

REPUBLIC OF LITHUANIA  
**LAW ON TRADE MARKS**

10 October 2000 No VIII-1981

Vilnius

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1. Purpose, Subject and Scope of the Law**

1. The purpose of this Law is to ensure legal protection of trade marks in the Republic of Lithuania.

2. This Law regulates the registration and legal protection of trade marks (hereinafter referred to as marks) in the Republic of Lithuania, including the validity of the registration of a trade mark and disputes settlement procedure, and establishes the rights of the proprietors of trade marks, and their protection.

3. This Law applies to any trade mark in respect of goods or services which is the subject of an application for registration of a trade mark filed with the State Patent Bureau of the Republic of Lithuania, or is registered under the procedure established by this Law, or is the subject of an international registration of a trade mark valid in the Republic of Lithuania. This Law also applies to marks that are widely known in the Republic of Lithuania.

2. The provisions of this Law have been harmonised with the legal acts of the European Union indicated in the Annex to this Law.

**Article 2. Main Definitions Used in the Law**

1. **“Person”** means a natural or legal person, another organization or a subdivision thereof.

2. **“European Union trade mark”** means a mark as defined in Regulation (EU) No 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codified version) (hereinafter referred to as the Regulation on the European Union Trade Mark).

3. **“Geographical origin”** means a country, territory, region or locality according to which the true place of origin of a good or service may be identified.

4. **“Geographical indication”** means a place name or other word or sign which directly or indirectly identify a good as originating in a certain territory, region or locality, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

5. **“Exclusive license”** means a license under which the licensor who grants the licensee the right to use the mark loses the right to grant such right to other persons and is not entitled to exercise the rights granted to the licensee of the mark.

6. **“Designation of origin”** means the name of a region, a specific place or a country used to describe a product originating in that area, the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and which is produced, processed and prepared in the defined geographical area.

7. **“Collective mark”** means a collective mark, which is indicated in the application as a collective and whereby the goods or services of the members of a union of persons, which is the proprietor of the mark, can be distinguished from the goods or services of others. A union of persons is considered to be an association of producers, service providers or traders or another public legal entity, as well as any other association of producers, service providers or traders established in a foreign country that may hold rights and obligations in their own name, enter into contracts or perform other legal acts, to sue and be sued.

8. **“License”** means the permission of the applicant or proprietor of the trade mark (licensor) granted to another person (licensee) to use a mark under the terms and conditions of the license agreement.

9. **“Official symbols of the Republic of Lithuania“** means the official or traditional (short) name of the Republic of Lithuania, the Lithuanian State (National) Flag, the Historical (Armorial) Lithuanian State Flag, the Flag of the President of the Republic of Lithuania, the Lithuanian State Coats of Arm, the national symbols of Lithuania, national hallmarks, and state decorations.

10. **“Non-exclusive license”** means a license whereby the licensor who has granted the licensee the right to use the mark retains the right to grant such right to other persons and/or use the mark itself.

11. **“Nice Classification”** means the international classification of goods and services approved by the Nice Agreement concerning International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised at Stockholm on 14 July 1967, at Geneva on 13 May 1977 and amended in Geneva on 2 October 1979.

12. **“Applicant”** means a person or several persons in whose name the application for registration of a mark is filed.

13. **“Guarantee or Certification mark”** means a trade mark which is identified as such when the mark is applied for and which is capable of distinguishing goods or services which are certified by the proprietor of the mark in respect of material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, from goods and services which are not so certified.

14. **“Sublicense”** means the licensee’s permission granted to another person to use a mark, which is registered or in respect of which registration is applied for, in accordance with the terms and conditions of a sublicensing contract.

15. **“International application”** means an application for the international registration of the mark filed pursuant to the Protocol relating to the Madrid Agreement concerning the international registration of marks (hereinafter referred to as the Madrid Protocol), adopted at Madrid on 27 June 1989.

16. **“International registration of a mark”** means registration of a mark in the International Register of the International Bureau of the World Intellectual Property Organisation (hereinafter referred to as the International Bureau) under the Madrid Protocol.

17. **“Gazette of International Marks of the International Bureau”** means the periodic publication *WIPO Gazette of International Marks* of the International Bureau of the World Intellectual Property Organisation, in which the International Bureau publishes data concerning international registration of marks.

18. **“Third country”** means a State outside the customs territory of the Union as defined in Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 (OJ 2013 L 269, p. 1) laying down the Union Customs Code.

19. **“Trade mark application”** means a package of documents to be presented to the State Patent Bureau of the Republic of Lithuania according to the procedure prescribed by this law by the applicant in order to have his mark registered.

### **Article 3. The Sign Protecting the Rights of the Proprietor of a Mark**

The proprietor of a mark may inform the public of his rights to the mark by means of the sign protecting the proprietor’s rights, which consists of the letter R in a circle and is put to the right of the mark (above or below).

### **Article 4. Well-Known Mark**

1. A mark may be recognized as well known in the Republic of Lithuania if the results of its use or advertising indicate that it is well known by a particular part of the public.

2. A mark recognized as well known in the Republic of Lithuania shall be protected even without registration thereof.

3. A mark shall be recognized as well known in the Republic of Lithuania through a judicial procedure.

## **CHAPTER II**

### **SUBSTANTIVE TRADE MARK LAW**

#### **SECTION ONE**

#### **SIGNS OF WHICH A TRADE MARK MAY CONSIST**

##### **Article 5. Signs of which a Trade Mark may Consist**

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

- 1) distinguishing the goods or services of one undertaking from those of other undertakings;
- 2) being represented on the Register of Trade Marks of the Republic of Lithuania (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.

##### **Article 6. Protection for a Mark. Disclaimers**

A mark constituted of elements ineligible for registration as separate (independent) marks may be protected only as a whole if there are no grounds laid down in paragraph 1 of Article 7 of this Law. Such elements shall be recognised as disclaimers and shall not extend the proprietor of the mark exclusive rights thereto.

#### **SECTION TWO**

#### **GROUND FOR REFUSAL OF REGISTRATION OR INVALIDATION OF A MARK**

##### **Article 7. Absolute Grounds for Refusal of Registration or Invalidation of a Mark**

1. A mark shall be refused registration or the registration of a trade mark shall be declared invalid if:

- 1) the mark is composed of signs, which do not comply, with the provisions of Article 5 of this Law;
- 2) the mark is devoid of any distinctive character;

3) the mark 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 the goods or of rendering of the service, the mode of production or other characteristics of the goods and/or services, except as specified in paragraph 2 of Article 30 and paragraph 2 of Article 31 of this Law;

4) the mark consists only of such signs or indications that have become customary in the current language or in the *bona fide* and established practices of the trade;

5) the mark consists of:

a) the shape or other characteristics, which results from the nature of the goods themselves;

b) the shape of goods or other characteristics, which are necessary to obtain a technical result;

c) the shape or other characteristics, which gives substantial value to the goods;

6) the mark is contrary to good moral or public policy;

7) the mark may mislead the public, for instance as to the nature, quality or geographical origin of the goods and/or services;

8) the mark consists of or contains the official symbols of the Republic of Lithuania, or it imitates them, unless the permission has been issued according to the established procedure by the Minister of Justice of the Republic of Lithuania;

9) the mark consists of other coats of arms or other insignias under the Law on the National Coat of Arms, Coat of Arms, and Other Insignias of the Republic of Lithuania, or is composed of or contains distinguishing marks of the public institutions the official use of which is governed by the law, unless consent has been obtained from the competent authorities;

10) it consists of signs the registration of which has not been authorised by the competent authorities of other states or international organisations and the registration of which is to be refused or invalidated pursuant to Article 6ter of the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Stockholm on 14 July 1967, and amended on 28 September 1979 (hereinafter referred to as the Paris Convention), or contains such signs;

11) it consists of or contains a sign of high symbolic value, in particular a religious symbol;

12) it must be excluded from registration pursuant to European Union legislation or international agreements to which the European Union or the Republic of Lithuania is a party, providing for protection of designations of origin and geographical indications;

13) it must be excluded from registration pursuant to European Union legislation or international agreements to which the European Union is a party, providing for protection of

traditional terms for wine;

14) it must be excluded from registration pursuant to European Union legislation or international agreements to which the European Union is party, providing for protection of traditional specialities guaranteed;

15) it consists of, or reproduce in their essential elements, an earlier plant variety denomination registered in accordance with European Union legislation or the Law on the Protection of Plant Varieties of the Republic of Lithuania, or international agreements to which the European Union or the Republic of Lithuania is a party, providing protection for plant variety rights, and which is in respect of plant varieties of the same or closely related species;

2. A mark shall not be refused registration and its registration may not be invalidated in accordance with subparagraphs 2, 3 or 4 of paragraph 1 of this Article, if, before the date of application for registration, after the date of filing of the application or registration of the mark and following the use which has been made of it, it has acquired distinctive character. A trade mark shall not be declared invalid for the same reasons if, before the date of application for a declaration of invalidity, following the use, which has been made of it, it has acquired a distinctive character.

3. A trade mark shall be declared invalid where the application for registration of a trade mark was made in bad faith by the applicant and if the use of that trade mark is prohibited by a person concerned in the manner provided in Article 58 of this Law.

### **Article 8. Relative Grounds for Refusal or Invalidation of Registration**

1. A trade mark shall not be registered or, if registered, shall be declared invalid where the person concerned objects the application or the registration of a mark in accordance with Article 56 or 58 of this Law, if:

1) it is identical with an earlier mark, and the goods and/or services for which the mark is registered are identical with the goods and/or services for which the earlier mark is applied for or is registered;

2) because of its identity with or similarity to the earlier mark and the identity or similarity of the goods and/or services covered by the 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 mark;

3) it is identical with or similar to an earlier trade mark irrespective of whether the goods or services for which it is applied for or registered 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 Republic of Lithuania or, in the case of an EU trade mark, has a reputation in the European Union and the use of the later trade mark without due cause would take unfair advantage of, or be

detrimental to, the distinctive character or the repute of the earlier trade mark;

4) an agent or representative, or a patent attorney of the proprietor of the trade mark applies for registration thereof in his own name without the proprietor's authorisation, unless the agent or patent attorney justifies his action;

5) it infringes other earlier rights, in particular:

a) a right to a name, artistic pseudonym of a known person;

b) a right of personal portrayal;

c) a copyright;

d) an industrial property right.

2. Earlier mark within the meaning of subparagraphs 1, 2 and 3 of paragraph 1 of this Article means:

1) a mark the date of filing of application for registration in the Republic of Lithuania of which is earlier than the date of filing of application for registration of the mark specified in paragraph 1 of this Article, taking account, where appropriate, of the priorities granted or claimed in respect of that mark;

2) a mark the date of registration whereof for the Republic of Lithuania under the Madrid Protocol is earlier than the date of filing of application for registration of the mark specified in paragraph 1 of this Article, taking account, where appropriate, of the priorities granted or claimed in respect of that mark;

3) a EU trade mark with a date of application for registration pursuant to the EU Trade Mark Regulation, which is earlier than the date of application for registration of the trade mark referred to paragraph 1 of this Article, taking account, where appropriate, of the priority claimed or granted;

4) a EU trade mark which claims seniority in accordance with the EU Trade Mark Regulation, from a trade mark referred to in subparagraph 1 or 2 of paragraph 2 of this Article, even when the latter trade mark has been surrendered or allowed to lapse;

5) applications for the trade marks referred to in subparagraphs 1 - 4, subject to their registration;

6) a mark which, on the date of application for registration of the trade mark specified in paragraph 1 of this Article, where appropriate, of the priority claimed in respect of the application for registration of the trade mark, is well known in the Republic of Lithuania.

3. If the person concerned contests the trade mark application or registration in accordance with Article 56 or 58 of this Law, the mark shall not be registered or, if registered, shall be liable to be declared invalid in the cases and to the extent that, pursuant to European Union legislation or the law of the Republic of Lithuania providing for protection of designations of origin

and geographical indications when the following conditions are met:

1) an application for a designation of origin or a geographical indication had already been submitted in accordance with European Union legislation or the law of the Republic of Lithuania prior to the date of application for registration of the trade mark or the date of the priority claimed for the application, subject to its subsequent registration;

2) that designation of origin or geographical indication confers on the person the right to prohibit the use of a subsequent trade mark.

4. A mark shall be registered or registration of a trade mark shall not be declared invalid where the proprietor of the earlier trade mark or other earlier right consents to the registration of the later trade mark.

#### **Article 9. Grounds for Refusal or the Invalidation of Registration Relating to Only Some of the Goods or Services**

Where the grounds for refusal of registration or for invalidity of a trade mark exist according to Article 7 or 8 of this Law in respect of only some of the goods or services for which that trade mark has been applied for or registered, refusal of registration of a trade mark or invalidity of registration shall cover those goods or services only.

#### **Article 10. Establishment *a Posteriori* of Invalidity or Revocation of a Trade Mark**

Where the seniority of a trade mark registered in the Republic of Lithuania or of a trade mark registered under the Madrid Protocol having effect in the Republic of Lithuania, which has been surrendered or allowed to lapse, is claimed for an EU trade mark, the invalidity or revocation of the trade mark providing the basis for the seniority claim may be established *a posteriori* (based on later circumstances), provided that the invalidity or revocation could have been declared at the time the mark was surrendered or allowed to lapse. In such a case, the seniority shall cease to produce its effects.

#### **Article 11. Lack of Distinctive Character or of Reputation of an Earlier Trade Mark Precluding a Declaration of Invalidity of a Registered Trade Mark**

An application for a declaration of invalidity on the basis of an earlier trade mark shall not succeed at the date of application for invalidation if the proprietor of the later trade mark proves the existence at the filing date or the priority date of the later trade mark of any of the following circumstances:

1) the earlier trade mark, liable to be declared invalid pursuant to Article 7(1)(2), (3) or (4), had not yet acquired a distinctive character as referred to in Article 7(2) of this Law;



2) the application for a declaration of invalidity is based on subparagraph 2 of paragraph 1 of Article 8 whereas the earlier trade mark had not yet become sufficiently distinctive to support a finding of likelihood of confusion within the meaning of subparagraph 2 of paragraph 1 of Article;

3) the application for a declaration of invalidity is based on subparagraph 3 of paragraph 1 of Article 8 and the earlier trade mark had not yet acquired a reputation within the meaning of subparagraph 3 of paragraph 1 of Article 8.

### **Article 12. Preclusion of a Declaration of Invalidity Due to Acquiescence**

1. Where the proprietor of an earlier trade mark as referred to in paragraph 2 of Article 8 has acquiesced, for a period of five successive years, in the use of a later trade mark registered in the Republic of Lithuania while being aware of such use, that proprietor shall no longer be entitled on the basis of the earlier trade mark to apply for a declaration that the later trade mark is invalid in respect of the goods or services for which the later trade mark has been used, unless registration of the later trade mark was applied for in bad faith.

2. Paragraph 1 of this Article shall apply to the proprietor of any other earlier right referred to in subparagraph 5 of paragraph 1 of Article 8.

3. In the cases referred to in this Article, the proprietor of a later registered trade mark shall not be entitled to oppose the use of the earlier right, even though that right may no longer be invoked against the later trade mark.

## **SECTION THREE**

### **RIGHTS CONFERRED BY A TRADE MARK AND LIMITATIONS**

#### **Article 37. Scope of Protection of a Mark**

1. A registered mark shall be valid in the Republic of Lithuania only in respect of the goods and/or services for which the mark is recorded in the Register.

2. A proprietor of the mark may extend the list of goods and/or services for which the mark has been registered only upon filing a new application in accordance with the procedure established by this Law.

#### **Article 14. Rights of the Proprietor of the Mark**

1. The registration of a trade mark shall confer on the proprietor exclusive rights therein.

2. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark, the proprietor of that registered trade mark shall be entitled to prevent all third parties not having his consent from using in the course of trade, in relation to goods or services, any sign where:

1) the sign is identical with the mark in relation to goods and/or services which are identical with those for which the mark is registered;

2) the sign is identical with, or similar to, the trade mark and is used in relation to goods or services which are identical with, or similar to, the goods or services for which the trade mark is registered if there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association between the sign and the trade mark;

3) the sign is identical with, or similar to, the trade mark in relation to goods or services which are not similar to those for which the trade mark is registered, where the latter has a reputation in the Republic of Lithuania and where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.

3. The proprietor of the mark may prohibit the following under paragraph 2 of this Article:

1) affixing the sign to goods or to the packaging thereof;

2) offering the goods or putting them on the market, or stocking them for those purposes, under the sign, or offering or supplying services thereunder;

3) importing or exporting goods under that sign;

4) using the sign as a trade or company name or part of a trade or company name;

5) using the sign on business papers and in advertising;

6) using the sign in comparative advertising in a manner that is contrary to the requirements of comparative advertising under the Law on Advertising of the Republic of Lithuania.

4. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark, the proprietor of that registered trade mark shall also be entitled to prevent all third parties from bringing goods, in the course of trade, into the Republic of Lithuania where the trade mark is registered, without being released for free circulation in the territory of the Republic of Lithuania, where such goods, including the packaging thereof, come from third countries and bear without authorisation a trade mark which is identical with the trade mark registered in respect of such goods, or which cannot be distinguished in its essential aspects from that trade mark.

5. Paragraph 4 of this Article shall lapse if, during the proceedings to determine whether the registered trade mark has been infringed, initiated in accordance with Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ 2013 L 181, p. 15), evidence is provided by the declarant or the holder of the goods that the proprietor of the registered trade mark is not entitled to prohibit the placing of the goods on the market in the country of final destination.

6. The proprietor of the mark shall also be entitled to prohibit use of the sign other than use for the purposes of distinguishing goods or services, where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.

7. The proprietor of the well-known mark shall also have the right to prohibit other persons from using, without having his consent, in industrial or commercial activities any sign which constitutes a reproduction, an imitation or a translation of the well-known mark and which:

1) is liable to be confused with a well-known mark used for identical or similar goods or services,

2) is liable to be confused with a well-known mark in relation to goods or services which are not identical and similar to those under the well-known mark, provided that use of that mark in relation to goods and services would indicate a connection between those goods and/or services and goods or services under a well-known mark and provided that the interests of the proprietor of the registered well-known mark are likely to be damaged by such use.

#### **Article 15. The Right to Prohibit Preparatory Acts in Relation to the Use of Packaging or Other Means**

Where the risk exists that the packaging, labels, tags, security 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 under Article 14(2) and (3), the proprietor of that trade mark shall have the right to prohibit the following acts if carried out in the course of trade:

1) affixing a sign identical with, or similar to, the trade mark on packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark may be affixed;

2) 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 mark is affixed.

#### **Article 16. Reproduction of a Mark in Dictionaries and Works**

If the reproduction of a mark in a dictionary, encyclopaedia or similar publication, in print or electronic form, gives the impression that it constitutes the generic name of the goods or services for which the trade mark is registered, the publisher of the work shall, at the request of the proprietor of the mark, ensure that the reproduction of the mark is, without delay, and 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 mark.

**Article 17. Prohibition of the use of a trade mark registered in the name of a representative or a patent attorney**

1. Where a trade mark is registered in the name of the representative or patent attorney of the proprietor of that trade mark, without the proprietor's consent, the latter shall be entitled to oppose the use of the trade mark by his representative or patent attorney; and (or) demand the assignment of the trade mark in his favour.

2. Paragraph 1 of this Article shall not apply where the representative or patent attorney justifies his action.

**Article 18. Limitation of the Effects of a Mark**

1. A trade mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade:

1) his own personal name, surname or address, where he is a natural person;

2) signs or indications which are not distinctive or concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of the goods or of rendering of the service, or other characteristic of the goods and/or services;

3) 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 the trade mark is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts.

2. The provisions of paragraph 1 of this Article shall only apply where the use made by the third party is in accordance with honest practices in industrial or commercial matters.

**Article 19. Exhaustion of the Rights Conferred by a Mark**

1. A trade mark shall not entitle its proprietor to prohibit from marking with it the goods which have been put on the European Union market by the proprietor of the mark or with his consent.

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

**Article 20. Use of Trade Marks**

1. If, within a period of five years following the date of registration of a trade mark in the Register of Trade Marks, the proprietor has not put the trade mark to genuine use in the Republic of Lithuania in connection with the goods or services in respect of which it is registered (hereinafter

referred to as the use of the mark), or if such use has been suspended during a continuous five-year period, the trade mark shall be subject to the limits and sanctions provided for in Article 21, Article 23(1), Article 57(1) and (2), Article 59 (3) and (4) of this Law, unless there are proper reasons for non-use.

2. With regard to trade marks valid in the Republic of Lithuania under the Madrid Protocol, the five-year period referred to in paragraph 1 shall be calculated from the date when the mark can no longer be rejected or opposed under Article 65 of this Law. Where an opposition has been lodged or when an objection on absolute or relative grounds has been notified, the period shall be calculated from the date when a decision terminating the opposition proceedings or a ruling on absolute or relative grounds for refusal became final or the opposition was withdrawn.

3. The following shall also constitute use within the meaning of paragraph 1 and 2 of this Article:

1) use of the trade mark in a form differing in elements which do not alter the distinctive character of the 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;

2) affixing of the trade mark to goods or to the packaging thereof in the Republic of Lithuania.

4. Use of the trade mark with the consent of the proprietor shall be deemed to constitute use by the proprietor.

#### **Article 21. Non-use of the Trade Mark as Defence in Infringement Proceedings**

1. The proprietor of a trade mark shall be entitled to prohibit the use of a sign only to the extent that the proprietor's rights are not liable to be revoked pursuant to Article 23 at the time the infringement action is brought.

2. If the defendant in the infringement action so requests, the proprietor of the trade mark shall furnish proof that, during the five-year period preceding the date of bringing the action, the trade mark has been put to genuine use as provided in Article 20 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, provided that the registration procedure of the trade mark has at the date of bringing the action been completed for not less than five years under paragraphs 1 or 2 of Article 20.

#### **Article 22. Intervening Right of the Proprietor of a Later Registered Trade Mark as Defence in Infringement Proceedings**

1. In infringement proceedings, the proprietor of a trade mark shall not be entitled to prohibit the use of a later registered mark where that later trade mark would not be declared invalid pursuant to Article 11, paragraphs 1 or 2 of Article 12 or paragraph 3 of Article 59.

2. In infringement proceedings, the proprietor of a trade mark shall not be entitled to prohibit the use of a later registered EU trade mark where that later trade mark would not be declared invalid pursuant to paragraphs 1, 3 or 4 of Article 60, paragraphs 1 or 2 of Article 61 or paragraph 2 of Article 64 of the EU Trade Mark Regulation.

3. Where the proprietor of a trade mark is not entitled to prohibit the use of a later registered trade mark pursuant to paragraph 1 or 2 of this Article, the proprietor of that later registered trade mark shall not be entitled to prohibit the use of the earlier trade mark in infringement proceedings, even though that earlier right may no longer be invoked against the later trade mark.

## **SECTION FOUR**

### **REVOCATION OF TRADE MARK REGISTRATION**

#### **Article 23. Absence of Genuine Use as Ground for Revocation**

1. A trade mark shall be liable to revocation if, within a continuous five-year period, it has not been put to genuine use in the Republic of Lithuania in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use.

2. No one may claim that the registration of a mark should be revoked on the grounds referred to in paragraph 1 of this Article where, during the interval between expiry of the five-year period and filing of the application for revocation, genuine use of the trade mark has been started or resumed, except as provided for in paragraph 3 of this Article.

3. When adopting a decision on the revocation of the trade mark registration, the commencement or resumption of use of a mark within a period of three months preceding the filing of an application for revocation, where the said three-month period began at the earliest on expiry of the continuous period of five years of non-use of the mark and where preparations for the commencement or resumption occur only after the proprietor of the mark becomes aware that the application for revocation may be or has been filed.

#### **Article 24. Trade Mark Having Become Generic or Misleading Indication as Grounds for Revocation**

A trade mark shall be liable to revocation if, after the date on which it was registered:

1) as a result of acts or inactivity of the proprietor of the mark, it has become the common name in the trade for a product or service in respect of which it is registered;

2) as a result of the use made of it by the proprietor of the trade mark or with the proprietor's consent in respect of the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

**Article 25. Revocation of Trade Mark Registration Relating to Only Some of the Goods or Services**

Where grounds for revocation of a trade mark registration provided for in Articles 23 and 24 of this Law exist in respect of only some of the goods or services for which that trade mark has been registered, revocation shall cover those goods or services only.

**SECTION FIVE  
TRADE MARKS AS OBJECTS OF PROPERTY**

**Article 26. Transfer of the Right to a Mark Applied for or a Registered Mark**

1. The right to a mark applied for or a registered mark may be transferred in respect of some or all of the goods or services for which it is registered.

2. The transfer of a right to a mark applied for or a registered mark shall be recorded in the Register of Trade Marks of the Republic of Lithuania on request of one of the parties to the transfer, provided that a fixed fee set by the Law on Fees for the Registration of Industrial Property Objects of the Republic of Lithuania (hereinafter referred to as the "F/fee") is paid and the following documents are submitted to the State Patent Bureau:

- 1) a request to record the transfer;
- 2) a document certifying the transfer;
- 3) the power of attorney issued to the representative (where appropriate);
- 4) a permission or an authorization issued to the successor in title as established in subparagraph 8, 9 or 10 of paragraph 1 of Article 7 of this Law (where appropriate).

3. One joint request may be filed for the transfer of rights to two or more marks, provided that, in each case, the applicant or proprietor of the mark is the same and the same successor in title. The fee shall be payable for each transfer of the right to the mark.

4. A transfer of the right to a mark applied for or a registered mark shall become effective from the recordal of the transfer-related data in the Register of Trade Marks of the Republic of Lithuania. The data relating to the transfer of the right to a registered mark shall be published in the Official Bulletin of the State Patent Bureau if the application is published or the mark is registered in the Register. A transfer of the right to a mark applied for or a registered mark shall be invalid if the data relating to the transfer has not been entered in the Register of Trade Marks of the Republic

of Lithuania.

### **Article 27. Licensing**

1. The applicant or proprietor of a mark may issue to a third party a voluntary exclusive or non-exclusive license for marking some or all goods and/or services for which it is registered and for the entire or part of the Republic of Lithuania.

2. The licensing contract data shall be recorded in the Register of Trade Marks of the Republic of Lithuania at the request of one of the parties to the contract, provided that a fixed fee is paid and the following documents have been submitted to the State Patent Bureau:

- 1) an application for recordal of the licensing contract;
- 2) a document certifying the conclusion of the licensing contract;
- 3) the power of attorney issued to the representative (where appropriate).

3. The following must be indicated in the document certifying the conclusion of a licensing contract:

1) the name or the personal name, surname and address (headquarters) of the proprietor of the mark;

2) the name or the personal name, surname and address (headquarters) of the licensee;

3) registration or application number of the mark for which the license is granted;

4) kind of license;

5) an indication as to the scope of the goods and/or services for which the license is granted;

6) the time period of license;

7) the territory in which the license is valid.

4. The recordal data relating to the license shall be published in the Official Bulletin of the State Patent Bureau if the application is published or the mark is entered in the Register.

5. At the request of one of the parties to the licensing contract, the licensing contract may be removed from the Register.

6. The licensor may invoke the rights provided for by Article 14 of this Law against a licensee who contravenes any provision in the licensing contract with regard:

1) to its duration;

2) the form of use of a registered mark;

3) the scope of the goods and/or services for which the license is granted;

4) the territory in which the mark may be affixed;

5) the quality of the goods manufactured or of the services provided by the licensee.

7. Without prejudice to the provisions of the licensing contract, the licensee may bring proceedings for infringement of a trade mark only if its licensor consents thereto. However, the



holder of an exclusive licence may bring such proceedings if the licensor, after receipt of formal notice, does not himself bring infringement proceedings within 30 days unless otherwise specified in the license agreement.

8. A licensee shall, for the purpose of obtaining compensation for damage suffered by him, be entitled to intervene in infringement proceedings brought by the proprietor of the trade mark.

9. The provisions of paragraphs 1-8 of this Article shall also apply to the sublicensing contract.

#### **Article 28. Rights in Rem**

1. The right to a mark applied for or a registered mark may be given as security or seized (temporary restriction of the right to use, administer or dispose of the mark) according to the procedure laid down by the laws of the Republic of Lithuania.

2. Having been notified by the keeper of the Register of contracts and restrictions of rights about the right to the mark given as security or seized, the State Patent Bureau shall enter the relating data in the Register of Trade Marks of the Republic of Lithuania and publish a notice to the effect in the Official Bulletin of the State Patent Bureau.

*Supplemented by the paragraph of the Article:*

*No [XIII-2736](#), 19-12-2019, published in RLA, 06-01-2020, ID code 2020-00123*

#### **Article 29. Levy of Execution**

1. The right to a mark applied for or a registered mark may be seized or levied in execution according to the procedure established by the Code of Civil Procedure of the Republic of Lithuania.

2. Having been notified by the keeper of the Register of Property Seizure Acts about the seized mark or levied in execution, the State Patent Bureau shall enter the relating data in the Register of Trade Marks of the Republic of Lithuania and publish a notice to the effect in the Official Bulletin of the State Patent Bureau.

### **SECTION SIX**

#### **GUARANTEE OR CERTIFICATION MARKS AND COLLECTIVE MARKS**

#### **Article 30. Guarantee or Certification Marks**

1. A mark may be registered as a guarantee or certification mark provided the applicant is competent to certify the goods or services for which the mark is to be registered and provided the applicant does not carry on a business involving the supply of goods or services of the kind certified.

2. Signs or indications, which may serve, in trade, to designate the geographical origin of the goods or services may constitute guarantee or certification marks. Such a guarantee or certification mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that third party uses them in accordance with honest practices in industrial or commercial matters. In particular, a mark may not be invoked against a third party who is entitled to use a geographical name.

3. A certification mark shall be deemed used where genuine use of a guarantee or certification mark in accordance with Article 16 is made by any person who has the authority to use it.

4. The provisions of Chapter III of this Law shall apply *mutatis mutandis* to the registration of a guarantee or certification mark.

#### **Article 28. Right to a Collective Mark**

1. A union (association, union, consortium, etc.) of persons shall have the right to file an application for registration of a collective mark.

2. All provisions of this Law, except for the provisions of Articles 43 and 44, shall apply to a collective mark.

2. Signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may constitute collective marks. Such a collective mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that third party uses them in accordance with honest practices in industrial or commercial matters. In particular, a mark may not be invoked against a third party who is entitled to use a geographical name.

#### **Article 29. Regulations Governing Use of a Collective Mark**

1. An applicant for a collective mark shall submit the regulations governing its use containing the following data:

- 1) the name and the headquarters of the union of persons in the name whereof an application for registration of a collective mark has been filed;
- 2) the purpose of the union of persons and representation procedure;
- 3) membership conditions;
- 4) information relating to the union members who have authority to use a collective mark;
- 5) a reproduction of the mark in accordance with paragraph 2 of Article 38 (5) of this Law;
- 6) goods and/or services in respect of which the collective mark is applied for;
- 7) terms and conditions of the use of a collective mark;

6) rights and obligations of the union members in case of non-fulfilment of the conditions of use of a collective mark and infringement of rights to it.

2. The regulations governing use of a mark referred to in paragraph 2 of Article 31 shall authorise any person whose goods or services originate in the geographical area concerned to become a member of the association which is the proprietor of the mark, provided that the person fulfils all the other conditions of the regulations.

3. A collective mark may be transferred only with the consent of all persons who are members of a union.

4. A collective mark shall be deemed used where genuine use in accordance with Article 20 is made by at least one person who is a member of a union.

### **Article 33. Refusal of an Application for a Collective Mark**

1. An application for a collective mark shall be refused if:

1) there exists at least one of the grounds referred to in paragraph 1 or 2 of Article 7 of this Law;

2) there exists at least one of the grounds referred to in Article 8 of this Law;

3) it does not comply with the concept of a collective mark referred to in paragraph 7 of Article 2 of this Law;

4) the provisions of Article 31 or paragraph 1 or 2 of Article 32 of this Regulation are not complied with;

5) regulations governing use of a collective mark are contrary to public policy or good morale;

6) the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be something other than a collective mark.

2. An application shall not be refused and the collective mark may be registered according to the procedure established by this Law if the applicant, as a result of amendment of the regulations governing use of the collective mark, meets the requirements referred to in subparagraphs 3 and 6 of paragraph 1 of this Law.

3. The provisions of Chapter III of this Law shall apply *mutatis mutandis* to the registration of a collective mark.

### **Article 34. Amendments to the Regulations Governing Use of a Collective Mark**

1. The proprietor or applicant of a collective mark shall submit to the State Patent Bureau any amended regulations governing use of a collective mark.

2. Data on the amendments to the regulations governing use of a collective mark shall be entered in the Register at the request of the applicant or proprietor of the mark if the fee is paid and the amended regulations do not involve one of the grounds for refusal referred to in paragraph 1 of Article 33.

3. Amendments to the regulations governing use of a collective mark shall take effect only from the date of entry of the mention of those amendments in the Register. Data relating to amendments to the regulations governing use of a collective mark shall be published in the Official Bulletin of the State Patent Bureau if the application is published or the mark is registered in the Register.

### **Article 35. Persons entitled to bring an action for infringement**

1. Paragraphs 7 and 8 of Article 27 shall apply *mutatis mutandis* to every person who has the authority to use a collective mark.

2. The proprietor of a collective mark shall be entitled to claim compensation on behalf of persons who have authority to use the mark where those persons have sustained damage as a result of unauthorised use of the mark.

### **Article 36. Additional Grounds for Revocation of the Registration of a Collective Mark**

In addition to the grounds for revocation provided for in Articles 23 and 24, the registration of a collective mark shall be revoked on the following grounds:

1) the proprietor of a collective mark does not take reasonable steps to prevent the mark being used in a manner that is incompatible with the conditions of use laid down in the regulations governing use of a collective mark;

2) the manner in which the mark has been used by authorised persons has caused it to become liable to mislead the public in the manner referred to in subparagraph 6 of paragraph 1 of Article 33;

3) an amendment to the regulations governing use of the collective mark has been entered in the Register in breach of paragraph 1 of Article 33.

### **Article 37. Additional Grounds for Invalidity of the Registration of a Collective Mark**

Registration of a collective mark may be declared invalid if a collective has been registered in breach of paragraph 1 of Article 33.

## **CHAPTER III**

## REGISTRATION OF A MARK AND OTHER PROCEDURES

### SECTION FIRST

#### APPLICATION AND REGISTRATION

##### **Article 38. Filing of an Application and Application Requirements**

1. An applicant who wishes to register a mark must file an application with the State Patent Bureau. The applicant must pay a fixed fee for filing of an application.

2. A representative may also file an application on behalf of an applicant. Foreign natural persons who are not permanent residents of the Republic of Lithuania or any other EU Member State or any other State of the European Economic Area and legal persons of foreign states who do not have a branch office or representative office registered in the Republic of Lithuania or a head office, a branch office or a representative office in any other EU Member State or in any other State of the European Economic Area, shall, through a patent attorney of the Republic of Lithuania, file applications with the State Patent Bureau and perform all actions relating to the registration of a mark and international mark, including also representation at the Appeals Division.

3. One application shall be filed for the registration of one mark.

4. An application for registration of a trade mark shall consist of:

- 1) a request for registration of a trade mark;
- 2) the power of attorney given to a person, where the application is filed by a representative;
- 3) a document attesting priority as specified in paragraph 3 of Article 40 of this Law (where appropriate);
- 4) a permit or consent issued under subparagraphs 8, 9 and 10 of paragraph 1 of Article 7 of this Law (where appropriate);
- 5) regulations governing use of a collective mark (where appropriate) when filing an application for registration of a collective mark;
- 6) a document certifying the right of the applicant to perform the certification function when filing an application for registration of a guarantee or certification mark;
- 7) consent of the owner of the rights according to paragraph 4 of Article 8 of this Law (where appropriate).

5. A request for registration of a mark shall contain:

- 1) information identifying an applicant and his representative;
- 2) a reproduction and description of the mark in respect of which registration is applied for which satisfies the requirements set out in subparagraph 2 of Article 5;

3) goods and/or services in respect of which the mark is applied for, grouped according to the requirements of Article 41 of this Law;

4) data on the payment of a fixed fee;

5) a state of filing of the first application, the number of such application and the date of its filing, the date or a state (where appropriate) of the display at an international exhibition which is official or officially recognised according to the Convention relating to international exhibitions signed at Paris on 22 November 1928 and supplemented by the protocols of 10 May 1948, 16 November 1966, 30 November 1972 and the Amendment of 24 June 1982 and the Amendment of 31 May 1988 (hereinafter referred to as the International Exhibition). The submission of such information shall be regarded as a request claiming the priority;

6) other data as specified in Regulations for the Registration of Trade Marks approved by the Director of the State Patent Bureau.

6. An application may contain a request for registration of a mark in respect of one or more classes of goods and/or services. A fixed additional fee shall be payable for more than one class of goods and/or services indicated in the application.

### **Article 39. Date of Filing of Application**

1. The date of filing of a trade mark application shall be the date on which the request specified in subparagraph 1 of paragraph 4 of Article 38 of this Law containing at least the information specified in subparagraphs 1-4 of paragraph 5 of Article 38 of this Law is filed with the State Patent Bureau by the applicant.

2. In case of failure to submit at least one of the documents, listed in paragraph 1 of this Article, or non-compliance of the submitted documents with the requirements laid down in this Law or the Regulations for the Registration of Trade Marks, a date of filing shall not be accorded to the application. In this case, the application documents shall be returned to the applicant with the grounds for the inadmissibility of the application indicated.

3. Having checked and ascertained that the application contains information referred to in paragraph 1 of this Article, the State Patent Bureau shall, no later than one month after the date of receipt of the request referred to in subparagraph 1 of paragraph 4 of Article 38 of this Law, recognise an application as having been filed and shall accord to it a date of filing and a number, and notify the applicant hereof.

4. The application for which the filing date has been accorded shall be subject to an examination pursuant to Article 42 of this Law and an examination of the mark pursuant to Article 43 of this Law. If the applicant submits an application for an urgent examination and pays the

established fee, the examination of the application and the examination of the mark shall be carried out within the time limit set by the Director of the State Patent Bureau.

#### **Article 40. Priority**

1. The application may contain a request claiming the priority of one or more previous applications duly filed for the registration of one and the same mark in the State party to the Paris Convention or a member of the World Trade Organisation if the applicant or his successor in title files an application to the State Patent Bureau within a period of six months from the date of filing of the first application or applications.

2. The application may contain a request claiming the priority of the date on which the goods and/or services bearing the mark which is the subject of that application were first displayed at the international exhibition if the application is filed with the State Patent Bureau within a period of six months from the date of the first display of the goods and/or services under the mark at the exhibition.

3. An applicant who intends to benefit from the provisions of paragraphs 1 and 2 of this Article shall submit before the State Patent Bureau a certified copy of the first application (applications) or a certificate issued by the administration of the international exhibition at which the goods and/or services bearing the mark had first been displayed. The documents may be submitted at the time of filing of the application or within three months from that date.

4. If the State Patent Bureau finds that the requirements under paragraph 3 of this Article have not been fulfilled, the request referred to in paragraphs 1 or 2 of this Article shall be considered not to have been made.

#### **Article 41. Designation and Classification of Goods and Services**

1. The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the Nice Classification valid at the date of filing of an application by grouping and assigning them to a particular class, 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.

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. The general indications included in the class headings of the Nice Classification or other general terms may be used provided that they comply with the requisite standards of clarity and precision set out in this Article. The use of general terms, including the general indications of the class headings of the Nice Classification,

shall be interpreted as including all the goods or services clearly covered by the literal meaning of the indication or term and shall not cover goods or services, which cannot be so understood.

3. The State Patent Bureau shall reject an application in respect of the goods or services which are not in line with the requirements laid down in paragraphs 1 and 2 of this Article, or Regulations for the Registration of Trade Marks if the applicant fails to provide the wording of the goods or services that meet the requirements of paragraph 2 of this Article and fails to remedy the deficiencies identified by the State Patent Bureau.

4. The applicant must pay the fee referred to in paragraph 6 of Article 38 of this Law if it is established that the goods or services specified in the application must be assigned to other classes of goods or services than the applicant has indicated.

5. 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 Nice 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 Nice Classification.

#### **Article 42. Examination of Application**

1. Upon examination of the application, the State Patent Bureau shall verify whether the submitted application complies with the requirements set out in Articles 38, 40 and 41 of this Law.

2. Having identified any deficiencies during the examination of the application, the two-month period from the date of dispatch of the notice shall be determined for their remedy.

#### **Article 43. Examination of the Mark**

1. The State Patent Bureau shall carry out an examination of the mark with a view to ascertaining whether it satisfies the requirements paragraphs 1 and 2 of Article 7 of this Law.

2. Where a mark is not registrable under paragraphs 1 and/or 2 of Article 7, the State Patent Bureau shall adopt a decision to refuse the registration of the mark in respect of all or some of the goods and/or services. The decision must indicate grounds and reasons for the refusal of the registration of the mark.

3. The applicant shall have the right, within two months from the day of sending of the decision to refuse registration, to submit to the State Patent Bureau a written request for a re-examination.

4. The State Patent Bureau shall conduct a re-examination and adopt one of the following decisions:

1) to declare that the mark meets the requirements of paragraphs 1 and 2 of Article 7 of this Law;



2) to maintain the decision not to register the mark in respect of all or part of the goods or services.

#### **Article 44. Written Observations by Third Parties**

1. Prior to registration of a trade mark, any person may submit to the State Patent Bureau written observations, explaining that the trade mark should be refused on the grounds provided in:

- 1) paragraphs 1 and (or) 2 of Article 7 of this Law;
- 2) Article 30 of this Law if it is a guarantee or certification mark;
- 3) subparagraphs 1, 3 - 6 of paragraph 1 of Article 33 of this Law if it is a collective mark.

2. Observations may be submitted before the expiry of the deadline, referred to in paragraph 1 of Article 56 of this Law or, if a notice of opposition is lodged against a trade mark application, before the decision on the opposition is taken.

3. Persons submitting observations shall not be parties to the proceedings before the State Patent Bureau.

4. The State Patent Bureau shall notify the applicant of the written observations received from third parties based on which it has been decided to resume examination of the trade mark, which, within one month from the date of dispatch of the notice, shall have the right to submit to the State Patent Bureau replies to the observations.

#### **Article 45. Filing of Appeal**

1. An applicant who disagrees with the decision adopted by the State Patent Bureau during the re-examination shall have the right to file with the Appeals Division of the State Patent Bureau, within two months from the sending of the said decision, a written appeal with a substantiated request for a review of the findings of the examination. A fixed fee must be paid for the filing of an appeal.

2. Appeals shall be examined in written or oral proceedings at the Appeals Division. Appeals are commonly examined in written proceedings. When an appeal is examined in written proceedings at the Appeals Division, an applicant and (or) its representative shall not be invited to the proceedings and the examination shall be conducted in absence thereof. Appeals shall be examined in oral proceedings only in exceptional cases where the dispute is complicated or significant for formation of new practice of the Appeals Division. When an appeal is examined in oral proceedings at the Appeals Division, the applicant and (or) his representative shall be invited to the proceedings; however, failure to attend the proceedings shall not prevent from examination of an appeal. During the proceedings the word may be given only to applicants and (or) their

representatives. Paragraph 3 of Article 61 of this Law shall apply *mutatis mutandis* to the applicant's rights and obligations in the course of an appeal.

3. The Appeals Division shall examine appeals based on the following principles of independence and impartiality, collegiality, publicity, legality and fairness, prudence, equality of parties in procedure, adversary procedure, concentration and economy of the procedure.

4. Following the examination of the appeal, the Appeals Division shall adopt one of the following decisions:

1) to grant the appeal and declare that the mark meets the requirements of paragraphs 1 and 2 of Article 7 of this Law in respect of all or some of the goods or services;

2) to dismiss the appeal.

5. The Appeals Division shall notify the applicant in writing of the decision taken within five working days of its adoption. The decisions taken by the Appeals Division shall be published in the Official Bulletin of the State Patent Bureau.

6. The decision taken by the Appeals Division may be appealed to the Vilnius Regional Court within three months from the date of its adoption.

7. After payment of the relevant fee, the appeal may also be filed against other decisions of the State Patent Bureau referred to in this Law within two months from the date of dispatch of such decision.

8. The procedure for examining appeals shall be laid down in the Regulations for the Examination of Appeals and Requests for a Declaration of Invalidity or Revocation of a Trade Mark.

#### **Article 46. Publication of the Application. Temporary Legal Protection**

1. The State Patent Bureau shall publish the application data in the Official Bulletin of the State Patent Bureau when:

1) after the examination of the application and the mark, it is established that the mark complies with the requirements of paragraphs 1 and 2 of Article 7 of this Law;

2) having granted the appeal, it is recognized that the mark meets the requirements of paragraphs 1 and 2 of Article 7 of this Law.

2 The State Patent Bureau, on its own initiative or after receiving written observations from third parties pursuant to Article 44 of this Law, shall have the right, prior to the registration of the mark, to resume examination of the trade mark for compliance with the requirements of paragraphs 1 and 2 of Article 7 of this Law.

3. The applicant may claim compensation for damage under Article 75 of this Law caused by a person who has violated his rights for actions taken after the date of publication of the

application under paragraph 1 of this Article, if, after registration of the mark, he shall be entitled to prohibit such acts under the provisions of this Law. The court will make a decision on damages after the registration of the mark.

4. If the applicant withdraws its application, the mark is not registered, is withdrawn at the request of the proprietor of the mark or the registration of the mark is contested by another person, the provisional legal protection referred to in paragraph 3 of this Article shall be deemed not to have been granted to a mark.

#### **Article 47. Registration of a Mark. Certificate of Registration of a Mark**

1. The State Patent Bureau shall register the mark in the Register and publish information of the registered mark in the Official Bulletin of the State Patent Bureau if no opposition has been filed in accordance with the procedure laid down in Article 56 of this Law or it has been rejected in respect of all or part of the goods or services, or the decision of the Appeals Division made in respect of this mark has not been appealed to a court under paragraph 6 of Article 56 of this Law.

2. The State Patent Bureau shall issue a registration certificate to the proprietor of a registered mark which is a document certifying the entry of the mark in the Register of Trade Marks of the Republic of Lithuania and the exclusive rights of the proprietor of the mark to the registered mark.

3. The form of the certificate of registration of a mark and the data recorded therein shall be established by the State Patent Bureau.

## **SECTION TWO**

### **REGISTER OF TRADE MARKS OF THE REPUBLIC OF LITHUANIA**

#### **Article 48. Register of Trade Marks of the Republic of Lithuania**

1. The Register of Trade Marks of the Republic of Lithuania is a state register. The Ministry of Justice of the Republic of Lithuania shall be the manager of the said Register and the State Patent Bureau shall be the administrator of this Register. The Government of the Republic of Lithuania may appoint an additional administrator of the Register of Trade Marks.

2. The procedure for accumulating, keeping, storing and using the documents and data relating to trade marks shall be established by the Statute of the Register of Trade Marks of the Republic of Lithuania approved by the Government (hereinafter referred to as the Statute of the Register).

#### **Article 49. Object and Data of the Register of Trade Marks**

1. The object of the Register shall be the trade marks.
2. The following data shall be recorded and stored in the Register of Trade Marks:
  - 1) reproduction of the mark or any other form of expression in accordance with paragraph 2 of Article 5 of this Law;
  - 2) type of the mark;
  - 3) names of goods and/or services for which registration of the mark is applied for pursuant to Article 41 of this Law;
  - 4) date of filing of the application and its number;
  - 5) date of publication of the application;
  - 6) date of registration of the mark and its number;
  - 7) the applicant's name or personal name, surname and address (headquarters), including the address for correspondence;
  - 8) name or personal name, surname and address (headquarters) of the proprietor of the mark, including the address for correspondence;
  - 9) date of expiry of registration;
  - 10) priority date, the number of the first application and the State, provided that priority has been given under paragraph 1 of Article 40 of this Law;
  - 11) name of the International Exhibition, date of display of goods and/or services, provided that priority has been given under paragraph 2 of Article 40 of this Law;
  - 12) personal name, surname, address (headquarters) of the representative, where he has been appointed, including the address for correspondence;
  - 13) an indication that the mark is a collective or a guarantee or certification mark;
  - 14) other data relating to the registration, use and protection of the mark;
  - 15) grounds for and date of amendment of the data.
3. All natural and legal persons shall have the right to use the data of the Register of Trade Marks according to the procedure laid down by the Regulations of the Register of Trade Marks.
4. Upon request, any interested persons may access the trademark files at the State Patent Bureau and obtain copies of the documents. Access to the application documents prior to its publication is only possible with the written consent of the applicant.
5. The fee, the amount of which shall be determined by the Director of the State Patent Bureau in accordance with the procedure established by the Government of the Republic of Lithuania, shall be paid for copies of data from the Register and documents submitted to the Register.
6. Personal data shall be processed in accordance with this Law pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of

natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1) and the Law on Legal Protection of Personal Data of the Republic of Lithuania. The purpose of processing of personal data of applicants, proprietors of trade marks, other rights holders, interested persons and their representatives in the Register is to ensure the protection of exclusive rights to trade marks as property objects and to inform the competent authorities and the public thereof.

#### **Article 50. Recordal of Changes in an Application and in the Register of Trade Marks**

1. The applicant or proprietor of the trade mark shall be responsible for submitting correct data to the State Patent Bureau and its updating. An applicant or proprietor of the trade mark must submit a request to the State Patent Bureau to record changes in the application or in the Register if:

- 1) the name or personal name, surname of the applicant or the proprietor of the mark or representative has changed;
- 2) the address (headquarters) or address for correspondence of the applicant or the proprietor of the mark or his representative has changed;
- 3) the representative of the applicant or the proprietor of the mark has changed;
- 4) limitation of the list of goods and/or services;
- 5) reproduction or other form of expression of the mark applied for or registered has changed;
- 6) the applicant or the proprietor of the mark has changed if it is not a transfer of rights under Article 26 of this Law;
- 7) technical errors must be corrected;
- 8) other data in the application or the Register changes.

2. When requesting for the change to be recorded, the applicant or the proprietor of the mark must submit the following documents and data:

- 1) request for recordal of changes in the application or in the Register;
- 2) documents substantiating the request where the recording of the changes specified in subparagraphs 3 or 6 of paragraph 1 of this Article is requested and data on changes requested to be recorded;
- 3) data on the payment of the fixed fee, except where a change as referred to in subparagraph 2 or 3 of paragraph 1 of this Article is requested, or when it is requested to correct technical errors made by the State Patent Bureau.

3. One application may be filed for recordal of changes of the same type of data, except for the case referred to in subparagraph 5 of paragraph 1 of this Article, in multiple applications of the same applicant or registrations of trade marks of the proprietor of the mark. The fee shall be paid

for a change in each application or registration of the trade mark.

4. Changes in the mark applied for or the registered mark shall be recorded where, in the opinion of the State Patent Bureau, the change is not related to the distinctive character of the mark or does not substantially change the overall representation of the original mark.

5. The change shall become valid from the date of its recordal in the application or in the Register. Changes in the application or Register shall be published in the Official Bulletin of the State Patent Bureau if the application or registered trade mark has been published.

6. The State Patent Bureau may correct technical errors on its own initiative.

7. A separate fee for changes shall not be paid to record the changes referred to in paragraph 1 of this Article, except for paragraph 5 of paragraph 1 of this Article, in cases of the transfer of rights or renewal of the registration of the trade mark.

#### **Article 51. Removal of a Mark from the Register**

1. A mark shall be removed from the Register if:

1) the Appeals Division declares the registration of the mark invalid or revokes it and this decision has not been appealed to the court within the time limit laid down in paragraph 9 of Article 58 of this Law;

2) the decision of the Appeals Division on the invalidity or revocation of the registration of the mark is upheld by a court decision;

3) the registration of the mark has not been renewed according to the procedure laid down in Article 63 of this Law;

4) the proprietor of the mark requests for the mark to be removed from the Register;

5) the legal entity which is the proprietor of the mark is removed from the Register of Legal Entities.

2. The State Patent Bureau shall remove the mark from the Register of Trade Marks following the receipt of one of the following documents:

1) effective court decision by which the decision of the Appeals Division regarding the invalidation or revocation of the registration of the mark;

2) a written request of the proprietor of the mark;

3) a written request of the person and the supporting documents if the mark is requested to be removed in accordance with subparagraph 5 of paragraph 1 of this Article.

3. After the Appeals Division takes a decision to declare the registration of a mark invalid or revoke it, if this decision has not been appealed to the court within the time limit laid down in paragraph 9 of Article 58 of this Law, or in case of failure to renew the registration of the mark

according to the procedure laid down in Article 63 of this Law, the mark shall be removed from the Register on the initiative of the State Patent Bureau.

4. A notice of removal of the mark from the Register shall be published in the Official Bulletin of the State Patent Bureau.

### **SECTION THREE OTHER PROCEDURAL PROVISIONS**

#### **Article 52. Division of a Trade Mark Application or Registration**

1. When an applicant presents a written request and pays a fixed fee, an application covering some names of goods and/or services in respect of which a trade mark is applied for registration may become the subject of one original application and one or more divisional applications by dividing the names of the indicated goods and/or services in accordance with the procedure laid down by the Regulations. The names of the goods and/or services in the divisional application may not overlap with the names of the goods and/or services, which remain in the original application or those included in other divisional applications.

2. The divisional application shall preserve the filing date and any priority date (if any) of the original application.

3. Registration of a trade mark may be divided during the duration of the registration of the trade mark, except the exemptions referred to in paragraph 4 of this Article. The provisions of paragraphs 1 and 2 of this Article shall apply *mutatis mutandis* to the division of registration of a trade mark.

4. Application or registration of a trade mark may not be divided, if the term specified in paragraph 1 of Article 56 of this Law has not expired, for those goods and/or services in respect of which opposition has been submitted or declaration of invalidity or revocation of the trade mark has been applied for, until a relevant decision of the Appeals Division becomes effective or a decision of the court becomes binding.

5. A fee shall be paid for each divisional application or registration of the trade mark.

6. Applications relating to the initial application or initial registration of a mark, filed before the date of receipt of the application for division of the application or the registration of the mark at the State Patent Bureau, shall be deemed to have been filed and the fees, paid up to this date, shall also be deemed to have been paid for the separate application or the separate registration of the mark.

#### **Article 53. Withdrawal of the Application**

1. The applicant shall have the right to withdraw his application prior to the date of registration of the mark.

2. If the application has been published, the State Patent Bureau shall publish a notice of its withdrawal in the Official Bulletin of the State Patent Bureau.

#### **Article 54. Requirements for the Documents Filed with the State Patent Bureau**

1. The application for registration of a mark and other documents shall be filed with the State Patent Bureau in the state language. If other documents are filed not in the state language, the applicant or the proprietor of the mark must within two months from the day of filing of the documents submit their translations into the state language.

2. The applicant, the proprietor of the mark, parties to the procedures for revocation or invalidity of the trade mark registration, or their representatives must indicate the official address for correspondent, which must be in the Republic of Lithuania or another European Economic Area State. The State Patent Bureau shall send official correspondence in the official language to the address specified.

3. The power of attorney to represent the applicant or the proprietor of the mark shall be issued in a simple written form.

4. Documents filed with the State Patent Bureau shall be exempt from all legalisation.

5. The forms of applications and other documents submitted to the State Patent Bureau, including the manner of submission, the data to be entered therein, the time limits for their submission and examination, not set forth in this Law, shall be set out in the Regulations for the Registration of Trade Marks.

6. Having established that the submitted documents do not comply with the requirements of this Law or the Regulations for the Registration of Trade Marks, the State Patent Bureau shall send a notification to the person who submitted the document on the identified deficiencies and suggestions how to remedy them. If the deficiencies are not remedied within one month of the date of dispatch of the notification, when this Law does not specify another term, the request shall be rejected and the document shall be deemed not to have been filed or the action not to have been performed.

7. In the event of declaration of a state of emergency or a state-level situation of emergency or quarantine throughout the territory of the Republic of Lithuania and the resulting restrictions on free movement of persons or freedom of economic activities, the time limits for fulfillment of actions established by this law except for the deadlines for fulfillment of actions of the State Patent Bureau shall be suspended. When the restrictions are revoked, the time limits shall be resumed.



Information on suspension and resumption of the time limits shall be published on the website of the State Patent Bureau.

***RLA note.** The suspension of the time limits referred to in paragraph 7 herein above shall be applicable to the time limits which have not expired before adoption of Resolution No 207 of the Government of the Republic of Lithuania of 14 March 2020 “On Declaring Quarantine on the Territory of the Republic of Lithuania” and the time limits which started after entry into force of the afore-mentioned resolution.*

*Supplemented with the paragraph of this Article*

*No [XIII-2860](#), 21 April 2020, published in the Register of Legal Acts (RLA), 24 April 2020, ID code 2020-08724*

### **Article 55. Extension of Time Limits**

Following the filing of a written request and payment of a fixed fee by an applicant, a proprietor of a mark or a holder of an international registration, the time limits provided for in paragraph 2 of Article 42, paragraph 3 of Article 43, paragraph 1 of Article 45, paragraphs 1 and 6 of Article 54, paragraphs 1 and 2 of Article 68 of this Law may be extended once but for not longer than two months from the day of expiry of the initial time limit.

## **SECTION FOUR**

### **PROCEDURES FOR OPPOSITION, REVOCATION AND INVALIDITY OF REGISTRATION OF A TRADE MARK**

#### **Article 56. Opposition Procedure**

1. Within a period of three months following the publication of the application, the interested persons may object to the application by filing a reasoned written opposition to the Appeals Division in accordance with paragraph 1 of Article 46 of this Law and pursuant to paragraphs 1, 2 and 3 Article 8 of this Law. The filing of opposition shall be subject to the payment of the fixed fee.

2. A notice of opposition may be filed on the basis of one or more earlier rights, provided that they all belong to the same proprietor, and on the basis of part or the totality of the goods or services in respect of which the earlier right is protected or applied for, and may be directed against part or the totality of the goods or services in respect of which the contested mark is applied for.

3. One notice of opposition may be filed against one application.

4. Following the examination of the opposition, the Appeals Division shall adopt one of the following decisions:

1) to decide that the opposition is allowable and declare registration of the mark invalid in respect of all or some of the goods and/or services;

2) to reject the opposition.

5. The parties shall be notified in writing of the decision of the Appeals Division within five working days of the date of its adoption. Decisions taken by the Appeals Division shall be published in the Official Bulletin of the State Patent Bureau.

6. The decision taken by the Appeals Division may be appealed against to the Vilnius Regional Court within three months from the day of adoption thereof.

#### **Article 57. Non-use of the Mark as Defence in Opposition Proceedings**

1. In opposition proceedings pursuant to Article 56 of this Law, where at the filing date or date of priority of the later trade mark, the five-year period within which the earlier trade mark must have been put to genuine use as provided for in Article 20 of this Law had expired, at the request of the applicant, the proprietor of the earlier trade mark who has given notice of opposition shall furnish proof that the earlier trade mark has been put to genuine use as provided for in Article 20 of this Law during the five-year period preceding the filing date or date of priority of the later trade mark, or that proper reasons for non-use existed. In the absence of proof to this effect, the opposition shall be rejected.

2. If the earlier trade mark has been used in relation to only part of the goods or services for which it is registered, it shall, during the examination of the opposition, be deemed to be registered in respect of that part of the goods or services only.

3. Paragraphs 1 and 2 of this Article shall also apply where the earlier trade mark is an EU trade mark. In such a case, the genuine use of the EU trade mark shall be determined in accordance with EU Trade Mark Regulation.

#### **Article 58. Procedure for Revocation or Declaration of Invalidity of the Registration of a Trade Mark**

1. Any interested person seeking to invalidate or revoke the registration of the trade mark must submit a reasoned written request to the Appeals Division. A fee must be paid for filing an application for a declaration of invalidity or revocation.

2. Registration of a trade mark may be revoked in accordance with Article 23 or Article 24 of this Law.

3. The registration of a mark shall be declared invalid if, at the time of examination of the application for invalidation of the registration of the trade mark, it is established that the trade mark should not have been registered because:

1) there exists at least one of the grounds laid down in Article 7 of this Law;

2) there exists at least one of the grounds laid down in paragraphs 1, 2 and 3 of Article 8 this Law.

4. An application for revocation or for a declaration of invalidity may be directed against a part or the totality of the goods or services in respect of which the contested mark is registered.

5. An application for a declaration of invalidity may be filed based on one or more earlier rights, provided they all belong to the same proprietor.

6. One application may be directed only against one registration of the trade mark.

7. The Appeals Division, having examined the application for declaration of invalidity or revocation of the registration of the trade mark, shall take one of the following decisions:

1) grant the application and declare invalid the registration of the mark, or revoke it in respect of all or part of the goods or services;

2) reject the application.

8. The parties shall be notified in writing of the decision of the Appeals Division within five working days of the date of its adoption. Decisions taken by the Appeals Division shall be published in the Official Bulletin of the State Patent Bureau.

9. The decision taken by the Appeals Division may be appealed against to the Vilnius Regional Court within three months from the day of adoption thereof.

#### **Article 59. Non-use of the Trade Mark as Defence in Proceedings Seeking a Declaration of Invalidity of the Registration of a Trade Mark**

1. In proceedings for a declaration of invalidity based on a registered trade mark with an earlier filing date or priority date, if the proprietor of the later trade mark so requests, the proprietor of the earlier trade mark shall furnish proof that, during the five-year period preceding the date of the application for a declaration of invalidity, the earlier trade mark has been put to genuine use, as provided for in Article 20 of this Law, in connection with the goods or services in respect of which it is registered and which are cited as justification for the application, or that there are proper reasons for non-use, provided that the registration process of the earlier trade mark has at the date of the application for a declaration of invalidity been completed for not less than five years.

2. Where, at the filing date or date of priority of the later trade mark, the five-year period within which the earlier trade mark was to have been put to genuine use, as provided for in Article 20 of this Law, had expired, the proprietor of the earlier trade mark shall, in addition to the proof required under paragraph 1 of this Article, furnish proof that the trade mark was put to genuine use during the five-year period preceding the filing date or date of priority, or that proper reasons for non-use existed.

3. In the absence of the proof referred to in paragraphs 1 and 2, an application for a declaration of invalidity on the basis of an earlier trade mark shall be rejected.

4. If the earlier trade mark has been used in accordance with Article 20 of this Law in relation to only part of the goods or services for which it is registered, it shall, at the time of the examination of the application for a declaration of invalidity, be deemed to be registered in respect of that part of the goods or services only. ,

5. Paragraphs 1 to 4 of this Article shall also apply where the earlier trade mark is an EU trade mark. In such a case, genuine use of the EU trade mark shall be determined in accordance with the EU Trade Mark Regulation.

#### **Article 60. Consequences of Revocation and Invalidity of the Registration of a Trade Mark**

1. A registered trade mark shall be deemed not to have had effects *ab initio* to the extent that the trade mark has been declared invalid.

2. A registered trade mark shall be deemed not to have had, as from the date of the application for revocation, the effects from the date of application for revocation of the registration of the trade mark, to the extent that the rights of the proprietor have been revoked. At the request of one of the parties, this date may be earlier if one of the grounds for revocation occurred.

#### **Article 61. Procedure for Examination of Oppositions and Applications for Declaration of Invalidity or Revocation of the Registration of a Trade Mark at the State Patent Bureau**

1. The Appeals Division, having accepted the opposition or application for a declaration of invalidity or revocation of the registration of the trade mark, shall send it to the applicant, the proprietor of the contested mark or his representative.

2. The applicant or proprietor of the contested trade mark, or his representative must, within two months of the date of the opposition notice or the application for a declaration of invalidity or revocation, submit a justified reply. Failure to file a justified reply shall be considered as a refusal to participate in the examination of the opposition or the application for a declaration of invalidity or revocation and shall not prevent the Appeals Division from examining the relevant dispute in the absence of the applicant or proprietor of the contested mark, or his representative.

3. The parties to the dispute shall have the right of access to the materials of the opposition or application for a declaration of invalidity or revocation of the registration of the trade mark, making and receiving extracts and copies (digital copies), filing suspensions, providing evidence, raising questions to the other party at an oral hearing, submitting requests and arguments, giving explanations, contradicting other party's requests and arguments, and obtaining certified copies of the decisions of the Appeals Division (digital copies). The parties must exercise their procedural rights in good faith, must act to ensure that the dispute is dealt with promptly and fairly, and to

provide appropriate representation and evidence. If a party is unable to attend the hearing of the Appeals Division for important reasons, it must notify the Appeals Division and provide the reasons. If the Appeals Division recognizes these reasons as important, the date of the hearing shall be postponed.

4. Paragraphs 2 and 3 of Article 45 of this Law shall apply *mutatis mutandis* to the examination of oppositions and applications for a declaration of invalidity and revocation of the registration of the trade mark by a Board of Appeal.

5. The procedure for examining oppositions and applications for a declaration of invalidity and revocation of the registration of the trade mark shall be laid down in the Regulations for the Examination of Oppositions and Applications for a Declaration of Invalidity and Revocation of the Registration of a Trade Mark.

6. The parties shall be granted, at their joint request, a minimum of two months in the opposition proceedings or applications for a declaration of invalidity or revocation of the registration of the trade mark in order to provide the possibility of a friendly settlement of the dispute, including mediation in the manner prescribed by the Law on Mediation of the Republic of Lithuania.

7. A person who has filed an opposition notice or an application for a declaration of invalidation or revocation of the registration of the trade mark shall have the right to withdraw it prior to the date of adoption of the decision.

## SECTION FIVE

### DURATION OF REGISTRATION OF A TRADE MARK AND RENEWAL

#### **Article 62. Duration of Registration of a Trade Mark**

A mark shall be registered for a period of ten years from the date of filing of the application.

#### **Article 63. Renewal**

1. Following the expiry of the period specified in Article 62 of this Law, registration of a mark might be renewed in respect of all or only a part of goods and/or services each time for not longer than ten years.

2. The State Patent Bureau shall notify the proprietor of the trade mark on the expiry of the registration at least six months before its expiration date.

3. Registration of a mark shall be renewed on the decision of the State Patent Bureau provided a fixed fee has been paid. If registration of the trade mark is intended to be renewed in respect of part of the goods or services, or other data referred to in paragraph 7 of Article 50 of this

Law is to be changed, the fee shall be paid and a request for renewal of registration of the mark containing the updated registration data shall be submitted.

4. A proprietor of the mark must submit a request for renewal of registration of the mark specified in paragraph 3 of this Article and pay the fee within the last six months of the registration of the mark.

5. Having paid the additional fee for the renewal of the registration of a mark provided for in the Law on Fees for the Registration of Industrial Property Objects, the proprietor of a mark may submit a request for renewal within a period of six months following the day of expiry of registration of the mark.

6. Renewal of the registration of the trade mark shall take effect on the day following the expiry of the registration of the trade mark. Information relating to the renewal of the registration of a mark shall be recorded in the Register and published in the Official Bulletin of the State Patent Bureau.

7. If the application is filed and fixed fees are paid only in respect of certain classes of goods or services for which the mark is registered, the registration of the trade mark shall be renewed only in respect of the goods or services specified in the application for renewal of the registration of the trade mark.

8. If the fixed fee is not paid within the period specified in paragraphs 4 and 5 of this Article, the registration of the mark shall not be renewed and the mark shall be removed from the Register.

## **SECTION SIX**

### **INTERNATIONAL REGISTRATION OF A MARK**

#### **Article 64. Validity of the International Registration of a Trade Mark**

1. From the date of the international registration of the trade mark extended to the Republic of Lithuania under paragraph 4 of Article 3 of the Madrid Protocol, or the date of territorial extension made subsequently to the international registration (hereinafter referred to as the subsequent territorial extension) under paragraph 2 of Article 3ter of the Madrid Protocol, the legal protection of the mark resulting from international registration shall be the same as the legal protection of the mark applied for registration in accordance with the procedure laid down by this Law.

2. From the date of the international registration referred to in paragraph 1 of this Article, the legal protection of the mark shall be the same as if the mark had been registered in pursuance of the provisions of this Law, provided that the mark which is the subject of international registration has not been refused protection in the Republic of Lithuania in accordance with the provisions of

paragraphs 1 and 2 of Article 5 of the Madrid Protocol or if such refusal has been withdrawn subsequently.

3. The State Patent Bureau shall record the data relating to the international registration of the trade mark, extended to Lithuania, in the Register of Trade Marks.

4. Data relating to the international registration of the trade mark published in the Gazette of International Marks of the International Bureau shall not be published repeatedly in the Official Bulletin of the State Patent Bureau.

#### **Article 65. Invalidity and Revocation of International Registration**

1. Where a mark which has been the subject of an international registration does not satisfy the requirements of paragraphs 1 or 2 of Article 7, subparagraphs 3 - 6 of paragraph 1 of Article 33 or paragraph 2 of Article 41 of this Law or if an opposition is filed in the manner prescribed by this Law in respect of the registration of the mark, the State Patent Bureau shall notify the International Bureau within the time limit set by the Madrid Protocol that the protection of the mark is fully or partially refused in the Republic of Lithuania.

2. International registration of a mark shall be invalid in the Republic of Lithuania from the day of the effect of invalidation or revocation pursuant to the procedure established in Article 58 of this Law in the Republic of Lithuania. The State Patent Bureau shall inform the International Bureau of such final decision in accordance with the procedure established by the Madrid Protocol

3. Where the international registration of a mark is cancelled at the request of the office of the country of origin or following the denunciation of the Madrid Protocol by a party to the Madrid Protocol, the proprietor of the mark may file an application for registration of the mark in the Republic of Lithuania according to the procedure laid down in this Law.

4. An application under paragraph 3 of this Article shall be deemed to have been filed on the day of the international registration of the mark or of the subsequent territorial extension, with due regard being had, where appropriate, to the date of granting of priority, provided the following conditions are observed:

1) the application is filed within a three month period following the cancellation of the international registration of the mark on the grounds provided for in paragraph 3 of this Article;

2) the application comprises no other goods and/or services than those comprised by the international registration;

3) the application complies with the requirements of Article 38 of this Law and the applicant has paid the fixed fee.

#### **Article 66. Filing of an International Application or of a Request for Subsequent**

**Territorial Extension Based on an Application or Registration in the Republic of Lithuania**

1. An applicant or a proprietor of a mark who satisfies the requirements of subparagraph (i) of paragraph 1 of Article 2 of the Madrid Protocol must file an international application through the State Patent Bureau. A request for subsequent territorial extension may be filed through the State Patent Bureau or presented direct to the International Bureau. An applicant must pay a fixed fee for the examination of an international application at the State Patent Bureau.

2. The granting of priority under the provisions of the Paris Convention may be requested while filing an international application or request for subsequent territorial extension.

3. An international application and request for subsequent territorial extension must be presented in the form and in accordance with the requirements prescribed by the Madrid Protocol and Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (hereinafter referred to as the Common Regulations of the Madrid Protocol).

4. The procedure for filing and examining an international application and a request for subsequent territorial extension at the State Patent Bureau shall be established in the Procedure for Implementing the Madrid Protocol approved by the Director of the State Patent Bureau.

**Article 67. Replacement of a National Registration by an International Registration**

1. Where a mark that is the subject of a national registration in the Republic of Lithuania is also the subject of an international registration, on the initiative of the proprietor the international registration is deemed to replace the national registration valid in the Republic of Lithuania, if:

- 1) the international registration is extended to the Republic of Lithuania;
- 2) all goods and/or services listed in the national registration are also listed in the international registration;
- 3) the international registration has been extended to the Republic of Lithuania after the filing of an application based on Article 38 of this Law, to the State Patent Bureau.

2. Upon request of the proprietor of the mark who has paid the fixed fee, the State Patent Bureau shall record the data on the replacement of the national registration by the international registration into the Register of Trade Marks of the Republic of Lithuania and shall publish the data in the Official Bulletin of the State Patent Bureau.

**Article 68. Special Provisions Applicable to the International Registration of a Trade Mark**

1. If the holder of the international registration opposes the decision of the State Patent Bureau to refuse to grant protection because the mark does not satisfy the requirements of



paragraph 1 or 2 of Article 7 of this Law, he shall be entitled to request re-examination within five months from the day of making of the decision. If he fails to file the request within the set time limit, the decision of the State Patent Bureau shall be deemed final.

2. If the holder of the international registration objects to the decision made by the State Patent Bureau refusing to grant the protection on the grounds referred to in paragraphs 3–6 of Article 33 or paragraph 3 of Article 41 of this Law, he shall be entitled to file, within two months from the day of dispatch of this decision, an appeal to the Appeals Division according to the procedure set forth in Article 45 of this Law.

3. The interested persons shall have the right to file an opposition against, and third parties to file objections to the international registration of a mark within three months from the day of publishing of information on the international registration of the mark in the Gazette of International Marks of the International Bureau. The opposition must satisfy the requirements of paragraphs 1, 2 and 3 of Article 56 of this Law.

4. The date from which the period of five years of non-use of the mark is calculated pursuant to paragraph 2 of Article 20 of this Law shall be entered in the Register.

5. Data on a license issued by the proprietor of the mark of the international registration may be recorded in the Register according to the procedure established by Article 27 of this Law.

6. If the mark, which is the subject of the international registration, is a collective mark, its proprietor must provide the regulations governing use of the collective mark and their translation into the official language within two months of the date of publication of the international registration in the Gazette of International Marks of the International Bureau.

7. If the mark, which is the subject of the international registration, is a guarantee or certification mark, its proprietor must provide a document certifying its right to perform the certification function and its translation into the official language within two months of the date of publication of the international registration in the Gazette of International Marks of the International Bureau.

8. Renewal of the international registration of a mark, payment of fees to the International Bureau and other issues related to the international registration, which have not been discussed in this Law, shall be regulated by the Madrid Protocol, Common Regulations of the Madrid Protocol and the Procedure for Implementing the Madrid Protocol.

#### **CHAPTER IV**

#### **DISPUTE SETTLEMENT. ENFORCEMENT OF RIGHTS OF THE PROPRIETOR OF A MARK**

**Article 69. Institutions having Jurisdiction in Disputes relating to Marks**

1. The Appeals Division of the State Patent Bureau shall examine appeals in accordance with the mandatory pre-trial dispute resolution procedure against the decisions of the State Patent Bureau referred to in this Law, oppositions and applications for a declaration of invalidity or revocation of the registration of the mark in the manner prescribed by this Law, unless a counterclaim is filed with court for a declaration of invalidity or revocation of the registration of mark in examining the dispute concerning the infringement of the rights of the proprietor of the mark.

2. Vilnius Regional Court shall examine disputes relating to:

- 1) decisions of the Appeals Division of the State Patent Bureau;
- 2) infringement of the rights of the proprietor of the mark;
- 3) invalidation or revocation of the registration of a mark when a counterclaim is filed with court for a declaration of invalidity or revocation of the registration of mark in examining the dispute concerning the infringement of the rights of the proprietor of the mark;
- 4) recognition of the mark as well-known in the Republic of Lithuania;
- 5) European Union trade marks under the EU Trade Mark Regulation.

**Article 70. Enforcement of Rights**

1. The applicant, the proprietor of a trade mark or their successors in title, when enforcing their rights, and the licensees of exclusive licences, when protecting the rights granted to them, shall be entitled to apply to the court in accordance with the procedure laid down by the law and to seek:

- 1) recognition of the rights;
- 2) an injunction intended to terminate the continuation of illegal activities;
- 3) prohibition to carry out activities by reason of which the rights may be actually infringed or the prejudice suffered;
- 4) compensation for the material damage, including lost income and other incurred expenses and, in cases referred to in Article 75 of this Law, non-material damage;
- 5) application of other remedies set out by this Law and other laws.

2. In order to ensure enforcement of an injunction intended to forbid the continuation of infringing activities, as well as an injunction intended to prevent activities by reason of which the rights may be actually infringed or the prejudice suffered, the court may, upon request of the persons referred to in paragraph 1 of this Article, order an infringer to lodge adequate assurance intended to ensure compensation for any possible prejudice.

3. Where there is no fault in the activities, in connection with the infringement of the rights

established by this Law, of a person in respect of whom an injunction to terminate the continuation of infringing activities or the corrective measures specified in Article 74 are applied, the court may, at the request of this person, order him to pay pecuniary compensation to the injured party, if application of remedies referred to in this paragraph of the Article would cause him disproportionate harm and if pecuniary compensation to the injured party appears reasonable and satisfactory.

4. The persons referred to in paragraph 1 of this Article, when enforcing their rights, shall be entitled to apply to the court for an injunction against intermediaries whose services are used by a third party to infringe the rights established by this Law. Such an injunction shall include the suspension of communication of information related to the infringement of the rights established by this Law or, if an intermediary is capable of performing this technically, the elimination of information infringing the said rights, or prohibition to obtain information infringing these rights. Such compliance with the judicial decision shall not exempt an intermediary from the responsibility for any act or omission related to keeping or communication of such information, which was the case before coming into effect of this decision.

5. When hearing a case of infringement of the rights of the proprietor of a mark, the defendant shall be entitled to file a counterclaim for invalidation or revocation of the registration of the mark.

6. The proprietor of a mark shall be entitled to apply to the court for an injunction against the use of an EU trade mark within the territory of the Republic of Lithuania concerning the conditions of accession of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, and the adjustments to the Treaties on which the European Union is founded, provisions of Annex II: *List referred to in Article 20 of the Act of Accession. 4. Company law. C. Industrial property rights regarding the EU trade mark.*

7. Paragraph 2 of Article 69 of this Law, this Article, Articles 71, 72, 73, 74, 75 and 76 shall apply *mutatis mutandis* to the enforcement of the rights to the geographical indications.

#### **Article 71. The Right to Obtain Information**

1. The court, based on a justified request of the claimant, may, during proceedings, order the persons to immediately provide information on the origin and distribution networks of the goods or services which infringe the rights established by this Law, particularly:

1) the names or personal names and surnames and addresses of the manufacturers, distributors, suppliers and other previous holders of the goods (services) infringing the rights established by this Law, as well as the wholesalers and retailers for whom the indicated goods or services have been intended;

2) information on the quantities of the manufactured, delivered, received or ordered goods which infringe the rights established by this Law, as well as the price which has been paid or ought to have been paid for those goods or services.

2. The infringers of the rights established by this Law, other persons who were in possession on a commercial scale of the goods infringing the rights established by this Law, who were using on a commercial scale the services infringing the rights established by this Law or who were providing on a commercial scale the services which a third party used to infringe the rights established by this Law, as well as those who were indicated by the said persons as being involved in the production, manufacture or distribution of the goods infringing the rights established by this Law or the provision of the services infringing the rights established by this Law may be ordered to provide information referred to in paragraph 1 of this Article.

#### **Article 72. Evidence**

1. On application by a party which has presented reasonably available evidence sufficient to support its claims, and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the court may, in accordance with the procedure laid down by the Code of Civil Procedure, order that such evidence be presented by the opposing party, subject to the protection of confidential information. A reasonable sample of a substantial number of products shall be considered by the court to constitute reasonable evidence of the infringement of the rights established by this Law.

2. In the case of an infringement of the rights established by this Law, which has been committed on a commercial scale and under the conditions specified in paragraph 1 of this Article, the court may, in accordance with the procedure laid down by the Code of Civil Procedure, order that banking, financial or commercial documents be communicated by the opposing party, subject to the protection of confidential information. In the event of failure to present such evidence without strong reasons within the time limit set by the court or where the use of the evidence is denied, the court shall have the right to

take a decision on the grounds of the evidence presented to it.

### **Article 73. Interim Measures and Measures for Preserving Evidence**

1. Application of interim measures and measures for preserving evidence shall be regulated by the Code of Civil Procedure and this Law.

2. If there are sufficient grounds to suspect that the rights established by this Law have been infringed, the court may, in accordance with the procedure laid down by the Code of Civil Procedure, apply interim measures necessary to prevent imminent infringing activities, to promptly terminate infringing activities and to enforce a final decision of the court, that is:

- 1) to forbid persons to commit an imminent infringement of the rights established by this Law;
- 2) to order persons to temporarily terminate an infringement of the rights established by this Law;
- 3) to forbid an intermediary to provide services to a third party who uses such services by infringing the rights established by this Law;
- 4) to seize copies of the subject matters of the rights established by this Law as well as goods, prevent their entry into or remove them from the channels of commerce, if it is suspected that they are infringing the rights established by this Law;
- 5) to seize the property of the persons suspected of infringing the rights established by this Law, which is possessed by the said persons or a third party, including the accounts of banks and other credit institutions; also to order the communication of bank, financial or commercial documents, or appropriate access to these documents in the case of an infringement committed on a commercial scale;
- 6) to apply other measures laid down by the Code of Civil Procedure.

3. If the interim measures which are referred to in subparagraphs 1 and 2 of paragraph 2 of this Article and which have been applied are being infringed and the infringement continues, the court may order the persons suspected of committing an infringement to lodge adequate assurance intended to ensure that a person who has applied for interim measures will be compensated for a possible prejudice.

4. The court shall have the right to require the person who applies for interim measures to provide any reasonably available evidence in order to satisfy the court with a sufficient degree of certainty that the said person or the person in whose interest interim measures are applied for is the holder or user of the rights established by this Law and that the applicant's right is being infringed, or that such infringement is imminent.

5. The court may, on application by a person who has presented reasonably available evidence to support his claims that the rights established by this Law have been infringed or are about to be infringed, may apply interim measures or measures for preserving evidence, subject to the protection of confidential information, thus preserve relevant evidence in respect of the alleged infringement, that is:

1) to describe in detail the goods infringing the rights established by this Law and to seize them, or only to describe them;

2) to seize the products infringing the rights established by this Law and, in appropriate cases, the materials and implements used in the production and/or distribution of these products as well as the documents relating thereto;

3) to apply other prompt and effective interim measures provided for in the Code of Civil Procedure.

6. Interim measures and measures for preserving evidence may be applied without the defendant having been notified or heard, in particular where any delay would cause irreparable harm to the applicant or where there is a demonstrable risk of evidence being destroyed. Where interim measures are applied without the defendant having been notified and heard, the defendant must be given notice without delay, i.e. after the application of such measures at the latest. At the request of the parties, including a right to be heard, the interim measures may be reviewed with a view to deciding, within a reasonable period after the notification of application of the measures, whether such measures must be modified, revoked or confirmed.

7. Where the applied interim measures or measures for preserving evidence are revoked by the court or where they lapse due to any act or omission by the person who applied for them, or where a decision of the court establishing that there has been no infringement or threat of infringement of the rights established by this Law comes into effect, or where the person, who has applied for provisional measures or measures preserving evidence, does not institute proceedings within a period determined by the court, the defendant shall be entitled to request compensation for any injury caused by application of those measures.

#### **Article 74. Corrective Measures**

1. The persons specified in paragraph 1 of Article 70 of this Law shall be entitled to apply to the court and request that goods be recalled, removed from the channels of commerce in such a manner as to avoid any harm being caused to the said persons and to ensure the protection of their rights (e.g. to remake the infringing goods into other goods or to apply similar measures), or to request that the goods, which the court has found to be infringing the rights established by this Law and, in appropriate cases, the materials and implements principally used in the creation or manufacture of the specified objects be destroyed.

2. The measures referred to in paragraph 1 of this Article shall be applied regardless of other requirements of a person, applying for these measures, for compensation of the prejudice suffered as a result of the infringement of his rights. Such measures shall be applied at the expense of the infringer, without compensating and taking into account proportionality between the seriousness of the infringement

and the measure applied as well as the legitimate interests of third parties.

### **Article 75. Recovery of Material and Non-Material Damage**

1. The procedure for recovery of material damage shall be regulated by the Civil Code and this Law.

2. When assessing the amount of the actual damage (losses) incurred as a result of the infringement of the rights established by this Law, the court shall take into account the substance of the infringement, the amount of the inflicted damage, lost income, incurred expenses, and other important circumstances. Profit made by the infringer may, at the request of the persons specified in paragraph 1 of Article 70 of this Law, be recognized as losses. Goods infringing the rights established by this Law may be transferred to the holders of those rights upon their request.

3. The amount of income lost by the persons specified in paragraph 1 of Article 70 of this Law shall be set by taking into account the amount of income which would have been made if the trade mark protected under this Law had been used legally (i.e. taking account of the royalties which are usually paid for the legal use of the trade mark), as well as the specific circumstances which might have created conditions for making income (works performed by the right holders, implements used, negotiations for conclusion of contracts concerning the use of the trade mark, etc.).

4. Instead of the recovery of the damage (losses) actually suffered by reason of the infringement of the rights established by this Law, the persons specified in paragraph 1 of Article 70 of this Law may claim the payment which would have been due if the infringer had used the trade mark legally (i.e. had acquired permission), and where the infringement has been committed intentionally or through gross negligence – the said persons may claim up to twice the amount of such payment.

5. Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing the rights established by this Law (i.e. there is no fault in his actions), the court may, upon request of the persons specified in paragraph 1 of Article 70 of this Law, order the recovery of profit made by the infringer. A total that the infringer has saved and/or made by infringing the rights established by this Law shall be regarded as the profit made by the infringer. The profit made by the infringer shall be ascertained and recovered regardless of whether or not the right holder would have made the same profit as the infringer. When ascertaining the profit made by the infringer, the right holder must provide only the evidence that would confirm the gross income received by the infringer; the amount of net profit of the infringer (after deducting the expenses) must be proved by the infringer.

6. A person who has infringed the rights of the proprietor of the mark must compensate for non-monetary damage. The amount of this damage in cash shall be determined by the court in accordance with the provisions of the Civil Code governing non-monetary damage.

**Article 76. Publication of Judicial Decision**

The court which takes a decision on the infringement of the rights established by this Law may, at the request of the persons specified in paragraph 1 of Article 70 of this Law, order the infringer to disseminate at his own expense the information concerning the adopted decision, including disseminating the decision in full or in part in the mass media or by any other means. A judicial decision or information concerning an adopted decision may be announced after the coming into effect of the decision, unless otherwise established by the court. The manner and extent of dissemination of a judicial decision shall be laid down in this judicial decision. The persons specified in paragraph 1 of Article 70 of this Law may request that the infringer pay in advance into the bank account, indicated by the court, a sum of money necessary to disseminate the information concerning an adopted judicial decision or an adopted judicial decision itself.

**Article 77. Application of Customs Supervision Measures**

Customs supervision measures determined by legal acts of the European Union and the Republic of Lithuania shall be applied to the goods illegally bearing a trade mark infringing the rights established by this Law, which are imported from third countries into the Republic of Lithuania without being released for free circulation in the territory of the Republic of Lithuania, or are exported from it to third countries.

**CHAPTER V****EUROPEAN UNION TRADE MARKS REGULATION. ADMINISTRATIVE  
COOPERATION****Article 78. Application of the European Union Trade Mark Regulation**

1. The State Patent Bureau shall be the central industrial property office under the EU Trade Mark Regulation.
2. Vilnius Regional Court is the court, which shall perform the functions of the European Union Trade Mark Court under the European Union Trade Mark Regulation.
3. On application by a party concerned which has filed with the court an original decision of the European Union Intellectual Property Office fixing the amount of costs along with the attested translation of the said decision into the Lithuanian language, the Court of Appeal of Lithuania shall, not later than within five working days and in accordance with the procedure laid down in the Code of Civil Procedure, verify the authenticity of the decision of the European Union Intellectual Property Office and issue an order for the enforcement thereof.



**Article 79. Cooperation between the State Patent Bureau and the Industrial Property Offices of other European Union Member States**

1. The State Patent Bureau shall cooperate with the industrial property offices of other Member States of the European Union and with the European Union Intellectual Property Office for the promoting convergence of practices of examination and registration of the trade marks and tools, and to ensure the protection of trade marks in the European Union.

2. The State Patent Bureau shall be the designated body for the implementation of paragraphs 4 and 5 of Article 172 of the European Union Trademark Regulation.

*I promulgate this Law enacted by the Seimas of the Republic of Lithuania*

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS

Annex to  
The Law on Trade Marks of the  
Republic of Lithuania

**EU LEGAL ACTS IMPLEMENTED BY THE LAW ON TRADE MARKS**

1. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 special edition, Chapter 17, Volume 2, p. 32).

2. Directive 2015/2436/EC of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (new version) (OJ 2015 L 336, p. 1);

3. Regulation (EU) No 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codified version) (OJ 2017 L 154, p. 1).