

The Law of the Republic of Moldova No.1446-XV of November 8, 2002
on Amending and Competing of Various Laws

The Official Bulletin of the Republic of Moldova No. 190/197/1435 of December 12, 2002.

The Parliament of the Republic of Moldova shall adopt the present organic law:

Article I The Law No. 461-XIII of May 18, 1995 on Patents for Inventions (The Official Bulletin of the Republic of Moldova, 1995, No. 53-54, Art. 601), with further amendments, shall be completed as follows:

1. From Article 3, paragraph (1), the words “in industrial property” shall be excluded.

2. Article 4:

in the paragraph (1), the second sentence shall have the following content: “The invention may have as subject a product or a process, as well as the use of a product or a process.”;

in the paragraph (2), the letter h), the words “, other than microorganisms” shall be excluded.

3. Article 5:

in the paragraph (1), the words “the state of the art” shall be replaced with “the prior art”;

the paragraph (2) shall have the following content:

“(2) The prior art shall be deemed to comprise everything made available to the public in any part of the world before the date of the national regulatory deposit or, if a priority has been claimed, before the priority date.

4. In Article 6, the words “the state of the art” shall be replaced with “the prior art”.

5. In Article 7, the words “used in industry, agriculture or” shall be replaced with the words “manufactured and used in an activity field of industry, agriculture or”

6. Article 9 is completed with paragraph (17), with the following content:

“(17) The procedure of creation and utilization of a service invention is established according to the Regulations approved by the Government.”

7. Article 10:

in the paragraph (2) letter a), the words “or of the person or persons on whose behalf the patent is sought” shall be excluded;

in the paragraph (3) letter c), the words “in industrial property” shall be excluded.

8. In Article 12, paragraph (7), the first sentence shall have the following content:

“(7) The priority of an invention may be determined by the filing date of an earlier application, filed by the same applicant in respect of the same invention, where the priority is claimed within 12 months following the date of the earlier application.”

9. In Article 14, the paragraph (1) is completed in the end with the words “,on payment of the prescribed fee”.

10. Article 16:

in the paragraph (4), the words “two months as from the receipt” shall be replaced with the words “three months as from the dispatch”;

in the paragraph (4), the words “the state of the art” shall be replaced with “the prior art”;

in the paragraph (10) the word “ filing” shall be excluded;

in the paragraph (14) the words “two months as from the receipt” shall be replaced with “three months as from the dispatch”.

11. Article 20¹

in the title of Article, after the word “pharmaceutical” shall be introduced the words “and phytopharmaceutical”;

in the paragraph (1):

after the word “pharmaceutical” shall be introduced the words “and phytopharmaceutical”;

the words “the filing date” shall be replaced with the words “the date of the national regulatory deposit”;

in the paragraph (2), after the word “pharmaceutical” shall be introduced the words “and phytopharmaceutical”;

in the paragraph (3), in the first sentence, after the word “pharmaceutical” shall be introduced the words “and phytopharmaceutical”, and in the last sentence the word “pharmaceutical” shall be excluded;

in the paragraph (4), letter a), after the word “pharmaceutical” shall be introduced the words “and phytopharmaceutical”;

the Article is completed in the end with the paragraphs (6) and (7) with the following contents:

“(6) The certificate shall be granted for every product which, on December 14, 2002, was protected through a main patent, valid on the Republic of Moldova’s territory, and for which the first authorization for its marketing as pharmaceutical or phytopharmaceutical product was obtained after January 1, 1993.

(7) The applications for the grant of certificates, as prescribed in the paragraph (6), shall be filed beginning with January 1, 2003.”

12. Article 28:

in the title of the article, the word “Opposition” shall be replaced with the word “Revocation”;

in the introductory part, the words “opposed and invalidated” shall be replaced with “declared revoked”.

Article 36:

in the paragraph (2), the letter d) shall have the following content:

“d) restoration of a patent”;

in the paragraph (6), the words “following the date of receiving” shall be replaced with the words “following the date of dispatch”.

Article 37:

in the paragraph (1), the words “a state body that” shall be replaced with the words “an authority of the central public administration that carries out its activity on self-financed and self-governed principles,”

the paragraphs (6), (7) and (8) shall be converted into the paragraphs (2), (3) and (4), and the paragraphs (2), (3), (4) and (5) - paragraphs (5), (6), (7) and (8).

Art. II. – The Law No. 588 of September 22, 1995 on Trademarks and Appellations of Origin (republished in the Official Bulletin of the Republic of Moldova, 2001, No. 150-151, Art. 1187), shall be amended and completed as follows:

1. Article 2:

in the paragraph (1), after the words “combinations of signs” shall be introduced the words “capable of graphic representation”;

the Article shall be completed with the paragraph (7), with the following content:

“(7) Shall not be recognized as well-known the mark, that became well-known in the relevant sector of the public after the priority date of an identical or similar mark claimed for identical goods on other applicant’s name.”

2. [None modification has been made in the English version]

3. Article 4 shall be completed with paragraph (5), with the following content:

“(5) Where a trademark already registered for certain goods and services is recognized on the territory of the Republic of Moldova as well-known, the legal protection of the well-known mark shall also extend to other goods or services, provided that the use by another person of an identical or similar mark for the said goods or services would indicate a connection with the owner of the trademark recognized as well known in the Republic of Moldova and would likely to damage his interests.”

4. Article 7:

the title of the Article shall have the following content:

“Article 7. Grounds for Refusal of the Application to Register a Trademark, an Appellation of Origin or a Geographical Indication and of the Application for Recognition of the Mark as Well-Known”;

the paragraph (1), point 2):

in the letter a), the word “well-known” shall be replaced with the word “generic”;

in the letter d), [None modification has been made in the English version]

paragraph (2) letter b):

the word “consent” shall be replaced with the word “decision”;

the letter shall be completed in the end with the following text: “The competent bodies of the Republic of Moldova are: the Parliament – concerning the use of reproductions or imitations of the State Armorial Bearing and the Flag of the Republic of Moldova; the Government - concerning the use of the State official or historical names; the ministries or departments – concerning the use of official signs or hallmarks of control, warranty or testing, approved by the respective ministry or department.”

the paragraph (4), letter b) shall have the following content:

“b) to the trademarks recognized as well-known in the Republic of Moldova, protected without registration;”;

the paragraph (8) shall have the following content:

“(8) If a trademark, prior to the national regulatory filing, was used during manufacture and marketing of the goods and provision of services for at least five years, having acquired a distinctive character, and is well known to consumers of the Republic of Moldova, the application for the registration of such a trademark may not be rejected under paragraph (1), except where the trademark consists only of a geographical indication.”;

the paragraph (12) shall have the following content:

“(12) Registration shall be refused and protection shall not be granted to appellations of origin which:

- a) do not comply with the conditions specified in Article 3, paragraph (1);
- b) are no longer protected;
- c) are no longer used in the said country;
- d) are false;
- e) are likely to mislead the consumer;
- f) are contrary to *ordre public* or morality.”

Article shall be completed with the paragraph (13), with the following content:

“(13) The application for recognition of the mark as well-known may be rejected if:

- a) it does not comply with the conditions specified in Article 8, paragraph (11);
- b) the trademark which has become a common name;

- c) the trademark is contrary to *ordre public* or morality.”

5. Article 8:

the title of the Article shall have the following content:

“Article 8. Application for Registration of a Trademark or an Appellation of Origin and the Application for Recognition of the Mark as Well-Known”;

in the paragraph (1), the words “in industrial property” shall be excluded;

the paragraph (6) shall be completed with the letter h), with the following content:

“h) the decision of the competent authority or the consent of the owner of signs specified in Article 7, paragraph (2), letter b), as the case stands.”;

Article shall be completed with paragraphs (9), (10), (11) and (12), with the following content:

“(9) The application for recognition of the mark as well-known may be filed with the Appeal Board of the Agency by natural or legal persons either directly or through a representative, authorized by a power of attorney.

(10) The application for recognition of the mark as well-known may concern only one trademark.

(11) The application for recognition of the mark as well-known mark shall contain:

- (a) the surname, forename, address and signature of the applicant in case of a natural person, or the name, legal address and signature of the representative, in case of a legal person;
- (b) the surname, forename, address and signature of the representative if the application has been filed through that;
- (c) the reproduction and the description of the trademark;
- (d) the indication of the date from which the recognition of the mark as well-known is sought.

(12) The application shall be accompanied by:

- (a) documents containing information on the owner or user of the trademark;
- (b) documents demonstrating the recognition of the mark as well-known within a certain sector of the public;
- (c) the list of goods or services for which the trademark is used, as well as the list of other respective actions concerning that use;
- (d) document confirming the beginning and the period of trademark use;
- (e) a power of attorney, if the application is filed through a representative;
- (f) a document proving payment of the fee, if it is so prescribed”

6. Article 16 and 17 shall have the following content:

“Article 16. Publication of the Application for Registration of a Trademark or an Appellation of Origin and the Application for Recognition of the Mark as Well-Known

Within three months from the date on which it has been taken the decision to publish the application for registration of a trademark or an appellation of origin and within one month from the date of filing of the application for recognition of the mark as well-known, the Agency shall publish in the Official Bulletin of Industrial Property (hereinafter "Official Bulletin") the data concerning the application for registration of a trademark or an appellation of origin and concerning the application for recognition of the mark as well-known mark. The content of the published data shall be determined by the Agency.

Article 17. Opposition to Registration of a Trademark or an Appellation of Origin
and to Recognition of the Mark as Well-Known

(1) Any person may oppose, within three months that follow the date of publication of the data concerning the application for the registration of a trademark or an appellation of origin, or concerning the application for recognition of a mark as well-known, before the Appeal Board of the Agency against the registration of a trademark or an appellation of origin, or against the recognition of a mark as well-known.

(2) If opposition is filed against registration or against recognition of a mark as well-known, the Agency shall notify the applicant thereof within 10 days.

(3) Opposition to registration or to recognition of a mark as well-known shall be examined within the three months that follow the date on which it has been filed. The decision that is taken shall be notified within 10 days both to the applicant and to the person who has filed the opposition.

(4) The decision of the Appeals Board of the Agency may be appealed to the court within six months of the date on which it was given."

7. Article 18 shall be completed with the paragraph (5), with the following content:

"(5) If a decision of recognition of a mark as well-known has been taken, the Agency shall register the well-known mark in the National Register of Well-Known Marks."

8. Article 19.

the single paragraph shall become (1);

the Article shall be completed with the paragraph (2), with the following content:

"(2) The data relating to the recognition of the mark as well-known that has been entered in the National Register of Well-Known Marks shall be published by the Agency in the Official Bulletin within three months of the date of the decision concerning the recognition of the mark as well-known.";

1. Article 20 is completed with the paragraph (5), with the following content:

"(5) The protection of a well-known mark shall subsist for an indefinite term."

10. Article 26 shall be completed with the paragraph (7), with the following content:

“(7) Any person within five years from the date of trademark registration may request the Appeals Board of the Agency to cancel its registration on the ground of existence in the Republic of Moldova of a well-known trademark. Shall not be established any time limit for filing an request for cancellation of a registration or for prohibiting the use of a trademarks, registered or used in bad faith.”

Article III. – The Law No. 915-XIII of July 11, 1996 on the Protection of Plant Varieties (The Official Bulletin of the Republic of Moldova, 1996, No. 77, Art. 728), with previous amendments, shall be amended and completed as follows:

1. Article 1:

The notion “Register of Variety Patents” shall be replaced with the notion “National Register of Variety Patents”, with the following content:

“National Register of Variety Patents– means the register containing issued variety patents;”

after the definition of the notion “National Register of Variety Patents” shall be introduces a new notion, with the following content:

“National Register of Variety Patent Applications – means the register containing variety patent applications;”

2. In Article 4, paragraph (4), the words “effect registration” shall be replaced with the words “registration of the applications in the National Register of Variety Plant Applications”, and the words “Register of Variety Patents” shall be replaced with “National Register of Variety Patents”.

3. Article 6: [None modification has been made in the English version]

4. Article 17:

the paragraph (3) shall have the following content:

“(3) The date of the National Regulatory Deposit shall be deemed to be the date of filing with the Agency of the application and of the documents specified in the paragraph (2) letter a) and b).”;

in the paragraph (4), the words “from the filing date of the patent application” shall be replaced with the words “from the date of the national regulatory deposit”.

5. In Article 18, paragraph (7), the words “Register of Plant Varieties at the same time as” shall be replaced with “Register of Plant Varieties and the National Register of Variety Patents at the same time as”.

6. Article 20.

in the paragraph (2), the words “Register of Plant Varieties” shall be replaced with “National Register of Variety Patents”;

in the paragraph (3), the words “following the filing date of the patent application” shall be replaced with the words “following the date of the national regulatory deposit”;

in the paragraph (8), the words “the date of registration of the patent application” shall be replaced with the words “the date of the national regulatory deposit”;

Art. IV – The Law No. 991-XII of October 15, 1996 on the Protection of Industrial Designs (The Official Bulletin of the Republic of Moldova, 1997, No. 10-11, Art. 119), with previous amendments, shall be amended as follows:

1. From Article 3, paragraph (1), the words “in industrial property” shall be excluded.
2. In Article 8, the words “the six months” shall be replaced with the words “the twelve months”.
3. In Article 17, paragraph (2), the words “twelve months” shall be replaced with the words “thirty months”.

Art. V – The Law No. 655-XIV of October 29, 1999 on the Protection of Topographies of Integrated Circuits (The Official Bulletin of the Republic of Moldova, 2000, No. 1-4, Art. 4), the words “in industrial property,” shall be excluded.

The President of the
Parliament

Eugenia Ostapciuc

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