trade mark shall contain:
  - a) registration number of the applicant's earlier trade mark;
  - b) an indication of the goods or services in respect of which the proof of use of a trade mark is requested, or indication that the proof of use is requested in respect of all goods or services on which the application for a declaration of invalidity of the trade mark is based; and
  - c) justification of the admissibility of the request, containing an indication that the request concerns earlier trade mark or earlier trade marks pursuant to paragraph 1.
- (5) The request shall be submitted through a separate filing and has to be unconditional and clear. If the request is submitted in paper form, it shall be submitted in two copies.
- (6) Within 4 months from the delivery of the Office's letter, the applicant shall submit evidence of genuine use of the earlier trade mark or evidence of the existence of proper reasons for non-use. If the evidence of genuine use is submitted in paper form, it shall be submitted in two copies.
- (7) If the earlier trade mark has been put to genuine use only in connection with some of the goods or services in respect of which it is registered, it shall be considered as registered only for these goods or services for the purposes of the examination of the application for a declaration of invalidity of the trade mark.

### Section 33

#### **Special provisions on the effects of revocation and invalidity**

- (1) The effects of the revocation or invalidity of a trade mark shall not affect:

- a) decisions in the matter of infringement of trade mark rights which became effective and which were enforced before the effective date of the decision on the revocation or invalidity of a trade mark,
- b) agreements concluded before the effective date of the decision on the revocation or invalidity of a trade mark in the extent of the fulfilment provided on their basis before the effective date of such a decision (on revocation or invalidity); it is however possible to claim the surrender of the fulfilment already provided on the basis of the agreement.

(2) The provision of paragraph 1 shall not affect the liability of the proprietor of the trade mark for damages or unjustified enrichment.

Section 34  
**(deleted)**

CHAPTER IX

SPECIAL PROVISIONS CONCERNING COLLECTIVE AND  
CERTIFICATION TRADE MARKS

Section 35  
**Collective trade mark**

(1) A collective trade mark shall be a trade mark which is described as such when the trade mark is applied for and is capable of distinguishing the goods and services of the members or shareholders of a legal person from those of other persons.

(2) An application for registration of a collective trade mark may be filed by a legal person, in particular, an association of manufacturers, producers, suppliers of services, and traders which, under the terms of the law organizing them, have legal capacity and personality, as well as by legal persons governed by public law.

(3) Chapters I to VIII and X and XI shall apply to collective trade marks to the extent that the Chapter IX does not provide otherwise.

Section 36  
**Requirements of the application for a collective trade mark**

(1) In addition to the requirements mentioned in Section 19, the application for a collective trade mark shall contain information identifying the applicant's members or shareholders authorized to use the collective trade mark.

(2) The application for a collective trade mark shall be accompanied by an agreement governing use of the collective trade mark, specifying at least the persons authorized to use the collective trade mark, the conditions of membership in a legal person, and the conditions of use of the collective trade mark, including sanctions.

Section 37  
**Examination of application for a collective trade  
mark**

(1) The Office shall examine the application for a collective trade mark within the scope of

Sections 21 and 22; the condition referred to in Section 4 b) shall be examined with respect to Section 35 paragraph 1.

(2) In addition to the grounds for refusal of an application pursuant to Section 4, the Office shall refuse the application for collective trade mark where:

- a) the application does not satisfy the requirements of Section 35 or 36;
- b) the agreement governing use is contrary to public policy or to accepted principles of morality; or
- c) the public is liable to be misled as regards the character or the significance of the trade mark, in particular, if it is likely to be taken to be something other than a collective trade mark.

(3) Observations regarding the application for a collective trade mark may be based, in addition to the grounds pursuant to Section 24, on the grounds in paragraph 2 b) or c) or Section 36 (2).

(4) An application shall not be refused if the applicant, as a result of amendment of the agreement governing use, meets the requirements of paragraph 2.

(5) Where the application for a collective trade mark meets the requirements set out in this Act, the Office shall register the collective trade mark and the applicant shall become the proprietor of the collective trade mark.

#### Section 38

##### **Rights conferred by a collective trade mark**

(1) The members or the shareholders of the proprietor of a collective trade mark entered in the Register shall have the exclusive right to use the collective trade mark in relation to the goods or services covered by the collective trade mark.

(2) The proprietor of the collective trade mark shall have the rights pursuant to Chapter II to the extent that this Chapter does not provide otherwise.

(3) The members or the shareholders of the proprietor of a collective trade mark shall have the rights pursuant to paragraph 1 in accordance with the conditions laid down in the agreement governing use.

(4) The proprietor of a collective trade mark shall be entitled to claim compensation on behalf of the members or shareholders who have authority to use the trade mark pursuant to paragraph 1 where they have sustained damage in consequence of unauthorized use of the trade mark.

(5) For the purpose of claiming compensation, the proprietor's member or shareholder specified in paragraph 1 may be entitled to intervene in infringement proceedings concerning the collective trade mark.

#### Section 38a

##### **Amendments to the agreement governing use**

(1) Upon request of the proprietor of a collective trade mark, the Office shall register an amendment to the composition of the proprietor's members or shareholders.

(2) The proprietor of a collective trade mark shall submit to the Office any amendment of the agreement governing use.

(3) Amendments to the agreement governing use shall be mentioned in the register if the

amended agreement satisfies the requirements of Section 36 (2) and does not involve any of the grounds for refusal referred to in Section 37 (2) b) or c).

(4) Amendments to the agreement governing use shall take effect towards third parties from the date of entry of the mention of those amendments in the Register.

#### Section 39

### **Limits on rights conferred by a collective trade mark**

The collective trade mark cannot be the subject of licence.

#### Section 40

### **Revocation of a collective trade mark and declaration of invalidity**

(1) In addition to the grounds referred to in Section 31, the Office shall revoke a collective trade mark if:

- a) the proprietor of the collective trade mark does not take reasonable steps to prevent the trade mark from being used in a manner incompatible with the conditions of use laid down in the agreement governing use, including any amendments which have been mentioned in the register;
- b) an amendment to the agreement governing use has been mentioned in the Register in breach of Section 38a, unless the proprietor of the trade mark, by further amending the agreement governing use, complies with the requirements of this Section; or
- c) the manner in which the trade mark has been used by authorized persons has caused it to become liable to mislead the public in the manner referred to in Section 37 (2) c).

(2) The declaration of invalidity of a collective trade mark shall be subject to Section 32; the compliance with the condition in Section 4 b) shall be considered with regard to Section 35 (1). The Office shall declare the collective trade mark registered in breach of Section 37 (2) invalid on the basis of an application to the Office, unless the proprietor of the trade mark, by further amending the agreement governing use, complies with the requirements referred to in Section 37 (2).

#### Section 40a

### **Certification trade mark**

(1) A certification trade mark shall be a trade mark which is described as such when the trade mark is applied for and is capable of distinguishing the goods or services, certified by the proprietor of that trade mark for material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, from the goods or services which are not so certified.

(2) Any natural or legal person competent to certify the products or services for which a certification trade mark is applied may apply for the certification trade mark provided that such person does not carry on a business involving the supply of goods or services of the kind certified.

(3) Chapters I to VIII and X and XI shall apply to certification trade marks to the extent that the Chapter IX does not provide otherwise.

#### Section 40b

### **Requirements and examination of the application for a certification trade mark**

(1) the application for a certification trade mark shall be accompanied by regulations governing

use. The requirements of the regulations governing use are mentioned in Annex No. 1 to this Act.

(2) The Office shall examine the application for a certification trade mark within the scope of Sections 21 and 22; the condition referred to in Section 4b) shall be examined with respect to Section 40a (1).

(3) In addition to the grounds for refusal of an application pursuant to Section 4, the Office shall refuse the application for certification trade mark where:

- a) the application does not satisfy the requirements of in paragraph 1 or Section 40a;
- b) the regulations governing use are contrary to public policy or to accepted principles of morality; or
- c) the public is liable to be misled as regards the character or the significance of the certification trade mark, in particular, if it is likely to be taken to be something other than a certification mark;

(4) An application shall not be refused if the applicant, as a result of amendment of the regulations governing use, meets the requirements of paragraph 3.

(5) Observations regarding the application for a certification trade mark may be based, in addition to the grounds pursuant to Section 24, on the grounds in paragraph 3.

(6) Where the application for a certification trade mark meets the requirements for the registration, the Office shall register the certification trade mark and the applicant shall become the proprietor of the certification trade mark.

(7) The Office shall mention the regulations governing use in the Register.

#### Section 40c

#### **Amendment of the regulations governing use of a certification trade mark**

(1) The proprietor of a certification trademark shall submit to the Office any amended regulations governing use.

(2) Amendments shall be mentioned in the Register if the amended regulations satisfy the requirements of Section 40b (1) and do not involve any of the grounds for refusal referred to in Section 40b (3). Amendments to the regulations governing use shall take effect from the date of entry of the mention of those amendments in the Register.

#### Section 40d

#### **Revocation of a certification trade mark and declaration of invalidity**

(1) In addition to the grounds referred to in Section 31, the Office shall revoke a certification trade mark on the basis of an application to the Office, if:

- a) the proprietor of the certification trade mark does not meet the conditions specified in Section 40a (2);
- b) the proprietor of the certification trade mark does not take reasonable steps to prevent the certification trade mark from being used in a manner incompatible with the conditions of use laid down in the regulations governing use;
- c) an amendment to the regulations governing use has been mentioned in the Register in breach of Section 40b (1) or (3), unless the proprietor of the certification trade mark, by further amending the regulations governing use, complies with the requirements of this Section; or



- d) the manner in which the certification trade mark has been used by the authorized persons has caused it to become liable to mislead the public in the manner referred to in Section 40b (3) c).
- (2) The declaration of invalidity of a certification trade mark shall be subject to Section 32; the compliance with Section 4b) shall be considered with regard to Section 40a (1). The Office shall declare a certification trade mark registered in breach of Section 40b (3) invalid on the basis of an application to the Office, unless the proprietor of the certification trade mark, by further amending the regulations governing use, complies with the requirements referred to in Section 40b (3).

CHAPTER X  
GENERAL PROVISIONS  
ON THE PROCEDURE BEFORE THE OFFICE

Section 41  
**Submissions**

- (1) Any submission, except for an application for registration, shall contain the number of the application file or the number of registration of the trade mark to which the submission relates.
- (2) Pursuant to this Act, a party to the proceedings shall be identified by its identity data. Natural person is identified by its first name(s), surname, possibly corporate name, domicile or foreign residency address, nationality, and, possibly, delivery address. Legal person is identified by its company name, company residence, and, possibly, delivery address. These parties may also be identified on the basis of other data provided by them and allowing the Office to use data from the information systems of public administration maintained pursuant to other laws<sup>21)</sup>.
- (3) Any submission to the Office shall be filed in the Czech language. It may be submitted in paper or electronic form.

Section 42  
**Appeal**

- (1) An appeal may be lodged against a decision of the Office within 1 month from delivery of the decision. The appeal shall have suspensive effect. Time limit for lodging an appeal is not to be extended and default of time limit is not to be waived.
- (2) The statement of grounds of the appeal has to be submitted to the Office within 1 month after the lodging appeal. Time limit for submitting the statement of grounds is not to be extended and default of time limit is not to be waived.

Section 43  
**Waiver of the default  
of time**

- (1) Upon request of the party, who is to prove that the default of time limit set by the statute or by the Office was through no fault of his own, the default of time limit will be waived by the Office, unless otherwise provided by this Act.
- (2) The request pursuant to par. 1 is to be submitted within 2 months after the impediment which prevented the party to perform the act ceased to exist, but not later than 12 months after the day when the relevant act was supposed to be performed. The party is obligated to state the

grounds for not performing the omitted act and to complete the omitted act. The time limit for submitting the request is not to be extended and default of time limit is not to be waived.

#### Section 44

### **Register and official journal**

(1) The Office keeps a register which contains crucial particulars of trade marks applications and crucial particulars of registered trade marks as defined by this Act or set by the Office.

(2) The Register is a public list open for public inspection and anyone can make copies of, and extracts from it. Upon request, the Office shall issue an officially certified complete extract or a partial extract from the Register or a copy of the registration or a certificate of a particular registration or a certificate that particular information does not exist in the Register. The certification affirms the conformity of the extract or the copy with the entry in the Register.

(3) Upon receipt, the Office shall without undue delay enter in the Register an amendment of the particulars of the application for registration or the registered trade mark ensuing from a final decision of the respective authority. The Office shall correct the errors found in the Register without undue delay and shall inform the respective party of the corrections made.

(4) The Register is maintained in electronic form and the Office publishes information contained in the Register on its website.

(5) The note of disputability pursuant to the Civil Code<sup>15)</sup> may only relate to an entry in the Register which designates treatment of the trade mark as the subject-matter of ownership.

(6) The Register shall contain the following entries:

- a) number of the application file;
- b) registration number of a trade mark;
- c) date of filing an application;
- d) date of the right of priority;
- e) date of publication of an application in the Official Journal;
- f) date of registration of a trade mark in the Register, from which the 5 years period pursuant to Section 13 (1) shall commence;
- g) wording, graphical or other representation of a trade mark; if the trade mark contains characters using script other than Latin and the applicant has mentioned these characters in the application, the transliteration of such script into the Latin script;
- h) information on whether a trade mark is comprised exclusively of a single colour or a combination of colours, including the name or number of the colour according to the generally recognized colour code;
- i) classes of the figurative elements of a trade mark<sup>22)</sup>;
- j) information identifying the applicant or the proprietor of a trade mark;
- k) type of a trade mark;
- l) goods or services for which a trade mark is registered, presented in the order of the international classification classes<sup>9)</sup>, including the relevant class number;
- m) limitation of scope of protection;
- n) transfers or assignments of a trade mark or application, including information identifying the transferee;
- o) other rights to a trade mark or application and information identifying the beneficiary;
- p) licenses for a trade mark or application and information identifying the licensee;
- q) dates of renewals of a trade mark;
- r) information identifying the members or the shareholders of a legal entity authorized to use a

- collective trade mark;
- s) specification of persons authorized to use a certification trade mark, and regulations governing use of a certification trade mark and their amendments;
- t) information identifying a representative of an applicant or a proprietor of a trade mark;
- u) revocation of a trade mark, declaration of invalidity of a trade mark, or another form of trade mark termination, including the surrender of trademark rights;
- v) other crucial details set by the Office

(7) The Office issues the Official Journal in which it publishes particularly trade mark applications or registered trade marks and any further information concerning the trade marks, or notices and general information issued by the Office, as well as official communication and important decisions.

## Section 45

(1) Unless otherwise provided in this Act, the Administrative Procedure Code shall be applicable to the proceedings on trade marks, except for the provisions pertaining to the certification of powers of attorney granted for an indefinite number of proceedings<sup>11)</sup>, the certification of official stamps and signatures in public documents issued by foreign state bodies<sup>11a)</sup>, the suspension of proceedings<sup>11b)</sup>, the time limits for decision making<sup>11c)</sup>, the protection against inactivity<sup>11d)</sup>, and, furthermore, the provisions on the particularities of the appellate proceedings, the provisions on composition of the Appellate Committee and on possible termination of the appellate proceedings<sup>11e)</sup> and the provisions on prohibition of a change of the contested decision on the grounds of loss of the option to file an appeal<sup>11f)</sup>.

(2) In proceedings initiated on the basis of an application, the Office shall make decisions in the extent of the parties' submissions and based on the proof submitted by the parties.

(3) Legal action under other laws<sup>12)</sup> may be brought against a final decision of the Office.

## Section 45a

### **Use of data in information systems of public administration**

(1) In exercising the competence pursuant to this Act, the Office shall use the following data from the basic population register:

- a) surname;
- b) name(s);
- c) address;
- d) date, place and district of birth; date, place and country of birth in a data subject born abroad;
- e) date, place and district of death; date of death and place and country where the death occurred in the event of a data subject's death outside the Czech Republic; where a court decision declaring a person dead is handed down, date stated in the decision as the date of death, or, possibly, as the date which the data subject declared dead has not survived, and date of legal force of that decision;
- f) nationality/nationalities

(2) In exercising the competence pursuant to this Act, the Office shall use the following data from the information system of the population register:

- a) name(s), surname, and maiden name;
- b) permanent address or, possibly, address to which written documents pursuant to another law shall be delivered;
- c) date of birth;

- d) place and district of birth; place and country of birth in a foreign national;
- e) date, place and district of death; in the event of death outside the Czech Republic, date of death and place and country where the death occurred;
- f) date stated in the court decision on the declaration of death as date of death, or, possibly, as date which a national declared dead has not survived, and date of legal force of that decision;
- g) nationality/nationalities

(3) In exercising the competence pursuant to this Act, the Office shall use the following data from the information system of foreign nationals:

- a) name(s), surname, and maiden name;
- b) type and address of residence in the Czech Republic or, possibly, address to which written documents pursuant to another law shall be delivered;
- c) date of birth;
- d) place and country of a foreign national's birth; place and district of birth if the foreign national was born in the Czech Republic;
- e) nationality/nationalities;
- f) date, place and district of death; in the event of death outside the Czech Republic, state where the death occurred and, possibly, date of death;
- g) date stated in the court decision on the declaration of death as date of death, or, possibly, date which a foreign national declared dead has not survived, and date of legal force of that decision

(4) From the data pursuant to paragraphs 1 to 3, only such data may always be used in a particular case which is necessary to fulfil a given task. Data recorded as referential data in the basic population register shall be used from the information system of the population register or the information system of foreign nationals only if it is in form preceding the current state of affairs.

## CHAPTER XI INTERNATIONAL MATTERS

### Section 46

(1) Persons who have a real commercial or industrial establishment, permanent residency or seat in a state which is party to the Paris Convention<sup>3)</sup> or a state which is member of the World Trade Organization<sup>17)</sup>, or persons who are nationals of that state have the same rights as persons who are Czech nationals or who have their real commercial or industrial establishment, permanent residency or seat in the Czech Republic; where the person is a national of a state which is not a Convention country of the Paris Convention<sup>3)</sup> or a member of the World Trade Organization<sup>17)</sup> or where the person has a real commercial or industrial establishment, permanent residency or seat in such a state, the rights pursuant to this Act may be granted only on condition of reciprocity.

(2) A person who does not have a real commercial or industrial establishment, permanent residency or seat in the territory of the Czech Republic shall be represented in proceedings on trade marks pursuant to other laws<sup>13)</sup>.

(3) The provision of paragraph 2 shall not apply to natural persons who are nationals of a member state of the European Union or of a state party to the Agreement on the European Economic Area and who are domiciled in the territory of the Czech Republic or render services in the territory of the Czech Republic, or to legal persons who have their headquarters or seat of their business activities in the territory of a member state of the European Union or of a state

party to the Agreement on the European Economic Area, and who are domiciled in the territory of the Czech Republic or render services in the territory of the Czech Republic. These persons shall appoint an address for service in the Czech Republic for proceedings before the Office, to which official documents concerning applications for registration or registered trade marks will be delivered.

### **Application for the international registration**

#### Section 47

(1) Persons who have their real commercial or industrial establishment, permanent residency or seat in the Czech Republic or who are Czech nationals may file an application for international registration of a trade mark pursuant to the Madrid Agreement or the Protocol Relating to the Madrid Agreement or file an application for registration of changes concerning the international registration through the intermediary of the Office.

(2) The applicant for registration of a trade mark with application for international registration shall pay the fees pursuant to the Madrid Agreement or the Protocol Relating to the Madrid Agreement for acts done pursuant to paragraph 1; the Office shall publish the amount of the fees as prescribed by the international agreement in the Official Journal.

#### Section 48

(1) An international registration of a trade mark designating the Czech Republic shall have the same effect as an application for registration of a national trade mark.

(2) The time limit for filing opposition against the international registration of a trade mark designating the Czech Republic shall begin on the first day of the month following the month in which the trade mark was published in the WIPO Gazette of International Trade Marks<sup>14</sup>).

(3) The international registration of a trade mark which is granted protection in the Czech Republic shall have the same effect as the registration of a national trade mark.

#### Section 48a

### **Requirements of an application for the international registration of a trade mark**

(1) If a trade mark is registered in the Register, the application for international registration of a trade mark shall contain:

- a) registration number of the trade mark;
- b) wording or graphical representation of the trade mark identical to those mentioned in the Register; if the trade mark is applied for in characters other than Latin or contains numerals other than Arabic or Roman, it shall be transliterated into the Latin script, which shall follow the phonetics of the French or English language, and a transliteration into Arabic numerals;
- c) information identifying the applicant, which shall be identical to the information identifying the proprietor in the Register, or, possibly, information identifying a representative;
- d) list of goods or services, which shall not be broader than the list of goods or services for which the trade mark is registered, with a precise translation into French or English, grouped according to the classes of the international classification<sup>9)</sup>, each group being preceded by the number of the class;
- e) a list of contracting parties to the Madrid Agreement or the Protocol Relating to the Madrid Agreement in which protection is sought;

- f) method of payment of the fees for international registration pursuant to the Madrid Agreement or the Protocol Relating to the Madrid Agreement, information identifying the payer, and, possibly, number of the acknowledgement of receipt of payment issued by the International Bureau of the World Intellectual Property Organization<sup>14</sup>;
- g) a list of colours in French or English if the trade mark is in colour; information of whether the trade mark consists only of a colour or a combination of colours (if applicable);
- h) other requirements pursuant to the Madrid Agreement or the Protocol Relating to the Madrid Agreement

(2) If a trade mark is not yet registered, the application for international registration of a trade mark shall contain information on the application, the date of filing of the application with the Office, and the information pursuant to paragraph 1 b) to h).

(3) The applicant shall accompany the application for international registration of a trade mark in paper form with the graphical representation of the trade mark of at least 15 x 15 mm and at the most 80 x 80 mm, capable of clearly reproducing the trade mark with regard to all details with all features and, possibly, colours. The Office shall publish the technical requirements for the graphical representation of a trade mark in electronic form on its website. The sign applied for, including colours, shall be identical to the sign in the application or to the registered trade mark.

#### Section 48b

### **Requirements of a request for recording of changes in the international registration in the international register of trade marks**

The request shall contain:

- a) number of the international registration of a trade mark;
- b) file number of the international registration of a trade mark, if assigned;
- c) information identifying the proprietor of an international trade mark;
- d) information of the requested change;
- e) method of payment of the fees for the change requested pursuant to the Madrid Agreement or the Protocol Relating to the Madrid Agreement, information identifying the payer, and, possibly, number of the acknowledgement of receipt of payment issued by the International Bureau;
- f) other requirements pursuant to the Madrid Agreement or the Protocol Relating to the Madrid Agreement.

#### Section 49 (deleted)

### CHAPTER XII

## TRADE MARK PURSUANT TO THE LAW OF THE EUROPEAN UNION ON THE EUROPEAN UNION TRADE MARK

### Section 50 **Conversion into the national trade mark application**

(1) The Office shall examine the request for the national proceeding on conversion of the European Union trade mark application or European Union trade mark to the application for a national trade mark pursuant to Article 139 of the European Parliament and Council

Regulation, if the applicant, within 2 months following the delivery of the Office communication:

- a) pays the administrative fee;
- b) submits a translation of the request and its attachments into the Czech language;
- c) indicates an address for service in the Czech Republic;
- d) submits the wording, the graphical or other representation of the trade mark.

(2) The Office shall register, without any further requirements, the trade mark resulting from the conversion of an already registered European Union trade mark with the date of priority which was accorded to the European Union trade mark; the Office shall publish information on the registration in the Official Journal.

## Section 51

(1) The proprietor of the national trade mark the application of which was filed in good faith prior to, or which has a right of priority dated before, the accession to the European Union, shall have the right to prohibit the use of the European Union trade mark the effects of which have been extended to the territory of the Czech Republic based on the accession of the Czech Republic to the European Union, if

- a) the European Union trade mark is identical to the national trade mark and the goods or services for which both trade marks are registered are identical; or
- b) because of the national trade mark identity with, or similarity to the European Union trade mark and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public, including the likelihood of association with the national trade mark; or
- c) the European Union trade mark is identical with, or similar to the national trade mark irrespective of whether the European Union trade mark is registered for identical, similar or not similar goods or services for which the national trade mark is registered or protected, if the national trade mark has a reputation in the Czech Republic and the use of the European Union trade mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the national trade mark.

(2) The proprietor of the national trade mark mentioned in paragraph 1 may claim compensation where damage has been sustained as a result of the use of the European Union trade mark in the territory of the Czech Republic within the scope as provided by Act No. 221/2006 Coll., on enforcement of industrial property rights and on the amendment to industrial property protection Acts (Industrial Property Rights Enforcement Act).

## CHAPTER XIII

### OFFENCES

#### Section 51a

(1) A natural person, natural person-entrepreneur or legal entity shall be considered as having committed an offence if he uses a trade mark without authorization

(2) A sanction of up to CZK 250,000 or prohibition of activity may be imposed for the offence pursuant to paragraph 1.

(3) The publication of the decision of offence may also be imposed for the offence pursuant to paragraph 1 if committed by a legal entity or a natural person-entrepreneur.

(4) The offence pursuant to paragraph 1 shall be heard by the municipal authority with extended competences.

(5) The offence pursuant to paragraph 1 cannot be dealt with through an on-site order.

## CHAPTER XIV

### TRANSITIONAL AND EMPOWERING PROVISIONS, REPEALS

#### Section 52

#### **Transitional provisions**

(1) Trade marks registered under earlier laws shall remain valid. Where an application for a declaration of invalidity of a trade mark is filed claiming that the trade mark was registered in breach of the law, the registrability of the trade mark shall be examined under the law as valid at the time of the registration of the trade mark in the register. However, the trade mark shall not be declared invalid if its registration is in compliance with this Act.

(2) This Act shall apply to the proceedings on applications for registration which have not been completed by the effective date of this Act. The effects of procedural acts done in these proceedings shall remain unchanged and shall be examined accordingly under this Act. Where an application filed prior to the effective date of this Act has deficiencies which hinder the examination of the application, the Office shall invite the applicant to correct such deficiencies and shall set an adequate time limit for this purpose.

(3) Where the application was published prior to the effective date of this Act but the time-limit for filing the opposition as set in Section 25 of this Act has not expired prior to the effective date of this Act, it shall be possible to file an opposition against the registration also under Section 7 of this Act within the prescribed time-limit, however at the latest within 1 month following the effective date of this Act. Prior to the registration of the trade mark, the Office shall also examine the fulfilment of the conditions of registrability under Section 1, 2, 5 and 6 of this Act.

(4) Where an application for removal from the Register has been filed prior to the effective date of this Act pursuant to Section 25 of the previous Act, it shall be examined as an application for revocation of a trade mark or for a declaration of invalidity of a trade mark under the fulfilment of the conditions of this Act and with effects as laid down in this Act.

(5) Where the proceedings for revocation of a trade mark under Section 25 paragraphs 2 and 3 of the previous Act has not been completed prior to the effective date of this Act, the applicant for removal from the Register shall be obliged to prove to the Office use of the earlier trade mark within the meaning of Section 13 of this Act.

(6) The application for removal of a trade mark from the Register under Section 26 of the previous Act may be filed within 1 year from the effective date of this Act.

(7) Where a collective trade mark was registered under previous laws and the present proprietors did not form a special legal entity, they can do so within 1 year from the effective date of this Act. After the fruitless expiry of this time-limit, the relations among the present proprietors of the collective trade mark shall be governed by the general laws on co-ownership.

(8) The relations resulting from trade marks registered prior to the effective date of this Act shall



be governed by this Act. However, the establishment of these relationships as well as the claims resulting from them shall be considered under the laws valid at the time of their establishment.

(9) The declaration of a trade mark famous under Section 18 of Act No. 174/1988 Coll., on Trade Marks, shall remain valid for the time period laid down in Section 42 (3) of Act No. 137/1995 Coll., on Trade Marks.

Section 53  
**(deleted)**

Section 54  
**Repeals**

The following Acts shall hereby be repealed:

1. Act No. 137/1995 Coll., on Trade Marks, as amended
2. Decree No. 213/1995 Coll., implementing the Act on Trade Marks.

**PART II**

**Amendment to the Act on courts and  
judges**

Section 55

The current wording of Section 39 of Act No. 6/2002 Coll., on Courts, Judges, Lay Judges and the State Court Administration and on the Amendments to Certain Other Acts (Act on Courts and Judges), shall be marked as paragraph 1 and paragraph 2 shall be added, reading as follows:

“(2) In the Czech Republic, the Municipal Court in Prague decides as the court of first instance for Community trade marks pursuant to Article 92 of the EC Council Regulation No. 40/1994 of 20 December 1993 on the Community Trade Mark.”

**PART III**  
**ENTRY INTO**  
**FORCE**

Section 56

This Act shall come into force on 1 April 2004, except for the provisions of Part I Section 2 c), Section 3 a) point 3 and Section 3 b), Section 7 (1) e), Section 11 (2), Section 46 (3), Section XII and Part II, which shall come into force on the day of the entry of the treaty on accession of the Czech Republic to the European Union into force.

**Types of trade marks and means of their representation**

1. A word mark consisting exclusively of words or letters in the Roman script, Arabic or Roman numerals, other standard typographic characters, or a combination thereof, shall be represented by submitting a reproduction of the sign in standard script and layout, without any graphic elements or colours.
2. A figurative trade mark consisting of non-standard characters, stylisation or layout, or a graphic feature or a colour, including trade marks consisting exclusively of figurative elements or of a combination of verbal and figurative elements, shall be represented by submitting a reproduction of the sign the registration of which is applied for, showing all its elements and where applicable, its colours.
3. A three-dimensional (shape) trade mark, consisting of, or extending to, a three-dimensional shape including containers, packaging, the product itself or their appearance, the mark shall be represented by submitting either a graphic reproduction of the shape, including computer-generated imaging, or a photographic reproduction. The graphic or photographic reproduction may contain different views.
4. A position trade mark consisting of a specific way in which the mark is placed or affixed to the goods, shall be represented by submitting a reproduction appropriately identifying the position of the trade mark and its size or proportions with respect to the relevant goods. The elements which do not form part of the subject matter of the registration shall be visually disclaimed preferably by broken or dotted lines. The representation may be accompanied by a description detailing how the sign is affixed to the goods.
5. A trade mark representing a pattern consisting exclusively of a set of elements which are repeated regularly, shall be represented by submitting a reproduction showing the pattern of repetition. The presentation may be accompanied by a description detailing how its elements are regularly repeated.
6. A colour trade mark consisting exclusively of a single colour without contours or exclusively of a colour combination without contours, shall be represented by submitting:
  - a) a reproduction of the colour and an identification of that colour by reference to a generally recognized colour code; or
  - b) a reproduction that shows the systematic arrangement of the colour combination in a uniform and predetermined manner and an indication of those colours by reference to a generally recognized colour code; a description detailing the systematic arrangement of the colours may also be added.
7. A sound mark consisting exclusively of a sound or a combination of sounds, shall be represented by submitting an audio file reproducing the sound or by an accurate representation of the sound in musical notation.
8. A motion mark consisting of, or extending to, a movement or a change in the position of the elements of the mark, shall be represented by submitting a video file or by a series of sequential still images showing the movement or change of position. Where still images are used, they may be numbered or accompanied by a description explaining the sequence.
9. A multimedia mark consisting of, or extending to, the combination of image and sound, shall be represented by submitting an audio-visual file containing the combination of the

image and the sound.

10. A holographic mark consisting of elements with holographic characteristic, shall be represented by submitting a video file or a graphic or photographic reproduction containing the views which are necessary to sufficiently identify the holographic effect in its entirety.
11. Any other type of trade mark not covered by any mentioned types of trade marks shall be represented in any appropriate form utilizing generally available technology if such a form can be clearly, precisely, separately, easily, comprehensibly, durably and objectively represented in the Register for the competent authorities and the public to be able to clearly and precisely determine the subject of protection granted to the trade mark proprietor. The representation may be accompanied by a description.

**Requirements of the regulations governing use of a certification trade mark**

Regulations governing use of a certification trade marks shall contain:

- a) information identifying the applicant;
- b) declaration that the applicant complies with the requirements laid down in Section 40a (2);
- c) wording, graphical or other representation of a certification trade mark;
- d) goods or services covered by the certification trade mark;
- e) characteristics of the goods or services to be certified by the certification trade mark, such as material, mode of manufacture of goods or performance of services, quality, or accuracy;
- f) conditions of use of the certification trade mark, including sanctions;
- g) persons authorized to use a certification trade mark; and
- h) methods of testing the characteristics of goods or services and supervising the use of a certification trade mark.

**Selected amendment provisions**

**Article II of Act No. 286/2018 Coll.**

**Transitional provisions**

1. Proceedings on an application for registration initiated pursuant to Act No. 441/2003 Coll., as amended prior to the effective date of this Act and not yet finally completed by that date shall be subject to the provisions of Act No. 441/2003 Coll., as amended on the effective date of this Act.
2. If the application filed prior to the effective date of this Act has defects preventing the due examination of the application pursuant to Act No. 441/2003 Coll., as amended on the effective date of this Act, the Office shall call on the applicant to eliminate them, setting an appropriate time limit for doing so.
3. If an opposition to the entry of a trade mark in the Register has been submitted prior to the effective date of this Act, it shall be reviewed pursuant to Act No. 441/2003 Coll., as amended on the effective date of this Act
4. If the proceedings on registration of a trade mark have been initiated pursuant to Act No. 441/2003 Coll., as amended prior to the effective date of this Act, and the ground for refusal of the application for registration has been an opposition as referred to in Section 7 (1) k) of Act No. 441/2003 Coll., as amended prior to the effective date of this Act, the Office shall disregard the opposition and shall discontinue the proceedings on it.
5. The right to file an application for furnishing of proof of the genuine use of an earlier trade mark shall be conferred on:
  - a) applicant pursuant to Section 26a of Act No. 441/2003 Coll., as amended on the effective date of this Act, in the proceedings on an opposition filed from the effective date of this Act;
  - b) proprietor of a later trade mark pursuant to Section 32c of Act No. 441/2003 Coll., as amended on the effective date of this Act, in the proceedings for a declaration of invalidity initiated from the effective date of this Act;
  - c) defendant pursuant to Section 10a of Act No. 441/2003 Coll., as amended on the effective date of this Act, in the legal proceedings for infringement of trademark rights initiated as of the effective date of this Act

6. An application for renewal of the registration of a trade mark pursuant to Section 29a (1) of Act No. 441/2003 Coll., as amended on the effective date of this Act, may be filed if the action against a decision of the Office's Chairman has been brought from the effective date of this Act.
7. Proceedings on the application for revocation of a trade mark or declaration of its invalidity initiated pursuant to Act No. 441/2003 Coll., as amended prior to the effective date of this Act, and not yet finally completed by that date shall be subject to the provisions of Act No. 441/2003 Coll., as amended as of the effective date of this Act. However, the provisions of Section 31a (5), Section 32b (3), and Section 32c of Act No. 441/2003 Coll., as amended as of the effective date of this Act, shall not apply. The consequences of non-use of an earlier trade mark shall be considered pursuant to Act No. 441/2003 Coll., as amended on the date of filing of the application.
8. If the application for a declaration of invalidity of a trade mark is filed as a consequence of the trade mark being registered in breach of the laws, the fulfilment of the conditions of entry of marks in the Register of trade marks shall be considered pursuant to Act No. 441/2003 Coll., as amended at the time of entry of the trade mark in the Register.
9. The effects of the procedural acts undertaken in all proceedings not completed on the effective date of this Act shall remain preserved and shall be appropriately examined pursuant to Act No. 441/2003 Coll., as amended as of the effective date of this Act.
10. The proprietor of a collective trade mark registered prior to the effective date of this Act, whose application did not meet the elements in Section 36 (2) of Act No. 441/2003 Coll., as amended prior to the effective date of this Act, at the time of filing, shall be obliged to submit regulations governing use of the collective trademark within twelve months from the effective date of this Act. Upon the fruitless expiry of this time limit, the collective trade mark shall be considered as an individual trade mark co-owned by the members, shareholders or participants stated in the Register as the persons authorized to use the collective trade mark.

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1) Madrid Agreement Concerning the International Registration of Marks of 14 April 1891, revised in Brussels on 14 December 1900, in Washington on 2 June 1911, in Haag on 6 November 1925, in London on 2 June 1934, in Nice on 15 June 1957, and in Stockholm on 14 July 1967, published under number 65/1975 Coll., as amended by Decree No. 78/1985 Coll., and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Trademarks arranged in Madrid on 27 June 1989, published under number 248/1996 Coll.

2) Regulation of the European Parliament and of the Council (EU) 2017/1001 of 14 June 2017 on the European Union Trademark

3) Paris Convention for the Protection of Industrial Property of 20 March 1883, revised in Brussels on 14 December 1900, in Washington on 2 June 1911, in Haag on 6 November 1925, in London on 2 June 1934, in Lisbon on 31 October 1958, and in Stockholm on 14 July 1967, published under number 64/1975 Coll., as amended by Decree No. 81/1985 Coll.

4) Annex 1C to the Agreement Establishing the World Trade Organization (WTO), published under number 191/1995 Coll.

6) For instance, Section 2980 of the Civil Code, Act No. 40/1995 Coll., on the regulation of advertising and on the amendment to Act No. 468/1991 Coll., on the operation of radio and television broadcasting, as amended, as amended

6a) Act No. 182/2006 Coll., on bankruptcy and the methods of its resolution (Insolvency Act), as amended

7) Regulation of the European Parliament and of the Council (EU) No. 608/2013 of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Regulation of the Council (EC) No. 1383/2003

8) For instance, Act No. 221/2006 Coll., on the enforcement of industrial property rights and on the amendments to industrial property protection Acts (Industrial Property Rights Enforcement Act), as amended

9) Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, revised in Stockholm on 14 July 1967 and in Geneva on 13 May 1977, published under number 118/1979 Coll., as amended by Decree No. 77/1985 Coll.

10) For instance, Section 1670 et seq. of the Civil Code

11) Section 33 (2) c) of the Administrative Procedure Code

11a) Section 53 (4) of the Administrative Procedure Code

11b) Sections 64 and 65 of the Administrative Procedure Code

11c) Section 71 (1) and (3) of the Administrative Procedure Code

11d) Section 80 of the Administrative Procedure Code

11e) Section 152 (3) and (5) of the Administrative Procedure Code

11f) Section 90 (1) c) of the Administrative Procedure Code

12) Act No. 150/2002 Coll., the Administrative Procedure Code, as amended by Act No. 192/2003 Coll.

13) Act No. 85/1996 Coll., on the Bar, as amended

14) Convention Establishing the World Intellectual Property Organization, signed in Stockholm on 14 July 1967, published under number 69/1975 Coll., as amended by Decree No. 80/1985 Coll.

15) Section 986 of the Civil Code

16) Directive of the European Parliament and of the Council (EU) 2015/2436 of 16 December 2015 to approximate the laws of the Member States relating to trade marks (revised wording)

17) Agreement Establishing the World Trade Organization (WTO), published under number 191/1995 Coll.

18) Sections 2358 to 2370 of the Civil Code

19) For instance, Section 1115 et seq. of the Civil Code, Section 32 of Act No. 90/2012 Coll., on companies and cooperatives (Companies Act), as amended

20) Act No. 82/1998 Coll., on liability for damages caused in the exercising of public power through a decision or an incorrect official procedure and on the amendment to Act of the Czech National Council No. 358/1992 Coll., on notaries and their activity (Notarial Procedure Code), as amended

21) Act No. 111/2009 Coll., on basic registers, as amended

Act No. 133/2000 Coll., on the population register and personal identification numbers and on the amendments to certain Acts (Population Register Act), as amended

Act No. 326/1999 Coll., on the stay of foreign nationals in the Czech Republic and on the amendments to certain Acts, as amended

22) Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks concluded in Vienna on 12 June 1973 and amended on 1 October 1985

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**Applicable wording of relevant parts of Act No. 221/2006 Coll., on the enforcement of industrial property rights and on the protection of trade secrets, as amended, with the proposed changes marked**

**PART ONE**

**Enforcement of industrial property rights**

Section 1

**Subject of regulation**

This Act shall incorporate relevant laws of the European Union<sup>1)</sup> and shall regulate the remedies applicable in the enforcement of industrial property rights (“right(s)”) and the protection of trade secrets<sup>2)</sup>.

Section 2

**Entities entitled to enforce rights**

(1) The entitlement to enforce rights pursuant to this Act shall be conferred on the proprietor or holder of a right pursuant to the applicable Industrial Property Protection Act, the person authorized to exercise rights pursuant to a special law<sup>2)</sup>, in particular, a licensee, and a professional rights protection organization duly recognized in the country of origin as an organization authorized to represent proprietors or holders of industrial property rights (“authorized person”).

(2) A licensee may enforce rights only with the consent of the proprietor or holder of the rights. No consent shall be required if, within 1 month from receiving the licensee’s notice of infringement or jeopardy of the rights, the proprietor or holder of the rights himself has not initiated proceedings for infringement or jeopardy of the rights.

Section 3

**Right to information**

(1) The authorized person may require from the third party:

- a) who has held rights-infringing goods for the purpose of obtaining direct or indirect economic or commercial benefit; or
- b) who has used rights-infringing services for the purpose of obtaining direct or indirect economic or commercial benefit; or
- c) who, for the purpose of obtaining direct or indirect economic or commercial benefit, has provided services used in rights-infringing activities; or
- d) who has been identified by the person in a), b) or c) as a person participating in the manufacture, processing, storage, or distribution of goods or the provision of services,

information on the origin and distribution networks of the goods or the services through which rights have been infringed.

(2) If the information pursuant to paragraph 1 is not provided voluntarily within a reasonable time, the authorized person can seek its provision through a court petition for the initiation of right infringement proceedings. The court shall dismiss the action if it was disproportionate to the jeopardy or the infringement of the right.



(3) The information shall contain:

- a) name and surname or corporate or business name and permanent or registered address of the manufacturer, processor, stock operator, distributor, supplier, or another previous holder of rights-infringing goods or services;
- b) details of manufactured, processed, supplied, stored, received, or ordered quantity of, and price received for, relevant goods or services

(4) The provisions of paragraphs 1 and 2 shall be without prejudice to the provisions of special laws regulating, in particular:

- a) right to obtain information in a broader extent;
- b) use of information in civil or criminal legal proceedings;
- c) liability for misuse of the right to information;
- d) confidentiality obligation<sup>3)</sup>;
- e) right to refuse the provision of information if the person referred to in paragraph 1 has admitted his own participation or participation of his close persons in the infringement of a right;
- f) protection of confidentiality of information sources or processing of personal data<sup>4)</sup>

## **Corrective measures**

### Section 4

(1) In the case of an unauthorized intervention in his rights, the authorized person may seek that the court should order the infringer to refrain from actions infringing or jeopardizing the rights and to remove the consequences of the infringement or jeopardy, in particular, by:

- a) withdrawing from the market the goods the manufacture, placing on the market or storage of which has infringed or jeopardized the rights;
- b) removing or destroying permanently the goods the manufacture, placing on the market or storage of which has infringed or jeopardized the rights;
- c) withdrawing or permanently removing or destroying the material, tools and equipment intended or used exclusively or predominantly to carry on rights-infringing or -jeopardizing activities.

(2) The court shall not order the destruction as referred to above if the infringement of a right could be removed in other manner and the destruction was disproportionate to the infringement. If the corrective measures relate to products, materials, tools, or equipment not owned by the right infringer, the court shall take into account the interests of third parties, in particular, consumers and persons acting in good faith. The removal of signs or a counterfeit trade mark from products before the products are placed on the market shall be admissible in exceptional cases only<sup>5)</sup>.

(3) The authorized persons may also seek the remedies in paragraph 1 towards anyone whose means or services are used by third parties to infringe rights.

(4) On the application of the infringer of a right, the court may order the infringer, in lieu of the measures referred to in paragraph 1, to provide the authorized person with financial settlement provided that the measures would affect the infringer unreasonably and the financial settlement with the authorized person would seem sufficient.

(5) In its judgment, the court may award the authorized person whose application has been satisfied the right to publish the judgment at the cost of the infringer who has not prevailed in the dispute and may also determine the scope, form and method of the publication depending on

the circumstances.

## Section 5

(1) The authorized person shall be entitled to compensation for damages, the release of unjust enrichment which the infringer has obtained as a consequence of infringement or jeopardy of rights, and an adequate satisfaction provided that non-property harm has been caused by the infringement of rights. The adequate satisfaction may also consist in financial performance.

(2) Upon request, the court may set the value of compensation for damages, unjust enrichment obtained by the infringer as a consequence of infringement or jeopardy of rights, and an adequate satisfaction at a lump sum of at least double the royalties usually paid to acquire a license for using the rights at the time of the unauthorized intervention in them.

(3) Upon request, the court may the set the value of compensation for damages, unjust enrichment obtained by the infringer as a consequence of infringement or jeopardy of rights, and an adequate satisfaction provided that, in pursuing the activities, the infringer did not know or could not have known that his action was infringing rights. The compensation shall correspond to a lump sum of at least the royalties usually paid to acquire a license for using the rights at the time of the unauthorized intervention in them.

(4) The court shall take into account all relevant circumstances, such as undesirable economic consequences, including lost profit, sustained by the authorized person, the infringer's illegitimate income, and, possibly, aspects other than economic, such as moral harm the infringer has caused to the authorized person.

## Section 5a

### **Infringement of trade secret**

(1) Where a trade secret has been infringed (Section 2985 of the Civil Code), only Section 4 (1), (4) and (5) shall apply accordingly.

(2) The financial settlement pursuant to Section 4 (4) shall correspond to not less than the royalties usually paid to acquire a license for using the trade secret for the period of its infringement.

(3) If the infringer knew or should have known that his action was infringing a trade secret, the court shall, at the aggrieved party's request, set compensation for damages, unjust enrichment, and an adequate satisfaction at a lump sum corresponding at least to the royalties usually paid to acquire a license for using the trade secret for the period of its infringement.

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1) Directive of the European Parliament and of the Council 2004/48/EC of 29 April 2004 on the enforcement of intellectual property rights

Directive of the European Parliament and of the Council (EU) 2016/943 of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure

2) Act No. 527/1990 Coll., on inventions and contraptions, as amended

Act No. 529/1991 Coll., on the protection of topography of semiconductor products, as amended

Act No. 478/1992 Coll., on utility models, as amended

Act No. 207/2000 Coll., in the protection of designs and on the amendment to Act No. 527/1990 Coll., on inventions, designs, and contraptions, as amended

Act No. 452/2001 Coll., on the protection of the designation of origin and geographical

designations and on the amendment to the Consumer Protection Act, as amended

Act No. 441/2003 Coll., on trade marks and on the amendment to Act No. 6/2002 Coll., on courts, judges, lay judges and state court administration and on the amendment to certain other Acts (Act on Courts and Judges), as amended, (Trademark Act), as amended

Act No. 89/2012 Coll., the Civil Code, as amended

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**Applicable wording of relevant parts of Act No. 634/2004 Coll., on administrative fees, as amended, with the proposed changes marked**

Applicable wording of PART XI of the Annex to Act No. 634/2004 Coll., on administrative fees

**Notes to Part XI**

Pursuant to this part of the tariff, fees are collected only by the Industrial Property Office.

**Item 126**

Provision of a counterpart, copy, or an extract from the Register, files, official documents and records

CZK 100 for each page, even commenced

CZK 15 for each, even commenced, page if made using a copying machine or computer printer

**Note**

Each commenced page shall mean, for the purposes of this Act, an issued page in A4 format and smaller.

**Item 127**

- a) Filing of a request:
  - for first extension of a time limit CZK 200
  - for any subsequent extension of a time limit CZK 500
  - for surrender of the lapse of time CZK 1000
  
- b) Filing of an appeal against a decision of the Industrial Property Office CZK 1000
  
- c) Filing of a request:
  - for issuance of a certificate of the right of priority (priority document) CZK 600
  - for registration of a transfer CZK 600
  - for registration of a license CZK 600
  - for registration of a security interest CZK 600
  - for conversion of a European application<sup>73)</sup> CZK 600 for each state to which the application is sent

**Note**

In trademark-related proceedings, the fee for filing an appeal pursuant to paragraph b) of this item shall be due for reimbursement within the time for filing an appeal. If the fee is not reimbursed on the due date, the appeal shall be deemed not to have been filed and the provisions

pertaining to the reimbursement of an overdue fee and to the call for such reimbursement shall not apply.

## **Inventions and Supplementary Protective Certificates**

### **Item 128**

- |  |          |
|--|----------|
| a) Filing of an application for registration of an invention   | CZK 1200 |
| - if solely the originator(s) is/are the applicant(s)  | CZK 600  |
| b) Filing of a request:  |          |
| - for a publication prior to a statutory time limit  | CZK 800  |
| - for access to a translation of requirements for a European patent application, including access to the corrections of translations | CZK 500  |
| c) Filing of a request for complete examination of an invention registration application   |          |
| CZK 3000   |          |
| - for the 11 <sup>th</sup> and every other asserted patent claim   | CZK 500  |
| d) Issuance of a patent certificate within the scope of:   |          |
| - 10 pages of typed text   | CZK 1600 |
| - every other page   | CZK 100  |
| e) Publication of a translation of a European patent file  | CZK 2000 |
| - for the publication of corrections of the translation  | CZK 100  |
| f) Submission of a translation of a European patent file within an additional time   | CZK 3000 |
| g) Filing of a request for issuance of a supplementary protective certificate  | CZK 5000 |
| h) Filing of a request for paediatric extension of the supplementary protective certificate  | CZK 5000 |

### **Item 129**

- |  |          |
|--|----------|
| a) Filing of a request for determination whether a technical solution constitutes a patent |          |
| CZK 5000   |          |
| b) Filing of an application for revocation of:   |          |
| - a patent upon the expiration of 6 months from legal force of the patent                  | CZK 2000 |
| - a European patent  | CZK 2000 |
| - supplementary protective certificate   | CZK 2000 |

### **Item 130**

Industrial Property Office's acts associated with filing an international application pursuant to the Patent Cooperation Treaty	CZK 1500
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## Utility Models

### Item 131

Filing of an application for a utility model	CZK 1000
- if solely the originator(s) is/are the applicant(s)	CZK 500

### Item 132

Filing of a request for determination whether a technical solution falls within the scope of a registered utility model	CZK 5000
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### Item 133

Filing of an application for deletion of a utility model from the Register	CZK 2000
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### Item 134

Filing of a request for any extension of validity of the registration of a utility model	CZK 6000
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## Notes

1. If a utility model is registered upon the expiration of the period of its validity, the fee for extension shall be due for reimbursement within 2 months from the registration date.
2. If the fee is not reimbursed within the set time limit, it can be reimbursed within an additional time limit of 6 months, increased by a factor of 2.

## Designs

### Item 135

- |  |          |
|--|----------|
| a) Filing of an application for a design   | CZK 1000 |
| - if solely the originator(s) is/are the applicant(s)  | CZK 500  |
| b) Filing of a collective application for a design   | CZK 1000 |
| - if solely the originator(s) is/are the applicant(s)  | CZK 500  |
| - for every design contained in the application  | CZK 600  |
| - for each design contained in the application if solely the originator(s) is/are the applicant(s) | CZK 300  |

### Item 136

Filing of an application for removal from the Register of an application for removal of a design from the Register	CZK 2000
- for any subsequent design contained in a collectively registered design	CZK 800

### Item 137

Filing of a request for renewal of the period of protection of a design	
- by 5 years for the first time	CZK 3000
- by 5 years for the second time	CZK 6000
- by 5 years for the third time	CZK 9000

- by 5 years for the fourth time CZK 12000

#### Notes

1. If a design is registered upon the expiry of the period of its validity, the fee for renewal of the protection shall be due for reimbursement within 2 months from the registration date.
2. If the fee is not reimbursed within the set time limit, it can be reimbursed within an additional time limit of 6 months, increased by a factor of 2.

#### Trade Marks and Designation of Origin

##### Item 138

- a) Filing of an application for registration:
  - of an individual trade mark in three classes of goods or services CZK 5000
  - of a collective and certification trade mark in three classes of goods and services CZK 10000
  - for any class of goods or services exceeding three classes CZK 500
- b) Filing of a request for conversion of an application or a European Union trade mark in three classes of goods or services CZK 5000
  - for any class of goods or services exceeding three classes CZK 500
- c) Filing of a request for a division of an application CZK 5000
  - for every newly established application
- d) Filing of a request for a division of a registered trade mark CZK 5000
  - for every newly established trade mark
- e) Filing of an opposition to an entry of a published sign in the Register CZK 1000

#### Notes

1. The fee for Filing of an application for registration of a trade mark pursuant to paragraph a) of this Item shall be due for reimbursement within 1 month from delivery of the application.
2. The fee for Filing of an application for conversion of an application or European Union trade mark pursuant to paragraph b) of this Item shall be due for reimbursement within 2 months from delivery of the notice pursuant to the Act regulating trade marks.
3. The fee for Filing an opposition pursuant to paragraph e) of this Item shall be due for reimbursement within the time limit for filing opposition.
4. If the fee pursuant to paragraph a) or c) of this Item is not reimbursed on the due date, the application or the opposition shall be deemed not to have been filed and the provisions pertaining to the payment of an overdue fee and to the call for such payment shall not apply.
5. If the fee pursuant to paragraph a) third bullet of this Item is reimbursed at an incorrect rate, the Industrial Property Office shall, upon the expiry of the time limit for reimbursing the fee for filing an application, call for payment of the undercharge for

filing the application within 5 days from the day following the delivery of the call. If the undercharge is not paid within the additional time limit, the application shall be deemed to have been filed within the scope of the classes of goods and services to which the paid sum relates. If it is not clear to which goods or services the paid sum relates, the application shall be deemed to have been filed within the scope of the classes of goods or services stated in the application, in the order from the lowest one which the application includes. The provisions pertaining to the payment of an overdue fee shall not apply to an undercharge.

### **Item 139**

- a) Filing of a request:
- for renewal of the registration of an individual trade mark CZK 2500
  - for renewal of the registration of a collective and certification trade mark CZK 5000
  - for renewal of the registration of an individual trade mark filed upon the expiry of the protective period, but at the latest within 6 months from that date CZK 5000
  - for renewal of the registration of a collective and certification trade mark filed upon the expiry of the protective period, but at the latest within 6 months from that date CZK 10000
- b) Filing of an application for revocation of a trade mark or for a declaration of its invalidity CZK 2000

### **Notes**

1. The fee pursuant to paragraph a) of this Item shall be due for reimbursement within the time limit for filing of a request pursuant to the Act regulating trade marks. If the fee is not reimbursed on the due date, the Industrial Property Office shall, upon the expiration of the maturity period, call for payment within fifteen days from the day following the delivery of the call. If the fee is not reimbursed within the additional time limit, the request for renewal of the registration of a trade mark shall be deemed not to have been filed and the provisions pertaining to the payment of an overdue fee shall not apply.
2. The fee pursuant to paragraph b) of this Item shall be due for reimbursement within 1 month from the delivery of an application. If the fee pursuant to paragraph b) of this Item is not reimbursed on the due date, the application for revocation of a trade mark or a declaration of its invalidity shall be deemed not to have been filed and the provisions pertaining to the payment of an overdue fee and to the call for such payment shall not apply.
3. If, through a final decision, the Industrial Property Office revokes a trade mark or declares it invalid and the court cancels the decision subsequently, the fee pursuant to paragraph a) of this Item shall be due for reimbursement within 2 months from delivery of the judgment to the payer.
4. If the Industrial Property Office does not register a trade mark within 118 months from delivery of an application, the fee for filing of a request for renewal of the registration of a trade mark pursuant to paragraph a) of this Item shall be due for reimbursement within 2 months from the date of registration of the trade mark.

### **Item 140**

Filing of:

- an application for registration of an international trade mark CZK 2500
- a request for renewal of the registration of an international trade mark CZK 3000
- a request for territorial extension of the registration of an international trade mark CZK 500

#### **Item 141**

- a) Filing of an application for registration of the appellation of origin/geographical appellation CZK 4000
- b) Filing of an application for international registration of the appellation of origin CZK 2500
- c) Filing of an application for revocation of the registration of the appellation of origin/geographical appellation CZK 2000
- d) Handover of an application for protection of the appellation of origin/geographical appellation to the European Commission CZK 500

#### **Note**

The fees pursuant to Items 140 and 141 b) of this Tariff shall be collected for acts carried out pursuant to the Madrid Agreement Concerning the International Registration of Marks, the Protocol Relating to the Madrid Agreement, or, possibly, the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, with the International Bureau of the World Intellectual Property Organization in Geneva.

#### **Topography of Semiconductor Products**

##### **Item 142**

Filing of an application for topography of semiconductor products CZK 5000

##### **Item 143**

Filing of an application for revocation of topography of semiconductor products from the Register CZK 2000

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