

**Order No. 5 of the Chairman of Legal Entity of Public Law National Intellectual Property Center of Georgia**  
**Sakpatenti**  
**August 19, 2014, Tbilisi**

on Approving of the "Instruction on Trademark Application and Registration Process"

In accordance with Article 8<sup>1</sup> of the "Patent Law of Georgia" and Article 12(6) of the "Trademark Law" of Georgia,

**Article 1**

1. The attached "Instruction on Trademark Application and Registration Process" shall be approved (Annex No. 1).
2. The application form shall be approved (Annex No. 2).
3. The effect of the Instruction shall apply to the trademarks registered and applications filed for registration before publication of the Instruction.

**Article 2**

The Order shall enter into force after its publication.

Nikoloz Gogilidze  
Chairman  
LEPL National Intellectual Property Center of Georgia

Annex No. 1

**Instruction on Trademark Application and Registration Process**  
**Chapter I**  
**General Provisions**

**Article 1. Field of Regulation of the Instruction**

The present Instruction is developed in accordance with the "Trademark Law" of Georgia and defines the rules of application drafting and filing, examination, appealing against a decision of examination, suspension, renewal and reinstatement of the procedural terms on trademarks, service marks and collective marks as well as other rules related to the trademark registration.

## Article 2. Definition of Terms

Terms used in the Instruction shall have the following meaning:

- a) Law - the “Trademark Law” of Georgia;
- b) Sakpatenti - Legal Entity of Public Law - National Intellectual Property Center of Georgia, an independent body functioning in the field of intellectual property protection;
- c) Paris Convention - the Paris Convention for the Protection of Industrial Property of March 20, 1883 (as revised in Stockholm on July 14, 1967, and as amended on September 28, 1979);
- d) Madrid Protocol - the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, signed on June 27, 1989;
- e) International Classification - the International Classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, adopted and signed on June 15, 1957, (as revised in Stockholm on July 14, 1967 and in Geneva on May 13, 1977);
- f) List of goods – the list of goods and/or services, filed for registration of a trademark, established by the International Classification;
- g) Goods – goods and/or services;
- h) Certificate – the document, granted under this Law in the name of the trademark holder, certifying his/her exclusive rights;
- i) Application – the package of documents, necessary for granting of a certificate, drawn up in accordance with the prescribed requirements;
- j) Applicant – a natural person or legal entity applying for a certificate;
- k) Priority – the privilege enjoyed by an application as compared with an application filed later;
- l) Convention priority – the priority established under Article 4 of the Paris Convention;
- m) Exhibition priority – the priority established under Article 11 of the Paris Convention;
- n) Patent attorney – a natural person registered in the Register of Patent Attorneys of Sakpatenti, who is engaged in activity in the intellectual property field according to the legislation.
- o) Chamber of Appeals – the body functioning at Sakpatenti, hearing disputes arising in connection with acquisition of rights on industrial property subject-matters;
- p) Identity of trademarks – coincidence of trademarks in all elements;
- q) Feature of a trademark not qualifying for protection – a part of a trademark to which the exclusive rights of the right holder do not apply;
- r) Disclaimer – an applicant’s request not to apply exclusive rights of the right holder to a part of a trademark;
- s) Code – Three-digit number code approved by the standard of the World Intellectual Property Organization (WIPO) St. 60, for identification of data;
- t) Country code – Two-digit code approved by the WIPO Standard St.3, corresponding to the names of countries, intergovernmental and other organizations;
- u) International Bureau - International Bureau of the World Intellectual Property Organization (WIPO);
- a) International application – an application filed for international registration under the Article 3 of the Madrid Protocol;

- b) Bulletin – Official Bulletin of Industrial Property;
- c) Register – Register of Trademarks;

## **Chapter II**

### **Application Form and Rule of its Filing**

#### **Article 3. Filing an Application**

1. An application shall be filed with Sakpatenti by an applicant or his/her representative. The application shall be filed by submitting the application materials directly with Sakpatenti, by mail, or by the electronic system.
2. In case of filing of an application in the non-electronic form, it shall be submitted on the application form, approved by the Chairman of Sakpatenti (hereinafter – form) (Annex №2).
3. The application shall be filled out in the Georgian language, in the printed or electronic form.
4. The application shall refer only to one trademark.
5. If an applicant requests conducting accelerated examination of the application for registration of a trademark, he (she) shall tick in the form the appropriate box by “X”.
6. Boxes of the form shall be filled out in the following way:
  - a) Box 1 of the form contains:
    - a.a) a request for registration of the submitted symbol as a trademark, full name and address (legal address) of the applicant (code 731). If the applicant is a natural person – his/her surname, name, personal number, full postal address, indicating the index, the name of the country a citizen of which he/she is or in which he/she has a permanent residence or an operating enterprise. In case of a legal entity, its legal form, full name, country (where the legal entity was registered), full postal address, indicating the index;
    - a.b) a request to establish priority for which the applicant shall tick the appropriate box by “X” for the requested priority;
    - a.c) country code and filing date (Code 220), which shall be filled out by Sakpatenti.
  - b) Box 2 of the form shall be filled out in case of requesting earlier priority. Namely, the first application number (Code 310), the date of filing first application (Code 320) and the code of the country (office) receiving the first application (Code 330) shall be filled out in case of requesting the convention priority. The date of display at the exhibition (Code 230) shall be indicated in case of requesting the exhibition priority. The international application number and the priority requested by the international registration shall be indicated if the applicant requests transformation of a cancelled international registration into a national application.
  - c) Box 3 of the form shall contain the name and surname, personal number and registration number of the representative (patent attorney), if the application is filed by a patent attorney (Code 740), and in case of a legal entity, the full name and identification code.
  - d) Box 4 of the form shall contain the address of correspondence (Code 750) – the name and surname of the addressee, in case of a legal entity, its name, identification code, as well as the actual address, telephone number, e-mail and fax number. The addressee may be a patent attorney, representative or an applicant. In the latter case, if the address coincides with the address indicated in Box 1, it shall be repeated in Box 4.

- e) Box 5 of the form shall contain the representation of the sign submitted for registration (Code 540). The representation of the sign shall be clear and shall not exceed the size of 6cm x 6cm. If the sign submitted for registration is three-dimensional, the view of its representation shall be selected so as to create the best possible idea of it. If the sign submitted for registration is a sound symbol, the given box shall contain the graphical expression of this sign (E.g. musical notation).
- f) Box 6 of the form (Code 571) shall contain the verbal description of a trademark, in case of a verbal sign represented in a foreign language – its transliteration, transcription and, if possible, its translation, in case of figurative and three-dimensional signs – the list and description of their constituent figurative elements.
- g) In Box 7 of the form the appropriate box corresponding to the type of the sign submitted for registration shall be ticked.
- h) In Box 8 of the form (Code 591), the colour or combination of colours, representing the subject of protection shall be indicated.
- i) In Box 9 of the form, the list of goods and/or services shall be indicated, for which registration of the submitted sign is requested, with the indication of the relevant class (Code 511).
- j) In Box 10 of the form, the appropriate box corresponding to the document accompanying the application upon filing shall be ticked, and number of copies of each document and pages in each copy shall be indicated.
7. The form shall be signed by the applicant, authorized person or representative and shall be dated by the date of signature. At the end of the form the name and surname of the signatory shall be indicated clearly, otherwise the application shall not be considered as filed with Sakpatenti.

#### **Article 4. Documents Related to the Application**

1. Upon filing an application, the electronic version or three copies of the representation of the sign submitted for registration shall be represented. The representation shall be clear. In case of submitting labels, it is permissible to submit copies of the original size. If the sign submitted for registration is three-dimensional, three copies of its two-dimensional representation shall be submitted. At the same time, the view of its representation shall be selected so as to create the fullest possible idea of it. In case of necessity, it is possible to submit other views. If the sign submitted for registration is a sound symbol, audio recording and the electronic version of its graphical representation (musical notation), or three copies shall be submitted or uploaded.
2. If the list of goods does not fit in the Box 9 assigned for it (Code 511), it may be submitted upon filing the application, in the form of an annex. If the list of goods is submitted in a foreign language, within a month after the application is filed, the list of goods shall be submitted in the Georgian language as well.
3. The power of attorney on the authority of a representative (patent attorney) shall be submitted to Sakpatenti upon filing the application or within one month from the filing date. It is permissible to extend this term for one month, if within one month from the filing of the application with Sakpatenti, the representative submits a request for extension of the term and pays the fee prescribed for the extension of the term.
4. Upon filing the application with Sakpatenti or within one month from filing, the following shall be paid:
  - a) the fee prescribed for examination as to form. If the fee for examination as to form is not paid within one month from filing the application, Sakpatenti shall take a decision on refusal of the processing of the application.

b) the fee prescribed for requesting the convention or exhibition priority, if such a priority is requested. Otherwise, the priority shall be established according to the date of filing of the application with Sakpatenti.

5. In the case provided for by Paragraph 4 of Article 11 of the Law, the applicant shall submit within the prescribed term:

a) in case of requesting the convention priority - a copy of the first application certified by the receiving office of the first application;

b) in case of requesting the exhibition priority - a certificate issued by the administration or organization committee of an official or officially recognized exhibition, with the indication of the date of the display of the exhibit at the exhibition. It is permissible to extend that period by one month, if within the three-month period prescribed by the Law the applicant submits a request with Sakpatenti for extension of the term and pays the fee prescribed for the extension of the term. Otherwise he/she loses the right to request the convention or exhibition priority and the priority shall be established according to the date of filing of the application with Sakpatenti.

6. If the application is filed for a collective mark, the regulations governing the collective mark shall be submitted upon filing the application or within one month from the date of filing.

7. In accordance with Article 9quinquies of the Madrid Protocol, at the time of filing or within one month from filing of a national application on the basis of a cancelled international registration, the applicant shall file the document certified by the International Bureau of the World Intellectual Property Organization (WIPO), confirming that the international registration was extended to Georgia before it was cancelled. Otherwise, the priority shall be established according to the date of filing of the application with Sakpatenti.

8. The documents provided for by Paragraphs 3, 5, 6 and 7 of this Article and other additional documents may be submitted in a foreign language. The translation of the document submitted in a foreign language shall be certified in the Georgian language and shall be filed with Sakpatenti within one month from submitting the relevant document in a foreign language. It is permissible to extend the term for submission of the translation by one month, if the applicant submits a request with Sakpatenti for extension of the term and pays the fee prescribed for the extension of the term from the date of filing the original application with Sakpatenti . Otherwise the submitted document shall not be taken into consideration.

## **Article 5. Establishing the Date of Filing an Application**

1. The date of filing an application with Sakpatenti shall be considered the date of filing the application with Sakpatenti, if the application is filed in the Georgian language on the appropriate form in the printed form, contains the full name and address of the applicant, the view of the trademark, the list of goods, the identity and the address of the representative, if the application is filed by a representative and is signed according to the requirements of Paragraph 7 of Article 3 of this Instruction.

2. If the application satisfies the requirements of Paragraph 1 of this Article, the application shall be assigned a reference number and the office certificate is issued concerning the filing of the application, indicating the number and date of filing, the data and documents filed with the application. In case of filing an application electronically, the applicant receives the confirmation of filing the application.

3. If the filed application does not meet the requirements of Paragraph 1 of this Article, the application shall not be regarded as filed, and the application material shall be returned to the applicant.

#### **Article 6. Appointment of a Representative**

1. Upon filing an application with Sakpatenti or within one month after filing the application, the applicant is entitled to appoint a representative (patent attorney) on the basis of a written power of attorney.

2. The power of attorney issued in the name of a representative (patent attorney) shall include:

a) the name and surname, the legal address of the principal; in case of a natural person, the personal number of the principal and attorney (except patent attorneys); in case of a legal entity, the identification number;

b) the scope of authority of the representative (patent attorney);

c) the date and place of drawing up the power of attorney;

d) the signature of principal;

e) the term of validity of the power of attorney. If the term is not indicated, the power of attorney is valid until the termination of the authority of the principal.

3. The power of attorney shall be drawn up in accordance with the legislation of the country where it is drawn up.

4. A foreign applicant, who has no permanent residence in Georgia or is registered without an address, shall appoint within 15 days from the request of Sakpatenti as a representative (patent attorney) in Georgia a capable person registered at the specified address, to whom all the documents intended for the applicant shall be sent. The foreign applicant shall issue the power of attorney to the representative (patent attorney) directly or through a duly authorized attorney. If the applicant does not fulfill the requirement under this Paragraph, Sakpatenti shall take a decision on termination of the application proceedings. At the same time, Sakpatenti shall not have the obligation to send to the party the decision concerning termination of the proceedings.

#### **Article 7. Correspondence with Sakpatenti**

1. The correspondence with Sakpatenti shall be carried out by the applicant or his/her representative (patent attorney), for each application separately. If the request refers to several applications, the same number of copies of the application shall be submitted. All the materials submitted after filing the application shall include the reference number and/or the number of the application. The material submitted without indicating the reference number or signature shall not be accepted for processing.

2. The materials submitted after filing the application shall be submitted to Sakpatenti within the terms defined by the Law and this Instruction.

#### **Article 8. Supplementing, Modifying, Amending and Specifying the Application Materials**

1. In cases envisaged by Subparagraph "c" of Paragraph 5 of Article 12, application materials may be supplemented, modified, amended and specified on the basis of the applicant's request. If the modification is

requested after establishing the priority, the prescribed fee shall be paid. If the fee is not paid or the amount paid is not in compliance with the prescribed fee, the request shall not be satisfied, about which the applicant shall be notified in writing.

2. If the change is related to the representation of a trademark, which does not modify it substantially, the representation of the modified trademark shall be submitted to Sakpatenti in the quantity specified in Paragraph 1 of Article 4 of this Instruction.

3. In case of change of the name of the applicant, a document confirming this amendment shall be submitted to Sakpatenti.

4. The applicant may transfer the right to the application to another person (successor) for the entire list of goods or its part. In this case, an agreement confirming the transfer of the right on the application, signed by the applicant and his/her successor, and the power of attorney issued by the successor, if the proceedings are conducted through a representative (patent attorney). The power of attorney shall be submitted to Sakpatenti upon submission of the document confirming the transfer of right on the application to Sakpatenti or within one month from its submission. It is permissible to extend this term by one month if the representative submits a request for extension of the term and pays the fee prescribed for the extension of the term. If the power of attorney is not submitted within the prescribed term, the amendment provided for this Paragraph shall not be reflected in the application data.

5. From the date of reflection of the amendments referred to in Paragraph 4 of this Article in the application materials, Sakpatenti shall carry out correspondence with the successor.

#### **Article 9. Division of the Application**

An application, which contains two or more appellations of goods, upon the applicant's request, before the trademark registration may be divided into two or more applications, with the distribution of the goods contained in the first application on each application. The divisional applications shall retain the date of filing the first application.

#### **Article 10. Introduction with the Application Materials**

The applicant is entitled to introduce with the material used in application proceedings and to request its copy.

#### **Article 11. Suspension of the Application Proceedings**

1. The applicant is entitled to request suspension of proceedings of his/her application at any stage of examination after payment of the prescribed fee. The total term of suspension shall not exceed 3 months.

2. The request for suspension of the application proceedings shall be submitted in written or in electronic form and the prescribed fee shall be paid. In case of non-payment, the request on the suspension shall not be considered.

## **Article 12. Termination of the Application Proceedings**

1. The applicant is entitled to terminate the application proceedings before the registration of a trademark.
2. The application proceedings shall be terminated from the date of submission of the request on termination of application proceedings with Sakpatenti by the applicant and to the applicant shall be sent a written notification about this. At the stage of examination on other applications, terminated application shall not be taken into consideration.
3. If the application proceedings were terminated by the applicant's request or the decision is taken by Sakpatenti on the refusal to process the application due to non-compliance with the procedural terms prescribed by this Instruction, within 6 months after termination of the application proceedings, the applicant is entitled to reinstate the application proceedings after payment of the prescribed fee. In this case the date of payment of the fee for reinstatement of the proceedings shall be considered as the date of filing the application.
4. Within 5 working days after the written request on the termination of the application proceedings, the fee paid for the action which was not carried out by Sakpatenti by the moment of termination of the proceedings shall be returned to the applicant.

## **Chapter III**

### **Examination of the Application**

#### **Article 13. Examination of as to form**

1. Examination as to form shall be conducted within 2 months from the date of filing the application, which may be extended by the period prescribed by Paragraph 5 of Article 4 and Paragraph 4 of Article 14 of this Instruction. At the stage of examination as to form, the examiner checks whether the application fully satisfies the requirements set forth in Articles 3 and 4 of this Instruction.
2. Sakpatenti may request from the applicant to submit additional material for examination. The additional material shall be submitted to Sakpatenti within 2 months from the date of receipt of the relevant notice to the applicant. If this deadline is not met, Sakpatenti shall take a decision on refusal to process the application.

#### **Article 14. Results of Examination as to Form and Related Correspondence**

1. If the application and accompanying materials satisfy the requirements of the Law and of this Instruction, examination shall take a decision on receiving the application for consideration and establishing priority, and shall inform the applicant about it.
2. If the application is filed by the representative (patent attorney) and the requirements of Paragraph 3 of Article 4 of this Instruction are not met, the application shall not be processed and the applicant shall be notified of this.
3. If the application refers to the registration of a collective trademark and within one month from filing the application the regulations governing the collective mark are not submitted, the application proceedings shall be terminated and the applicant shall be notified about this.



4. If the application materials require specification, a written notification is sent to the applicant in which all the requirements and amendments shall be listed which are required to continue examination of the given application. The applicant shall submit a written response to Sakpatenti within two months from the date of receipt of the notification. The applicant has the right to extend the term for submitting a reply by one month, if within the above-mentioned two months a written request for extension of the term is submitted to Sakpatenti and the prescribed fee is paid.

5. the notification shall be sent if:

- a) an application concerns to more than one trademark. The applicant is offered to submit an independent application for each sign. If the deadline prescribed by Sakpatenti for submitting a reply to the notification is not met, the application proceedings shall be terminated and a relevant notification shall be sent to applicant;
- b) an earlier priority is requested, in particular, the convention or exhibition priority or priority on the basis of a canceled international registration, and the document confirming the right to claim such a priority is not submitted according to the prescribed rule and/or its data differ from the data of the request submitted to Sakpatenti; if the applicant does not submit a reply to the notification within the term prescribed by Sakpatenti, the applicant loses the right to claim the earlier priority and the priority shall be established according to the date of filing the application with Sakpatenti;
- c) the representation of the sign submitted for registration does not comply with the requirements of Article 4 of Paragraph 1 of this Instruction and/or the colour or colour combination indicated in the application does not correspond with the colours of this representation, and the response from the applicant is not submitted to the notification prescribed by Sakpatenti, the examiner shall define the colour or colour combination on the basis of the sign submitted for registration;
- d) the description of the sign is not submitted or the submitted description requires specification;
- e) the presented list of goods is not classified or requires specification. If the applicant does not submit a reply to the notification within the term prescribed by Sakpatenti for specifying the list of goods, Sakpatenti shall specify the list of goods;
- f) the amount of fee prescribed for the examination as to form does not correspond to the amount determined for the number of classes indicated in the application or specified through correspondence. The applicant is offered to add the missing amount to the paid fee or to indicate the classes for which the amount is sufficient. If the applicant does not submit a reply to the notification referred to this paragraph within the prescribed term, examination shall be conducted according to the list, for as many of the first classes for which the paid fee is sufficient;
- g) the materials received in reply to the notification require specification;
- h) if other materials of the application are deficient and require clarification.

#### **Article 15. Substantive Examination**

1. Within 3 months after the receipt of the notification, the applicant shall pay the fee prescribed for substantive examination and publication of the application materials on the basis of the decision of substantive examination,

otherwise the application proceedings shall be terminated, about which a written notification shall be sent to the applicant.

2. Substantive examination may be suspended:

- a) before the entry into force of the decision on the registration of the conflicting sign with earlier priority;
- b) upon the applicant's request, for the period indicated in Article 11 (1) of this Instruction;
- c) for the term specified in Paragraph 4 of Article 16;
- d) for the remaining period before expiration of 6 months after the cancellation of the conflicting mark, if by the moment of taking a decision of substantive examination the conflicting mark is canceled;
- e) before expiration of the three-month period established for appealing against the decision of examination as to form on the application related with the conflicting sign according to Paragraph 1 of Article 19 of this Instruction, or in case of appeal of the decision of examination as to form by the applicant, before taking a decision by the Chamber of Appeals.

3. At the stage of substantive examination the examiner shall check whether there are grounds of refusal for registration given in Articles 4 and 5 of the Law with respect to the submitted sign.

4. In order to establish whether there are the grounds of refusal under Subparagraph "i" of Paragraph 1 of Article 4 of the Law and Subparagraphs "a", "b", "c", "e", "f" and "g", the submitted symbol shall be compared to the signs protected by the Paragraph 6ter of the Paris Convention, geographical indications or appellations of origin protected in Georgia, designs protected in Georgia, trademarks protected in Georgia by national or international registration and trademarks submitted to Sakpatenti for registration.

5. In the process of comparison under Paragraph 4 of this Article, the main criteria of identifying the similarity of the signs can be acoustic (phonetics, musical sound), visual (graphics, colour combination), conceptual (semantics, essence) similarity. During comparison of the signs the overall impression has the crucial significance.

## **Article 16. Results of Substantive Examination and Related Correspondence**

1. If there are no grounds of refusal for registration under Articles 4 and 5 of the Law, on the basis of the decision of examination Sakpatenti shall take a decision on registration of the submitted sign as a trademark with respect to the entire list of goods indicated in the application, about which the applicant shall be notified.

2. If there are any grounds of refusal for registration under Articles 4 and 5 of the Law, on the basis of the decision of examination Sakpatenti shall take a decision on refusal of registration of the submitted sign as a trademark with respect to the entire list of goods indicated in the application, about which the applicant shall be notified.

3. If there are grounds of refusal for registration under Articles 4 and 5 of the Law with respect to a part of the list of goods indicated in the application, on the basis of the decision of examination Sakpatenti shall take a decision on registration of the submitted sign with respect to the remaining part of the list of goods, about which the applicant shall be notified.

4. If there are grounds for requesting the permit provided for in Subparagraph "i" of Paragraph 1 of Article 4 and Subparagraphs "h" and "i" of Article 5, or the application materials require specification, a written notification shall be sent to the applicant. Within 2 months from the date of receipt of the notification, the applicant shall submit a reply to Sakpatenti. The applicant has the right to extend the term for submitting a reply for one month,

if within the above-mentioned two months he/she submits to Sakpatenti a written request for extension of the term and pays the prescribed fee. In case of accelerated procedure of registration of an application, the reply to the notification indicated in this Article shall be submitted within 15 days from the date of receipt of the notification. If within the above-mentioned term consent is not submitted, Sakpatenti shall take a decision on refusal of registration in accordance with Paragraph 2 of this Article.

#### **Article 17. Examination of a National Application Filed on the Basis of a Canceled International Registration**

1. If by the date of filing an application with Sakpatenti on the basis of a canceled international registration the term set out in Paragraph 2 of Article 5 of the Madrid Protocol is expired and no decision is taken on the refusal of protection, the trademark shall be registered in accordance with this Instruction without substantive examination and publication.

2. If the application referred to in Paragraph 1 of this Article is filed before the expiration of the period indicated in Paragraph 2 of Article 5 of the Madrid Protocol, its substantive examination and registration shall be carried out in accordance with this Instruction.

#### **Article 18. Substantive Examination of an International Application**

1. Substantive examination of an international application shall be conducted in accordance with Paragraphs 3, 4 and 5 of Article 16 of this Instruction.

2. The decision of substantive examination of the international application shall be taken within the term prescribed in Paragraph 2 of Article 5 of the Madrid Protocol from the date of notification of the International Bureau.

3. If there are grounds for requesting the permit provided for in Subparagraph “i” of Paragraph 1 of Article 4 and Subparagraph “h” or “i” of Article 5 of the Law or the application materials require specification, a notification shall be sent to the International Bureau in the form prescribed by the International Bureau. The applicant shall submit a written reply to Sakpatenti within 2 months from the date of delivery of the notification. The applicant is entitled to extend the term for submitting a reply to the notification by 1 month, for which he/she shall submit to Sakpatenti a written request for extension of the term within the above-mentioned two-month term and shall pay the prescribed fee. In case of failure to meet the deadline for submitting a reply to the notification indicated in this Paragraph, application proceedings shall be terminated and the decision on the refusal of registration of the trademark in Georgia shall be sent to the International Bureau in the form determined by the International Bureau.

4. If there are any grounds for refusal of registration provided for by Article 4 and Article 5 of the Law, examination shall take the decision on refusal of registration of the submitted sign in Georgia with respect to the entire list of goods indicated in the application or its part, and the relevant written notification shall be sent to the International Bureau in the form determined by the International Bureau.

5. If there are no grounds for refusal of registration under Article 4 and 5 of the Law, Sakpatenti shall take a decision on the protection of the trademark in Georgia. In addition, this decision shall be sent to the International Bureau.

6. If within the term specified in Paragraph 2 of this Article a decision on refusal of protection is not taken, the trademark is considered to be protected in Georgia.

#### **Article 19. Appeal against a Decision of Examination as to Form and Substantive Examination at the Chamber of Appeals**

1. The applicant may appeal against a decision concerning refusal of processing the application, taken after examination as to form, at the Chamber of Appeals within 3 months from the date of official introduction with the decision.

2. The applicant may appeal against a decision concerning registration of a trademark or refusal of registration of a trademark with respect to the entire list of goods or its part, taken after substantive examination, at the Chamber of Appeals within 3 months from the date of official introduction with the decision.

3. Any interested person has the right to appeal against a decision of Sakpatenti at the Chamber of Appeals on the grounds established by the Law, within 3 months from the date of publication of the application in the Bulletin.

4. The applicant may appeal against a decision concerning refusal of granting protection to a trademark with respect to the entire list of goods or its part, taken after examination of an international registration, at the Chamber of Appeals within 3 months from the publication of the decision in the Official Bulletin of the International Bureau (WIPO Gazette).

5. A prescribed fee shall be paid for filing an appeal.

#### **Article 20. Procedure of Accelerated Registration of Trademark**

1. For accelerated registration of a trademark the procedure for accelerated registration a trademark prescribed by Article 151 of the Law shall apply.

2. Subparagraphs “a” and “d” of Paragraph 2 of Article 15 of the Instruction shall apply for the procedure of accelerated registration of a trademark.

### **Chapter IV Publication**

#### **Article 21. Publication of Application Data**

1. In the case envisaged by Article 15 (2) of the Law, the following shall be published in the Bulletin:

- a) application number;
- b) application filing date;

- c) first application number;
  - d) date of filing the first application;
  - e) code of the country receiving the first application;
  - f) name and surname and legal address of the applicant;
  - g) sign submitted for registration;
  - h) indicated colour or colour combination;
  - i) list of goods grouped according to the international classification, with respect to which registration is requested.
2. Data of the international registration of the trademark shall be published in the Official Bulletin of the International Bureau (WIPO Gazette).
3. In case of taking a decision concerning protection in Georgia of the sign submitted by the international application, within one month after taking this decision, the date of the international registration, registration number and date of expiration of the registration validity term shall be published in the Bulletin.

#### **Article 22. Publication of Data of the Trademark Register**

1. If no amendments were made in the application data published in accordance with Article 21 of this instruction before the registration of the trademark, within one month after the registration, only the registration number, registration date, date of expiration of the registration validity term, the date and number of the application shall be published in the Bulletin.
2. If the data of the application published in accordance with Article 21 of this Instruction underwent changes before the registration of the trademark, within one month after the registration, the registration number, registration date, the date of expiration of the registration validity term, the date of filing the application, the application number and the amended application data shall be published.
3. Amendments made in the Register in accordance with Articles 24 and 25 of this Instruction shall be published in the next Bulletin.

#### **Article 23. Trademark Registration**

1. If the Chamber of Appeals takes a decision on registration of a trademark, on the appeal filed under Paragraph 4 of Article 16 of the Law or if no such appeal is filed within the term indicated in the above-mentioned Paragraph or, if the requirements referred to in Paragraph 1 of Article 17 of this Instruction are fulfilled, the applicant shall be sent a written notification for the payment of the prescribed fee for issuing a certificate and for registration for 10 years.
2. The applicant shall pay the fee referred to in Paragraph 1 of this Article within 3 months from the date of official introduction with the written notification.
3. If the applicant fails to pay the fee prescribed for issuing a certificate and registration for 10 years within the term referred to in Paragraph 2 of this Article, the application shall be canceled and a written notification shall be sent to the applicant.

4. If the applicant pays the fee prescribed for issuing a certificate and registration for 10 years according to the requirements of this Instruction, Sakpatenti shall register the trademark in the Register and shall issue a certificate for the trademark within one month from the date of payment of the above-mentioned fee.

5. The following shall be entered in the Register:

- a) registration number;
- b) registration date;
- c) the date of expiration of the registration validity term;
- d) application number;
- e) application filing date;
- f) first application number;
- g) the date of filing the first application;
- h) code of the country receiving the first application;
- i) name and surname of the trademark holder and legal address in case of a legal entity;
- j) trademark representation;
- k) indicated colour or colour combination;
- l) list of goods grouped according to the international classification with respect to which the trademark is registered;
- m) name and surname of the representative (patent attorney) and legal address in case of a legal entity;
- n) office number;
- o) list of parts of the trademark not qualifying for protection.

#### **Article 24. Making Amendments in the Register**

1. Each amendment of the data necessary for registration, provided for by Subparagraphs “i”, “j”, “l” and “m” of Paragraph 5 of Article 23 of the Instruction, shall be entered in the Register on the basis of a request of the trademark owner or his/her representative.

2. If the trademark holder submits a request to Sakpatenti on the amendment of the data provided for by Subparagraphs “i”, “j” and “l” of Paragraph 5 of Article 23, these amendments shall be entered in the Register after payment of the fee prescribed for entering amendments. The fee shall be paid within one month from submitting the request to Sakpatenti, otherwise Sakpatenti shall take a decision on refusal to process the request. Amendments related with Subparagraphs “j” and “l” of Paragraph 5 of Article 23 are permissible only when a minor change is made to the trademark or the list of goods is decreased.

3. The amendments entered in the Register shall be published in the next Bulletin and the amendments shall be entered in the certificate.

4. In case of transfer of rights on a trademark, with respect to the entire list of goods or its part, on the basis of submitting the agreement on transfer of rights, the relevant amendment shall be made in the Register and in the trademark certificate after payment of the prescribed fee. The fee shall be paid within one month from filing the application with Sakpatenti, otherwise Sakpatenti shall take a decision on refusal to process the application.

5. If the agreement on transfer of rights is submitted to Sakpatenti by a representative (patent attorney), along with agreement, a power of attorney issued by the holder or successor shall be submitted. Otherwise, the agreement on transfer of rights shall not be considered.

6. If on the basis of submitted documents on transfer of rights on a trademark Sakpatenti considers that the transfer of rights might mislead consumers as to the features, quality or geographical origin, manufacturer or other characteristics of the goods, for which it is registered, a written notification shall be sent to the successor on removal of the misleading goods from the list of goods. Sakpatenti shall not enter in the Register the information concerning the transfer until it receives the successor's consent on removal of the misleading goods from the list. If the transfer of rights on a trademark may mislead the consumer as to the features, quality and geographical origin of the goods, Sakpatenti shall not enter the amendments in the Register and the certificate and a corresponding written notification shall be sent to the successor.

7. If the trademark holder has issued a license for use of the trademark, the license agreement shall be registered and the relevant data shall be entered in the Register after the payment of the fee prescribed for the registration of the license agreement. The fee shall be paid within one month from filing the application with Sakpatenti, otherwise, Sakpatenti shall take a decision on refusal to process the application.

8. If the trademark holder submits to Sakpatenti a request on cancellation of the trademark registration or the court takes a decision on the cancellation, annulment or reinstatement of the trademark registration, Sakpatenti shall enter amendments in the Register.

#### **Article 25. Extension of Validity Term of Registration**

1. The term of validity of the trademark registration may be extended indefinitely by consecutive periods of 10 years. Sakpatenti shall extend the term of validity of a trademark registration upon a request filed by the holder with Sakpatenti, after payment of the prescribed fee. The request shall be filed with Sakpatenti and the fee shall be paid during the final year of the validity of the certificate.

2. If the fee prescribed for extension of validity term of the trademark registration is not paid within the term specified in Paragraph 1 of this Article, a written notification shall be sent to the holder of the trademark with a request to pay the fee within 6 months from the expiration of the term of validity of the registration.

2<sup>1</sup>. The fee prescribed under Paragraphs 1 and 2 of this Article shall be paid within one month from submitting to Sakpatenti a request on extension of validity term. Otherwise Sakpatenti shall take a decision on refusal to process the request.

3. If the fee for extension of the validity term of the registration is not paid within the term indicated in Paragraph 2 of this Article, the trademark registration shall be canceled and the trademark holder shall be sent a written notification concerning the cancellation of the registration.

#### **Article 26. Request for International Registration of a Trademark**

1. A request for international registration of a trademark shall be filed with Sakpatenti under Article 3 of the Madrid Protocol.

2. The application shall be accompanied by an English translation of the list grouped according to the International Classification.
3. If the international registration is conducted on the basis of an application filed with Sakpatenti, the date and number of the international registration shall be entered in the application data.
4. If the international registration is conducted on the basis of registration of a trademark at Sakpatenti, the date and number of the international registration shall be entered in the Register.
5. If the international registration is conducted in the case provided for by Paragraph 1 of this Article, the date and number of the international registration shall be entered in the Register after the registration of the trademark at Sakpatenti.
6. On the trademark, for which granting protection is requested in Georgia on the basis of its international registration, only substantive examination shall be conducted under the Madrid Protocol.

#### **Article 27. Registration of a Collective Mark**

For registration of a collective mark, rules prescribed for trademark registration apply, unless otherwise provided by the Trademark Law of Georgia.