

## Law on Trademarks (of March 9, 1993)\*

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\* *Entry into force:* March 31, 1993.

*Source:* English translation furnished by the Latvian authorities.

\*\* Added by WIPO.

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## Chapter 1 General Provisions

### (A trademark and service mark)

1.—(1) A trademark and service mark (hereinafter referred to as a trademark or mark) is a sign used to distinguish the goods and services of one enterprise from the goods and services (hereinafter referred to as goods) of another enterprise.

(2) A collective trademark is a trademark registered by an industrial or commercial corporation, or an association or the like organization of several enterprises, and which is used in order to designate the goods and services of this association. Each enterprise of the association may also simultaneously have its own trademarks. Particular provisions on collective trademarks are prescribed in specific articles of this Law but, in other cases, the provisions prescribed to trademarks also apply to collective trademarks.

(3) Trademarks may be:

1. words: consisting of letters, words, the first names or surnames of persons, numbers;
2. graphic: pictures, drawings, graphic symbols, combinations or arrangements of colors;
3. three-dimensional: three-dimensional shapes, the shapes of goods or their packaging; or
4. a combination: consisting of a combination of the above-mentioned elements, such as labels and the like.

(4) Specific types of trademarks, such as sound and light signals or other signs, may be registered if they can be graphically represented.

### (Non-registrable marks)

2.—(1) The following marks shall not be registered as trademarks:

1. marks which are not distinctive (which lack qualities to distinguish them from other marks) or which are of a descriptive nature;
2. coats of arms, flags, names and abbreviations of countries, other official symbols of countries, names of international organizations, their abbreviations and emblems, religious symbols;
3. official hallmarks (indications of standards), seals, guarantees, test or quality marks and marks indicating the safety of utilizing goods which are usually used or prescribed for use in the Republic of Latvia;

4. insignia and national decorations which are used in the Republic of Latvia;
5. signs used to identify, describe or name certain goods, as well as units of measure, conventional terms and symbols;
6. signs which only designate the place or time of manufacture or sale of goods and their quality, intended purpose, value, price, type or amount;
7. signs which are false or may mislead the public;
8. marks contrary to ethics, humanism or morality;
9. marks which reproduce names of firms, as well as names or signs of products well known in the Republic of Latvia and belonging to other persons;
10. marks which reproduce trademarks belonging to other persons and well known in the Republic of Latvia, even if the trademarks are not registered in the Republic of Latvia, or marks which are so similar to the trademarks, above, that there exists a likelihood of confusion thereof;
11. signs protected by copyright if not authorized by the owner thereof;
12. surnames, portraits, pseudonyms and facsimiles of persons well known by the general public if not authorized by the owners thereof or their successors in title, except in cases when the above-mentioned persons have died more than 50 years ago;
13. marks which reproduce marks belonging to other persons and registered by or applied for registration at the Patent Office of the Republic of Latvia (hereinafter referred to as the Patent Office) in relation to the same or similar goods, or marks which are so similar to the marks, above, that there exists a likelihood of confusion thereof;
14. marks which reproduce other marks which belong to other persons and which, though applied later for registration for the same or similar goods, are accorded earlier priority or marks which are so similar to the marks, above, that there exists a likelihood of confusion thereof;
15. marks which resemble or are identical to the names of firms which belong to other persons involved in an analogous business in the Republic of Latvia;
16. industrial designs which are protected by the law on the protection of industrial designs and which belong to other persons;
17. annulled trademarks, unless three years have passed since the date of annulment, except in cases when the former trademark owner applies for renewal of the registration of the mark; this provision shall not apply to a person who claimed annulment of the mark on the grounds of non-use of the mark pursuant to [Article 21, paragraph \(3\)](#) of this Law; and
18. the functional shape of the goods or of their packaging which is determined by the nature of the goods or which is necessary to obtain a particular technical effect.

(2) The signs referred to in [paragraph \(1\), subparagraphs 2 to 6](#) of this Article, as well as geographical names may be included in a mark as unprotected elements of the mark. Furthermore, the elements referred to in [subparagraphs 2, 3 and 4](#) may only be included in a mark with written authorization from the owner or from the organization entitled to give such authorization. Any sign which can be considered as a geographical indication may only be included in a mark with the stipulation that it will not mislead the public and that its use does not contradict the law and local legal acts.

(3) The use of a trademark before its registration shall not be considered a reason to reject its registration in the name of the person who has used the mark.

(4) If, before applying for registration, a trademark has been used in relation to goods for no less than five years and is known by the consumer for whom it was intended, the registration of the mark shall not be rejected on the grounds of [paragraph \(1\), subparagraph 1](#) of this Article.

### **(Rights to a trademark and the subjects of rights to a trademark)**

3.—(1) Exclusive rights to trademarks in the Republic of Latvia may be acquired by any natural person or legal entity (hereinafter referred to as a person) who has registered a mark, or his successor in title or heir.

(2) Rights to a trademark, including exclusive rights in relation to other persons, shall be effective to the full extent thereof from the date the announcement of the registration of the mark is published.

(3) The trademark owner in whose name the mark is registered shall have exclusive rights to use the mark, to transfer these rights to a third party, as well as to prohibit the use of the mark and similar marks in relation to goods in respect of which the mark is registered and in relation to similar goods, if the use of this mark could possibly be misleading.

(4) The trademark owner shall not be entitled to prohibit another person from using, in good faith, in his entrepreneurial activities his own name, surname, address, the name and address of his enterprise, as well as information on his goods or services as far as these data do not mislead the public on the origin of the goods or services.

(5) Exclusive rights shall not apply to the elements of the trademark which individually, in accordance with [Article 2](#) of this Law, cannot be registered as trademarks. If the trademark includes such elements and a possibility exists that the registration of the trademark will cause doubt as to the extent of the rights, then, when registering the mark, the Patent Office may exclude these elements from protection with a special notification.

(6) Each person may own one or more trademarks.

(7) Exclusive rights in a trademark shall be certified with a registration certificate issued by the Patent Office.

(8) A fee must be paid for the filing of an application and for the registration of a trademark, as well as for other legally significant acts. The types and amounts of fees shall be determined by the Council of Ministers.

## **Chapter 2 Trademark Registration**

### **(Filing of an application)**

4.—(1) A person who wishes to obtain exclusive rights in a trademark in the Republic of Latvia shall file an application for the registration of the trademark with the Patent Office, in writing.

(2) As the date of filing of the application shall be considered the date when the Patent Office receives documents which include:

1. the request to register a trademark;

2. data which permit the unmistakable identification of the applicant;
3. the sign applied for registration (its representation); and
4. the list of goods in relation to which the mark is to be registered.

(3) The Patent Office shall determine the cases in which the application shall include a description of the sign to be registered.

(4) Each application may pertain only to one trademark.

(5) The application may include one or more classes of goods in accordance with the International Classification of Goods and Services for the Purposes of the Registration of Marks. The listing shall include goods grouped under the applicable classes of the International Classification.

(6) The request of the application shall be in Latvian while other application materials may also be submitted in English, French, Russian or German. The Patent Office is entitled to request a translation of the submitted materials and documents into Latvian; these translations shall be submitted to the Patent Office within a set term. All further processing of the application (correspondence) shall be in Latvian.

(7) The application shall include documents which certify that the application fee has been paid.

(8) If the application is being filed through a representative, a document certifying the representative's authorization must be attached.

(9) A foreign applicant may only file an application and maintain correspondence with the Patent Office through a patent attorney (trademark agent) who has been registered in the Patent Office.

(10) When applying for a collective trademark, one shall submit regulations on the use of a collective trademark which have been confirmed by the executive authority of the collective trademark or a person authorized by the executive authority. The regulations shall indicate the trademark users, the provisions for the use of the trademark and information on the control of the use of the mark. The collective trademark owner shall notify the Patent Office of all amendments which are made later in the regulations.

(11) The application shall include the materials and documents mentioned in this Article and, if necessary, those in [Article 5](#), as well as those determined by the Patent Office. Formal requirements concerning application materials and documents shall be determined by the Patent Office. The request of the application shall be signed by the applicant or his representative.

### **(Priority of a trademark)**

5.—(1) The priority of a trademark shall be determined from the date when the Patent Office has received the application which conforms with the requirements of [Article 4, paragraph \(2\)](#) of this Law.

(2) If two or more applications for the registration of identical or similar trademarks are filed in respect of the same or similar goods, the trademark with the earliest priority shall be registered.

(3) The application may include a claim to priority based on one or several earlier applications on the same mark which have been filed by the applicant or his predecessor in title in a country party to the Paris Convention for the Protection of Industrial Property, or in any other country with which the Republic of Latvia has concluded an agreement on the recognition of

priority rights, however, with the stipulation that the aforementioned application shall be filed with the Patent Office within six months from the date of filing of the first application(s).

(4) The application may claim a priority based on the display of the trademark in relation to the same goods exhibited at an official or officially recognized international exhibition in a country party to the Paris Convention for the Protection of Industrial Property, however, with the stipulation that the application shall be filed with the Patent Office within six months from the first day of exhibiting the mark.

(5) Documents verifying the applicant's rights to priority are to be submitted together with the application or may be attached to the application no later than three months after the filing date of the application.

### **(Preliminary examination of the application)**

6.—(1) Within two months after the receipt of the application, the Patent Office shall conduct a preliminary examination of the application, examine the conformity of the application with the requirements of [Article 4](#) of this Law and, in accordance with the set procedure, establish the filing date of the application and, if the applicant has the right to priority, the filing date of priority.

(2) If the application does not conform or only partially conforms to the prescribed requirements, the Patent Office shall notify the applicant, specify the non-conformity and determine a term for a reply. If the reply is not received in due time, or essential deficiencies are not eliminated, the application shall be considered as not filed and the applicant shall be notified of this, in writing.

(3) Within a period of three months from the date of receipt of the rejection, the applicant has the right, upon payment of a fee, to submit a substantiated appeal to the Board of Appeal of the Patent office (hereinafter referred to as the Board of Appeal).

(4) If the application conforms to the requirements of [Article 4](#) of this Law, the Patent Office shall send a written notice to the applicant on the acceptance of the application for examination (the acceptance of the application).

(5) Until the day when the Patent Office adopts a decision on the acceptance of the application, the applicant shall have a right, on his own initiative and upon paying the prescribed fee, to make amendments in the application, to expand the list of goods within the limits of the initially stated classes and to make other changes without essentially changing the trademark itself.

(6) The applicant has the right to withdraw the application or to eliminate goods from the submitted list of goods at any time during the processing of the application; however, the fees already paid are not returned.

### **(Examination of a trademark)**

7.—(1) The Patent Office shall examine the conformity of the accepted application to the requirements of [Article 1](#), [Article 2, paragraph \(1\) subparagraphs 1 to 10](#) and [18](#), and [Article 2, paragraph \(2\)](#) of this Law.

(2) In the course of examination, the Patent Office is entitled to request from the applicant additional materials and documents necessary for examination, thereby indicating the term for their submission.

(3) Within a period of three months after the application has been accepted for examination, the Patent Office, in accordance with the results of the examination, shall adopt a decision to

register the trademark or to reject the registration thereof. The applicant shall be notified of the decision in writing and, if the decision is positive, shall be invited to pay a fee for the registration and publication of the mark. The above-mentioned time period shall not be adhered to if additional materials have been requested during the examination or if the applicant has requested that the period be extended in order to submit these materials.

(4) Within a period of two months after the date of receipt of the registration rejection, the applicant shall have the right, upon paying the prescribed fee, to file a substantiated appeal with the Board of Appeal.

### **(Registration and publication of a trademark and issuance of a certificate)**

8. If the applicant has paid the fee, as soon as possible after the adoption of a favorable decision resulting from the examination, the Patent Office shall register the trademark in the State Register of Trademarks and publish the mark in the official bulletin of the Patent Office, as well as issue an established form of a certificate of the registration of the trademark to the applicant.

### **(State Register of Trademarks)**

9.—(1) The Patent Office shall maintain the State Register of Trademarks (hereinafter referred to as the Register) which shall comprise the registered trademark (its representation), data on the trademark owner (for collective marks, data on persons entitled to use the mark), filing date (priority date) of the application, the date of the registration of the mark, the list of goods to which the registration of the mark applies and other information determined by the Patent Office.

(2) The trademark owner shall immediately notify the Patent Office of any changes concerning the registration of the trademark and, in particular, of changes in the owner's name, surname (name of the enterprise), the limitation of goods in the submitted list or of changes within the list of the initial classes of goods, as well as of a wish to change separate elements in the mark itself. The changes must not affect the essence of the mark. The Patent Office shall record the permissible changes in the Register, write them in the certificate of registration and publish them in the official bulletin.

(3) The Register is accessible for inspection by any person. For a specific fee, the Patent Office shall provide copies of entries in the Register.

### **(Opposition to trademark registration)**

10.—(1) Within three months from the date of the publication of the trademark, any person may, upon paying a fee, submit a substantiated opposition to the registration of a trademark, if the provisions of [Articles 1](#) and [2](#) of this Law have not been observed. The opposition in written form shall be filed with the Board of Appeal.

(2) The Board of Appeal shall inform the applicant of the opposition and determine a period for submitting a reply.

(3) In accordance with the results of reviewing the opposition, the Board of Appeal shall adopt a decision on the full or partial satisfaction of the opposition or on its rejection.

(4) Rejection of the opposition does not prohibit the opponent from contesting the registered trademark in accordance with general procedures.

### **(Examination of appeals and oppositions)**



11.—(1) The appeals submitted in accordance with the provisions of [Article 6, paragraph \(3\)](#) and [Article 7, paragraph \(4\)](#) of this Law and the oppositions filed in accordance with [Article 10, paragraph \(1\)](#) shall be examined by the Board of Appeal.

(2) Appeals shall be reviewed within three months from the date of their receipt and oppositions shall be reviewed within three months from the date of receipt of the applicant's reply.

(3) The appellant or his authorized representative shall be invited to take part in the proceedings of the Board of Appeal. Where oppositions are examined, both interested parties shall have the right to participate in the proceedings, to submit necessary materials and to provide oral explanations. A decision shall be made in the absence of the interested parties and they shall be notified of the decision within one month, in writing.

(4) The decision of the Board of Appeal on the conformity of the application with the requirements of [Article 4](#) of this Law shall be final. The applicant may, within six months from the date of the decision, appeal against other decisions of the Board of Appeal to the Regional Court of Riga.

### **(Duration and renewal of the registration)**

12.—(1) The registration of a trademark shall be for a period of 10 years from the date of filing of the application with the Patent Office.

(2) The registration may, on expiration of 10 years, be renewed for another 10-year period. The mark owner shall, after paying the corresponding fee, submit a request for renewal of registration in the last year of the trademark registration. If the registration is not renewed in due time, the Patent Office shall, upon the owner's request and the payment of an extra fee, allocate an additional six-month period for the renewal of the registration.

(3) Information on the renewal of the registration shall be entered in the Register and on the registration certificate. This information shall be published in the official bulletin.

### **(Issuance of a duplicate of the registration certificate)**

13. Upon the request of the mark owner and if the corresponding fee has been paid, the Patent Office may issue a duplicate of the trademark registration certificate.

### **(Extension and renewal of the set terms)**

14.—(1) The Patent Office may extend the terms anticipated in [Article 6, paragraphs \(2\) and \(3\)](#), [Article 7, paragraphs \(2\) to \(4\)](#) and [Article 10, paragraph \(2\)](#) of this Law, provided that the request for the extension has been received by the Patent Office before the expiry of the corresponding term and the fee for term extension has been paid.

(2) The Patent office may, in case of due cause, renew the terms anticipated in [Article 6, paragraphs \(2\) and \(3\)](#), [Article 7, paragraphs \(2\) to \(4\)](#) and [Article 10, paragraph \(2\)](#) of this Law, provided that the reasoned request for renewal has been received by the Patent Office no later than two months after the expiry of the corresponding term, and an additional fee has been paid for the renewal of the term.

## **Chapter 3 Use of a Trademark**



### **(Use of a trademark)**

15.—(1) As the use of a trademark shall be considered the use of a registered trademark on goods and their packaging, on any documentation accompanying the goods and in advertisements, in relation to the names of firms and geographical indications or in relation to any other form of business activities conducted by the mark owner, his representative or licensee.

(2) As the nominal use of a trademark may be considered the use thereof in advertisements, printed publications, as well as on signboards and in exhibitions.

### **(Rights of prior use)**

16. A person who, in good faith, has been using an unregistered trademark in relation to goods no less than one year prior to the date when another person has applied to the Patent Office for the registration of an identical or similar trademark in relation to the same or similar goods shall, for one year from the date the mark is registered, retain the right to use that trademark.

### **(Warning sign)**

17.—(1) The trademark owner has the right to place a sign of an encircled letter R or wording which warns of the mark registration, such as: “Trademark registered in the Republic of Latvia,” next to the registered trademark.

(2) The trademark owner must not mislead the public by placing a warning sign of a registered mark on a mark which is not registered in or outside of Latvia.

### **(Transfer of rights to a trademark or to its use)**

18.—(1) The trademark owner shall have the right to transfer his trademark to another person in relation to one, several or all the goods for which the mark is registered. Collective trademarks shall never be transferred to other persons.

(2) Within a license contract, the trademark owner (licensor) has the right to grant to another person (licensee) his rights to use the trademark in relation to one, several or all the goods for which the mark is registered.

(3) The trademark license contract must include the provision that the quality of the licensee’s goods shall not be lower than that of the licensor’s goods and that the latter shall control the implementation of this provision.

(4) The transfer of the right to the trademark or the right to use the trademark with a license contract shall not mislead the public in regard to the goods, their quality or the manufacturer.

(5) The transfer of the trademark or the license contract shall take effect on the date when it is registered by the Patent Office. The Patent Office shall publish information on this registration in its official bulletin. The Patent Office shall not register a contract if it does not comply with the requirements of [paragraphs \(3\)](#) or [\(4\)](#) of this Article. Fees shall be paid for registration and publication.

### **(Illegal use of a trademark)**

19.—(1) As the illegal use of a trademark shall be considered the use of a registered trademark (or a sign resembling the registered trademark so that there exists a likelihood of

confusion with the actual trademark) on goods or in direct relation to the goods, on the packaging of goods, on any documentation accompanying the goods or in advertisements, in the names of firms or in the indications of the origin of goods, or in other business activities without the consent of the trademark owner, provided that the trademark is used in respect of the goods for which the mark is registered or to similar goods.

(2) As the illegal use of a trademark shall also be considered the manufacture, import (except in transit), export, storage, sale, offer for sale or use of goods, or their packaging with a registered trademark without permission from the trademark owner or owner of rights to use the trademark, if the above-mentioned acts are associated with goods in relation to which the mark is registered.

(3) As the illegal use of a trademark well known and registered in the Republic of Latvia shall be considered the use of a mark in business and, in particular, in relation to goods for which it has not been registered, if this use causes losses to the mark owner or brings profit to the user.

(4) If a product marked with a registered trademark, with the permission of the trademark owner or the owner of the rights to use the trademark, or in any other way, has legally entered economic circulation, the trademark owner and the owner of the rights to use the mark shall not have a right to prohibit the further use of the product.

(5) Entrepreneurs who sell another entrepreneur's product which is marked with the trademark of the latter or utilize such a product as a component in their own production shall also be allowed to mark this product or its component with their own trademark only with the consent of the first trademark owner. This provision shall not apply to the marking of such a product which includes the above-mentioned component.

### **(Responsibility for the illegal use of a trademark)**

**20.**—(1) A person who is illegally using a trademark, i.e., is implementing the rights referred to in [Article 3](#) of this Law without consent of the person who possesses, on the grounds of the provisions of [Article 3](#) or [18](#) of this Law, the exclusive rights to use the mark, must compensate for losses caused by the illegal use of the mark.

(2) Upon request from the interested party, the court may require that the illegal marking be changed or, if impossible, to destroy the goods with such markings, or to give the goods at their cost to the trademark owner, if agreed, or to submit the goods for use in charitable purposes.

(3) A person who illegally uses a trademark, after the trademark owner or the owner of rights to use the trademark has requested that he terminate the illegal use of the trademark, shall be punishable by law.

(4) A person may be released from paying a fine if the person proves that he has not and could not have known about the other person's rights to use the trademark; however, this does not release the former from compensating for losses. The generally recognized term for submitting claims shall begin from the moment when the mark owner or his successor in title has discovered or should have discovered the infringement of his rights.

## **Chapter 4**

### **Termination of Trademark Duration; International Agreements**

#### **(Nullification of trademark registration)**

**21.**—(1) The registration of a trademark shall be nullified if:

1. the trademark owner requests the Patent Office that the trademark be surrendered. The Patent Office shall delete the trademark from the Register from the day specified by the owner within the term of registration of the trademark;

2. the term of registration of the trademark has expired and it has not been renewed (the mark has not been reregistered). The Patent Office shall nullify the mark six months after the expiry of the term of registration of the trademark;

3. the trademark has not been used during the past five years for marking the goods for which it was registered. The trademark shall be nullified beginning with the day when five years have passed after the last day of the marking of a product;

4. the trademark has been registered contrary to the requirements of [Articles 1](#) and [2](#) of this Law. The mark shall be nullified from the date of registration either in its entirety or in that part which is not in compliance with the law; or

5. the Regulations on collective trademark use are not observed.

(2) A request to nullify the registration of a trademark on the grounds of this Article, [paragraph \(1\), subparagraphs 3 to 5](#), may be submitted to the Regional Court of Riga by any interested party. The Court shall inform the Patent Office of its decision within one month from the date the decision is adopted.

(3) The registration of a trademark shall be nullified on the grounds of this Article, [paragraph \(1\), subparagraph 3](#), in respect of goods for which the mark has been registered but has not been used in relation to these goods for the last five years, except in cases where the non-use has been legally justified or the trademark has been nominally used. The registration of a mark is completely nullified if the mark has not been used on any of the goods for which it has been registered.

(4) A request to nullify the registration of a trademark on the grounds of this Article, [paragraph \(1\), subparagraphs 3 or 5](#), may be submitted at any time during the term of registration of the trademark.

(5) Trademarks which have been registered contrary to the requirements of [Article 2, paragraph \(1\), subparagraphs 1, 5, 6, 8 and 13 to 17](#), shall be nullified, if the request is submitted no later than five years from the registration date.

(6) The Patent Office shall make the corresponding entry in the Register and publish an announcement in the official bulletin on the trademark nullification or on any other changes made in the Register in accordance with this Article.

### **(International agreements)**

**22.** If an international agreement, to which the Republic of Latvia is a party, provides for provisions which differ from those in this Law, the provisions of the international agreement shall apply.