

**Law on the Protection of Trademarks and Service  
Marks, Indications of Source of Goods and  
Commercial Awards**

(of October 26, 1928, as amended by the Laws of  
August 7, 1952, January 9, 1964, and December 19, 1985)\*

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**1. Trademarks**

1. The following shall be considered trademarks:

1. business names;
2. signs serving to distinguish or identify the origin of commercial and agricultural products or goods, affixed to the latter or to their packaging in any way whatsoever.

**1bis.** The provisions relating to trademarks shall be applicable, *mutatis mutandis*, to service marks and establishments furnishing services which serve to distinguish or identify the origin of services, insofar as a similarity may also exist between products and goods on the one hand and services on the other.

2. Liechtenstein business names used as marks shall enjoy, on entry in the Trade Register, the protection afforded by this Law.

**3. [Repealed]**

Public armorial bearings or other signs that are to be considered the property of a State or of a Liechtenstein parish, incorporated in the mark of a private person, shall not enjoy protection under the Law. The same shall apply to signs that are to be considered common property.

Statutory provisions stipulating that the incorporation of public armorial bearings or other public signs in the mark of a private person is altogether prohibited shall not be affected.

Signs that are contrary to public morality may not be incorporated in a mark.

4. Marks shall only be entitled to protection by the courts if the formalities of deposit and registration laid down in Sections 12 to 15, below, have been satisfied.

5. Unless proved otherwise, the first depositor of a mark shall be assumed to be entitled thereto.

6. A deposited mark must comprise essential features that distinguish it from those marks that have already been registered.

The reproduction in a new mark of certain figures belonging to marks already deposited shall not exclude the new mark from the rights deriving from registration if those figures differ sufficiently from the mark already deposited and, taken as a whole, do not easily lead to confusion.

\* *German title:* Gesetz über den Schutz der Fabrik-, Handels- und Dienstleistungsmarken, der Herkunftsbezeichnungen von Waren und der gewerblichen Auszeichnungen.

*Entry into force* (of the Law of 1985): March 22, 1986.

*Source:* Liechtensteinisches Landesgesetzblatt, No. 13 of November 3, 1928, No. 21 of October 22, 1952, No. 12 of February 28, 1964, and No. 19 of March 22, 1986.

*Note:* For the text of the Implementing Ordinance, see *Industrial Property Laws and Treaties, LIECHTENSTEIN* — Text 3-002.

\*\* Added by WIPO.

The provision contained in the first paragraph of this Section shall not apply to marks intended for products and goods whose nature is totally different from that of those for which the mark already deposited is intended.

**6bis.** [Repealed]

7. Any person having a commercial interest in the products, goods and services for which the mark is intended may apply for the registration of marks; however, foreign applicants may only do so on condition that their State affords reciprocity of treatment for nationals of Liechtenstein and that a national agent has been appointed.

Depositors of marks having close commercial ties with each other may also apply for the registration of the same mark even for products, goods or services of the same nature, provided that the use of the mark does not result in misleading the public or in being contrary to public interest.

**7bis.** A collectivity having a commercial interest may, if it is a legal entity, apply for the registration of marks intended to distinguish the goods or services (collective marks) of its member enterprises.

The first paragraph shall apply, *mutatis mutandis*, to public law legal entities.

As a rule, collective marks shall not be assignable. The Government may allow for exceptions.

The rights deriving from the registration of a collective mark may only be claimed by the association or legal entity under public law registered as the proprietor. These powers shall also include the prosecution of claims against a member for damages arising from infringement of the rights in the collective mark.

If the association or legal entity under public law tolerates that the collective mark be used in a manner contrary to its declared purpose or in a way liable to mislead the public, any person who can justify an interest may institute proceedings for cancellation of the mark.

Foreign associations established in accordance with the provisions of private or public law in the State in which they have their registered offices shall be entitled to deposit collective marks if such State affords reciprocity to Liechtenstein and if its marks are protected in that State.

**7ter.** A mark filed by a foreign proprietor (Section 7, first paragraph, items 2 and 3, Section *7bis*, sixth paragraph) shall be accepted for registration even if it differs from the registration in the country of origin if the

difference concerns only unessential elements and does not change the overall impression given by the mark.

8. The protection deriving from registration of a mark shall last for 20 years as from the day of its deposit with the Office for the National Economy.

The proprietor of a mark may at any time request the renewal of the registration for the same duration. Renewal shall be subject to the payment of the same fee and to the same formalities as those provided for first registrations; however, a proprietor residing abroad whose mark complies with Liechtenstein law shall no longer be required on renewal to prove that the foreign State affords reciprocity to Liechtenstein.

When the renewal of the registration is not requested within six months, at the latest, of expiry of the term of protection, the registration shall be cancelled.

9. If the proprietor of a mark has made no use of it during three successive years, the court may order, at the request of an interested party, that the mark be cancelled unless the proprietor is able adequately to justify his failure to use it.

The first paragraph shall be applicable to collective marks if they are not used within the prescribed period of time by the members of the collectivity for which they are intended.

If a mark is used by its proprietor in a form that differs from the registration in unessential elements only, cancellation of the mark may not be requested nor may the protection of the mark as used be restricted.

The use of a mark by a third party having commercial ties with the proprietor or by a licensee shall be considered use of the mark by the proprietor himself if the latter exercises control over the quality of the products or services marked and if the use of the mark is not likely to mislead the public.

Exclusively for the purposes of the present Section, the use of the mark within the meaning of the preceding paragraph on the territory of the Swiss Confederation, of the Republic of Austria and of the Federal Republic of Germany shall be considered use of the mark in Liechtenstein.

10. Where a third party proves that he has used the mark in the country for more than one year before its registration by the proprietor, the court may order the cancellation of the mark on request of that party.

11. Where the ownership of an enterprise is transferred as a whole, the trademark and license rights shall pass to the new owner, unless provision to the contrary has been made by agreement.

Trademark rights may be transferred without the enterprise, but only to a person authorized within the meaning of Section 7. A mark may be transferred for a part only of the goods and services for which it is registered, provided that they are not similar to or identical with the goods and services of the part of the mark that is not transferred.

The transfer of a mark and the registration and cancellation of license rights shall be recorded in the register and published upon presentation of sufficient documentary evidence.

As long as the transfer of a mark has not been recorded and published, the trademark right may not be claimed before any court and all agreements concerning the mark that are registered as having effect against the proprietor of the trademark may be made enforceable as against the person obtaining the title.

12. Any person wishing to register a mark shall be required to deposit it with the Office for the National Economy.

The deposit shall comprise:

(a) an application for registration of the mark stating the products or goods for which the mark is intended;

(b) the mark or an exact reproduction thereof;

(c) the registration fee, the amount of which shall be laid down by the Government in an order.

The Government shall issue provisions on any further requirements for the registration of a mark. The Government may, in particular, stipulate a supplementary fee proportional to the extent of the list of goods.

Where a mark is accompanied by written data reproduced in various languages, deposit and registration in a single language shall suffice for protection on condition that the overall impression created by the mark is not changed by the use of the differing texts.

13. The Government shall issue provisions on the keeping of the Register of Marks for which the Office is responsible.

Registration shall be effected at the responsibility of the applicant. However, should it come to the knowledge of the Office that essential features of the mark are not new, it shall draw the fact to the attention of the applicant in a confidential manner, in response to which the latter may maintain, amend or withdraw his application.

13bis. The following shall be excluded from registration as the trademark of a private person or as an element of such mark:

1. the armorial bearings of the Principality of Liechtenstein and of the parishes, or flags that represent such armorial bearings, together with the characteristic elements thereof;

2. other State emblems of the Principality of Liechtenstein or warranty signs and stamps of the Principality and the parishes;

3. signs that may be confused with those referred to under items 1 and 2.

The prohibition of registration shall not extend to reproductions or imitations of inspection and warranty marks or stamps that contain neither a public sign referred to in item 1 of the first paragraph nor any other State emblem of Liechtenstein, on condition that the reproduction or imitation is intended to designate products that are completely different from those for which the genuine inspection and warranty marks or stamps are intended.

The first and second paragraphs shall apply, *mutatis mutandis*, to armorial bearings, flags and other emblems or official inspection and warranty marks and stamps of other States or to signs that are liable to be confused with such signs if, and to the extent that, the State to which the signs belong affords reciprocity to Liechtenstein for similar signs. The prohibition of registration under Section 14.2, below, shall be applicable.

14. The Office shall refuse registration of a mark:

1. if the conditions set out in Sections 7, 7bis and 12 and any further requirements in respect of registration stipulated by the Government are not satisfied;

2. if the mark contains as an essential element a sign deemed to be common property or if it is contrary to statutory provisions or to morality;

3. if more than one person simultaneously requests the registration of the same mark, until such time as one of those persons can produce a duly certified renunciation by the co-applicants or a final court judgment;

4. if the mark bears a manifestly incorrect designation of origin or an imaginary, imitated or reproduced signature or claims honorary distinction whose authenticity the depositor is unable to prove.

Marks are also contrary to morality if they contain, in particular,

(a) armorial bearings or flags of foreign States or parishes,

(b) State emblems of any other kind or the official marks or stamps of inspection or warranty of a foreign country,

(c) or signs that may be confused with those signs, where the inclusion of such signs in a mark is liable to mislead as to geographical origin, value or other properties of the products to which the mark is to be affixed or concerning the business circumstances of the proprietor of the mark, in particular as regards alleged official relationships to the community whose sign is contained in the mark.

15. The Office shall inform the applicant of the registration or the renewal. It shall publish the registration or renewal free of charge in the official publications.

16. [Repealed]

16bis. The Government may order the *ex officio* cancellation of a mark registered contrary to Sections 13bis or 14, first paragraph, item 1, or second paragraph.

Decisions of the Office for the National Economy in respect of marks, particularly refusal to register a mark, may be appealed to the Government within 14 days of notification.

17. Any person shall be entitled to request information or extracts from the Register from the Office for the National Economy and to have access to applications for deposit and their accompanying documents. However, the Office may only surrender such documents in response to a court order.

The Government shall lay down a reasonable fee for such communications and information.

## 2. Indications of Source

18. The name of a town, locality, area or of a country that gives a product its reputation shall be deemed to be an indication of source.

Each manufacturer or producer of such place, together with the purchaser of the product, shall be entitled to affix such name on a product.

It shall be prohibited to affix on a product an indication of source that does not correspond to the truth or to sell, offer for sale or market a product so designated.

19. Any person who resides in a place known for the production or manufacture of certain goods and who conducts trade in similar goods obtained from elsewhere may only affix his name, address or mark to such goods in conjunction with a clearly visible addition that makes it clear that the goods do not originate in that place.

20. The indication of a product by means of a place or country name that has taken on such a general nature that it is used in commercial language to indicate the type and not the source of the product shall not constitute a false indication of source within the meaning of this Law.

## 3. References to Commercial Awards

21. Such persons or firms who or which have obtained medals, diplomas, recompense or other distinctions of any type whatsoever for their products at an exhibition or competition within the country or abroad shall alone be entitled to affix to their goods or the packaging thereof references thereto.

The same shall apply to references made to prizes, distinctions or recognition awarded by public administrations, learned societies and scientific associations.

22. Any person who affixes the awards referred to in the preceding Section shall state the date and nature thereof, together with the exhibition or competition in which they were obtained. Where the distinction has been awarded to a collective exhibit, the circumstances shall be stated.

23. It shall be prohibited to affix references to commercial awards to products that are in no way related to those that have received the award.

## 4. Penal Provisions

24. Civil or penal action may be taken, in accordance with the following provisions, against:

(a) any person who reproduces another's mark or imitates it in such a way that the public is misled;

(b) anyone who uses another's mark for his own products, goods or services;

(c) anyone who sells, offers for sale or markets goods or services in the knowledge that they bear counterfeit, imitated or unlawfully affixed marks;

(d) anyone who knowingly participates in any of the above-mentioned infringements or who abets or facilitates their execution;

(e) anyone who refuses to declare the origin of products, goods or services in which he has a commercial interest and that bear counterfeit, imitated or unlawfully affixed marks;

(f) anyone who contravenes the provisions of Sections 18, third paragraph, 19, 21 and 23 of this Law.

25. The offenses listed above shall be punishable by a fine of between 30 and 2,500 francs or imprisonment of between two days and half a year or both penalties at once.

In the event of repeated offenses, the penalties may be increased up to twice those amounts.

They shall not apply where the offense has been committed out of simple negligence, whereby civil law damages shall remain unaffected.

26. Whosoever wrongly places on his mark or business papers a statement suggesting that the mark has in fact been deposited;

whosoever places without entitlement indications of source or statements in respect of commercial awards on his business signboards, advertisements, prospectuses, invoices, business letters and business papers or who fails to make the statements prescribed in Section 22;

shall be punished, either *ex officio* or in a private action, by a fine of between 30 and 1,000 francs or imprisonment for a term of between two days and two months, or both.

These penalties may be increased to twice the above amounts in the case of subsequent offenses.

27. Civil or penal proceedings may be instituted:

1. in respect of marks:

by the purchaser who has been misled, and by the proprietor of the mark;

2. in respect of indications of source:

(a) by any manufacturer, producer or tradesman whose interests have been prejudiced and who has his establishment in the wrongly stated town, locality, district, or other, or in the country in which the false indication of source has been used, or by an association, enjoying legal personality, of such manufacturers, producers, or tradesmen; in the case of a foreign association, it shall suffice for it to be constituted in accordance with the laws of the country in which it has its headquarters, insofar as that country affords reciprocity to Liechtenstein;

(b) by any producer who has been misled by a false indication of source;

3. in respect of commercial awards:

by any manufacturer, producer or tradesman who manufactures or trades in products of the same type as those to which an improper reference has been wrongfully affixed.

28. Penal proceedings may be instituted in Liechtenstein if the offense has been committed in the country or if the defendant has his place of residence in the country or a Liechtenstein mark or indication of source has been infringed. The same offense may not be the subject of more than one penal procedure.

Civil and penal proceedings cannot be instituted in respect of acts that have taken place prior to registration of the mark.

Proceedings shall be barred two years after the day of the last offense.

29. Civil disputes arising under this Law shall be heard by the District Court [*Landgericht*].

Appeals shall be addressed directly to the Supreme Court irrespective of the value in litigation.

30. The Court may take the preventive measures it deems necessary and may, in particular, order the seizure of the tools and apparatus that have served for the imitation and the products and goods on which the disputed mark has been affixed.

31. It may also order confiscation of the articles subject to seizure, to be deducted from the compensation and fines, and also the publication of the sentence in one or more newspapers at the cost of the guilty party.

Even in the event of an acquittal, the Court shall order the destruction of the prohibited marks and, as appropriate, any goods to which such marks are affixed, their packaging or wrapping and the tools and equipment that have served to make the imitation.

32. Revenue from fines shall be paid into the National Paupers Fund.

The sentence shall stipulate that if the fine is not paid, it shall automatically be converted into a term of imprisonment on the basis of one day's imprisonment for each 15 francs of fine.

33. On presentation of a final judgment, the Office shall cancel the illegally registered or invalidated mark.

Cancellation shall be published in accordance with the second paragraph of Section 15.

## 5. Final Provisions

34. Those provisions of this Law applicable to indications of source and references to commercial awards

shall not apply, even if the mark itself is protected under Section 7 or 7bis, to nationals of States that do not offer reciprocity in respect thereof and who are not resident in Liechtenstein.

35. The Government shall be entrusted with issuing rules and ordinances as required to implement this Law. It shall determine the fees for first registration, for renewal, for the withdrawal of registered marks, for changes to the registration, for searches and for information, by means of an ordinance.

36. This Law shall supersede all earlier provisions concerning the protection of trademarks.

This Law shall not be declared urgent and shall enter into force on the day of its promulgation.

The Government of the Principality shall be responsible for its implementation.

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## Law of December 19, 1985<sup>1</sup>

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III. In any law and any regulation, the expression "Office of Intellectual Property" [*Amt für Geistiges Eigentum*] shall be replaced by "Office for the National Economy" [*Amt für Volkswirtschaft*].

In any law and any regulation, the expression "products or goods" shall be understood as including "services."

IV. On its entry into force, this Law shall apply to all marks already registered and to all pending proceedings.

V. This Law shall enter into force on the day of its publication.

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<sup>1</sup> Provisions not incorporated in the above text.