

**808.**

Pursuant to Article 95 item 3 of the Constitution of Montenegro I hereby pass

**THE DECREE  
ON THE PROMULGATION OF  
THE LAW ON TRADEMARKS**

I hereby promulgate the Law on Trademarks, passed by the Parliament of Montenegro in its 24<sup>th</sup> convocation, at the second session of the second regular sitting in 2010, on 30 November 2010.

No: 01-2492/2  
Podgorica  
6 December 2010

President of Montenegro,  
**Filip Vujanović** (sgd.)

Pursuant to Article 82 paragraph 1 item 2 and Article 91 paragraph 1 of the Constitution of Montenegro, the Parliament of Montenegro in its 24th convocation, at the second session of the second regular sitting in 2010, on 30 November 2010, has passed

**THE LAW ON TRADEMARKS**

**I. BASIC PROVISIONS**

**Subject Matter**

Article 1

The present Law shall govern the registration procedure and the legal protection of trademarks.

**Definition of a Trademark**

## Article 2

A trademark is the right that protects a mark used in the course of trade to distinguish goods and/or services of one natural or legal person from identical or similar goods and/or services of another natural or legal person.

Any mark capable of being represented graphically may be protected by a trademark.

A mark may consist of words, slogans, letters, numbers, images, drawings, combinations of colors, three-dimensional shapes, combinations of such marks, as well as musical phrases represented by musical notes, etc.

A trademark may be an individual trademark and a collective trademark.

Seals, stamps and hallmarks (official marks for marking precious metals, measurements and the like) shall not be considered trademarks for the purposes of this Law.

The nature of goods or services to which the trademark pertains shall not be an obstacle to trademark registration.

## **Other Trademarks Effective in Montenegro**

### Article 3

The following shall also have effect in Montenegro:

1) an international trademark registration for the territory of Montenegro, under the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as: the Madrid Agreement), and/or the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as: the Madrid Protocol);

2) a trademark which is well-known in Montenegro within the meaning of Article 6<sup>bis</sup> of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as: the Paris Convention) and Article 16 of the Agreement of Trade-Related Aspects of

Intellectual Property Rights (TRIPS) with the World Trade Organization (WTO);

3) Community Trade Mark registered with the Office for Harmonization in the Internal Market which shall be effective following Montenegro's accession to the European Union.

### **Equality of Foreign and National Persons**

#### Article 4

Foreign legal and natural persons shall enjoy the same rights with respect to the trademark registration and legal protection in Montenegro as national legal and natural persons if such rights result from international treaties or the principle of reciprocity.

The person claiming reciprocity referred to in paragraph 1 of the present Article shall be obliged to prove the existence of such reciprocity.

In any proceedings before a competent authority, a foreign legal or natural person shall be represented by a legal or natural person (hereinafter referred to as: the Representative) entered into the Register of Representatives maintained by the competent authority in charge of intellectual property matters (hereinafter referred to as: the Competent Authority) or a lawyer entered into the Montenegro Bar Association Register.

### **Trademark Register, Application Records and Official Gazette**

#### Article 5

Trademark Register (hereinafter referred to as: the Register) and application records shall be maintained by the competent authority.

The Register referred to in paragraph 1 of the present Article shall contain the following: information about the holder of the trademark, application filing date, the trademark registration number, the priority claim, the date of publication of the application,

the representation of the trademark, the list of goods and services, alterations, indications on third parties who have given their opinion, indications on the person who has filed an opposition, the date the trademark has been entered into the Register, registration number, international registration data, indication concerning the renewal of the trademark and the date of ceasing of effect of a trademark.

The application records referred to in paragraph 1 of the present Article shall contain the following: indication concerning the applicant (name and address and/or name and seat), the representation of the trademark for which protection is sought, list of goods and services, information on the payment of prescribed administrative fees and duties, application number and application filing date.

The Register and the application records referred to in paragraph 1 of the present Article shall be open to the public.

At the request of an interested person and following the payment of prescribed administrative fees and duties, the competent authority shall issue extracts from the Register and trademark validity certificate.

The data from the application referred to in paragraph 1 of the present Article and data on trademarks entered into the Register referred to in paragraph 1 of the present Article, shall be published by the competent authority in the Official Gazette.

The Official Gazette referred to in paragraph 6 of the present Article shall be published by the competent authority.

The competent state administration authority in charge of industrial property issues (hereinafter referred to as: the Ministry) shall prescribe in more detail the content and procedure for maintenance of the Register and the application records referred to in paragraph 1 of the present Article.

## II. REGISTRATION PREREQUISITES

### **Absolute Grounds for Refusal of a Registration**

## Article 6

A trademark shall not be used to protect a mark:

1) Which cannot be graphically represented and a mark which cannot constitute a trademark in accordance with Article 2 of the present Law;

2) devoid of any distinctive character;

3) consisting exclusively of signs or indications which in trade serve to designate a kind, quality, quantity, intended purpose, value, or time of production of the goods or rendering of the services or other characteristics of the goods or services;

4) Consisting exclusively of indications which in trade serve to designate geographical origin of the goods and/or services;

5) Consisting exclusively of indications that have become customary in the current language or in the bona fide established practice of trade;

6) Consisting exclusively of a shape which results from the nature of the goods or a shape of goods which is necessary to obtain a technical result or of a shape which gives substantial value to the goods;

7) Which is contrary to public policy or accepted principles of morality;

8) Which is of such a nature as to deceive the public in particular with regard to the nature, quality or geographical origin of the goods or services;

9) Which cannot be registered in accordance with Article 6<sup>ter</sup> of the Paris Convention;

10) Which represents a national or religious symbol;

11) Which contains official marks or hallmarks used for quality control or guarantee;

12) Which contains or consists of geographical indication identifying wines and spirits, with respect to such wines and spirits not having that origin;

13) Which contains or consists of a geographical indication effective in Montenegro, if the application for the registration of a

trademark has been submitted after the date of filing of the application for the registration of the geographical indication and to the extent determined by regulations governing the registration of geographical indication and regarding the same type of goods or services;

14) If the filed application is contrary to good business practices.

Trademark registration shall not be refused and a trademark shall not be declared invalid pursuant to paragraph 1 items 2, 3 and 4 of the present Article, if before the date of filing of the application for the registration of such trademark had acquired a distinctive character through use which has been made of it in the marketplace.

### **Relative Grounds for Refusal of a Trademark Registration Based on Earlier Trademarks**

#### Article 7

Based on an opposition a trademark shall not be registered:

1) Should such trademark be identical to an earlier registered trademark for the same type of goods and/or services for which the new registration is applied for;

2) Should, because of its identity or similarity with goods and/or services covered by the trademark, there exists a likelihood of confusion on the part of the public due to the likelihood of associating with the earlier trademark;

An earlier trademark referred to in paragraph 1 of the present Article shall be considered:

1) A trademark registered in Montenegro which enjoys priority right stipulated in Articles 22, 23 and 24 of the present Law;

2) A trademark registered on the basis of ratified international treaties effective in Montenegro;

3) A trademark which is notorious and/or well-known in Montenegro on the day of application for the registration of a

trademark or on the day of priority right, if the priority has been claimed, pursuant to Article 6<sup>bis</sup> of the Paris Convention.

An earlier trademark shall be also understood to include a an application for the registration of a trademark referred to in paragraph 2 items 1 and 2 of the present Article, provided that it becomes registered.

In establishing whether the mark referred to paragraph 2 item 3 of the present Article is a well known mark, the familiarity of the relevant part of the public with the mark shall be taken into account, including their familiarity with the mark as a consequence of mark-related marketing activities.

The relevant part of the public shall be understood to mean actual and potential users of goods and/or services designated by such mark, as well as the persons involved in the process of distribution and trade of the respective goods and/or services.

Based on an opposition a new trademark for which the registration application has been filed shall not be registered if such trademark is identical or similar to an earlier trademark which has reputation in Montenegro, and the registration of goods and/or services has been sought which are not similar to those goods and/or services for which the previous trademark has been registered, should the utilization of such trademark be detrimental to the reputation of the earlier registered trademark.

### **Other Relevant Grounds for Refusal of a Registration**

#### Article 8

Based on an opposition of the trademark holder from a member state of the Paris Union for the Protection of Industrial Property (hereinafter referred to as: Paris Union) or from a member state of the World Trade Organization, a trademark cannot be registered in the name of its trade agent or representative.

Based on an opposition, the trademark shall not be registered if such trademark contains a personal name, portrait and if it infringes a copyright or other industrial property rights.

Based on an opposition, the trademark shall not be registered if such trademark is identical or similar to a mark which has been used in good faith in trade prior to the date of filing of the application for the registration of a trademark and/or the priority date referred to in Articles 23 and 24 of the present Law.

Based on an opposition, a trademark shall not be registered if such trademark may be confused with a trademark used in another state at the date of filing of the application for the registration of a trademark, provided that the application has been filed in bad faith.

### **Consent of the Holder of the Earlier Trademark or Another Earlier Right**

#### Article 9

Application for the registration of a trademark (hereinafter referred to as: the Application) shall not be refused, and/or the registered trademark shall not be cancelled if the holder of the earlier trademark or another previously acquired right, consents to the registration of such trademark.

### **III. RIGHTS AND LIMITATIONS OF TRADEMARK'S EFFECT**

#### **Exclusive Rights**

#### Article 10

The holder of the trademark shall be exclusively entitled to use the sign protected by a trademark for marking of goods and/or services to which such mark pertains.

The trademark holder shall be entitled to prevent other persons from using without his consent the following:

1) A sign which is identical with his/her earlier trademark in relation to goods and/or services which are identical with those goods and/or services for which the trademark has been registered;



2) A sign which identical with his/her earlier trademark in relation to similar goods and/or services or similar with his/her earlier trademark in relation to identical or similar type of goods and/or services, if there exists a likelihood of confusion because of such identity or similarity on the relevant part of the public, including the likelihood of associating between trademark and the earlier trademark;

3) Any sign which identical with his/her trademark or similar to his/her trademark in relation to goods and/or services which are not similar to those for which the trademark has been registered, where such trademark has a certain reputation in Montenegro and where it represents unjustified utilization and acquisition of unjustified benefit or is detrimental to the distinctive character or repute of the trademark.

### **Prohibition on the Use of a Trademark**

#### Article 11

The holder of a trademark shall be entitled to prohibit other persons from:

1) Affixing a trademark to the goods, its packaging or on means used for marking the goods;

2) Offering the goods, putting them on the market, stocking them for those purposes or supplying services under such trademark;

3) Importing or exporting the goods under a trademark;

4) Using the trademark on business papers or in advertising;

The holder of the mark which is well known in Montenegro shall also be entitled to rights referred to in paragraph 1 of the present Article and Article 10 of the present Law, in accordance with Article 6<sup>bis</sup> of the Paris Convention.

### **Reproduction of a Trademark in Publications**

#### Article 12

If the reproduction of a trademark in a dictionary, encyclopedia or similar publication, including those in electronic form, creates an impression that such trademark is a generic name of the goods or services for which that trademark has been registered, the publisher shall be obliged, at the request of the holder of the trademark, to indicate in the following edition of the publication at the latest, that such trademark is a registered trademark.

### **Prohibition on the Use of a Trademark Registered in the Name of a Trade Agent or Representative**

#### Article 13

If a trademark has been registered in the name of a trade agent or representative of the trademark holder from the member state of the Paris Union or member state of the World Trade Organization without the trademark holder's authorization, the trademark holder shall be entitled to prohibit the use of the trademark by the trade agent or representative.

The trademark holder referred to in paragraph 1 of the present Article shall be entitled to demand the assignment of the trademark and to be entered into the Register as the trademark holder.

### **Limitation of the Effects of a Trademark**

#### Article 14

The holder of a trademark shall not be entitled to prohibit other persons from using in accordance with good business practices in the course of trade:

- 1) Their name or address;
- 2) Indication concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production or other characteristics of the goods or services;
- 3) The trademark, in cases where its use is necessary to indicate the intended purpose of the goods or services, in particular where the spare parts or accessories are concerned.

The trademark holder shall not prohibit another person from using in the course of the trade an earlier right used only in a particular locality in Montenegro, if such right has been recognized pursuant to regulations of Montenegro and within the limits of the territory in which such right has been recognized.

### **Exhaustion of Rights Conferred by a Trademark**

#### Article 15

A trademark does not entitle its holder to prohibit its use in relation to goods marked with such trademark and put on the market in Montenegro with his/her consent.

The provision of paragraph 1 of the present Article shall not apply if the holder of the trademark has a legitimate reason for opposing further commercialization of goods marked with such trademark, in particular if a defect or other fundamental change of the condition of the goods has occurred following the day they have been put on the market for the first time.

The exhaustion of rights arising from the trademark may be expanded beyond Montenegro pursuant to ratified international treaties.

### **Limitation as a Result of Permission**

#### Article 16

The holder of an earlier registered trademark who has knowingly allowed the use of the subsequently registered trademark for a continuous period of five years, shall not be entitled to file, following the expiry of that period, a request for declaration of invalidity of the subsequently registered trademark or oppose the use of subsequently registered trademark in respect of goods and/or services for which the previously registered trademark has been used, unless the application for the registration of the subsequently registered trademark has been filed in bad faith.

The holder of the subsequently registered trademark who is entitled to continue using his/her trademark within the meaning of paragraph 1 of the present Article, shall not be entitled to oppose the use of the earlier registered trademark regardless of the fact that the holder of the earlier registered trademark is not entitled any more to file a request for declaration of invalidity of the subsequently registered trademark.

### **Trademark Use Following the Registration**

#### Article 17

Should the trademark holder fail to put to use the trademark for goods and/or services for which such trademark has been registered within a period of five years following the registration or if such use has been suspended during an uninterrupted period of five years, the trademark shall cease to be valid, unless justified reasons exist for non-use.

The use of a trademark referred to in paragraph 1 of the present Article shall also the use of the trademark in a form differing in elements which do not alter the distinctive character of the trademark in its registered form, as well as affixing the trademark to goods or to the packaging thereof and/or services, for export purposes only.

The use of a trademark with the consent of the trademark holder or the person authorized to use the collective trademark shall be deemed to constitute use by the trademark holder.

## IV. TRADEMARK REGISTRATION PROCEDURE

### **Procedure before a Competent Authority**

#### Article 18

Provisions of the law governing general administrative procedure shall be applicable to the trademark registration and

protection procedure, unless otherwise stipulated by the present Law.

The official decision of the competent authority shall be subject to an appeal filed with the Ministry.

In the course of the procedure before a competent authority administrative fees shall be charged in accordance with the law governing payment of administrative fees.

The Government of Montenegro (hereinafter referred to as: the Government) shall determine the amount of special procedural charges and amount of procedural charges for extending information services by the competent authority.

### **Initiation of the Trademark Registration Procedure**

#### Article 19

The procedure for the trademark registration shall be initiated by filing an application with the competent authority.

Registration of multiple trademarks shall not be requested in a single application.

### **Elements of the Application**

#### Article 20

The application shall contain the following elements:

- 1) a request for the registration of a trademark;
- 2) Information identifying the applicant;
- 3) Representation of the mark for which trademark protection is sought;
- 4) List of goods and/or services for which the registration is sought, classified according to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- 5) Proof of payment of administrative fees;

6) Power of attorney, if the application has been filed through a representative.

The competent authority shall enter the date and application number on the application referred to in paragraph 1 of the present Article.

The particulars of the application referred to in paragraph 1 of the present Article shall be prescribed by regulations issued by the Ministry.

### **Application Division and Alteration**

#### Article 21

The application for the registration of a trademark specifying a list of products and/or services (hereinafter referred to as: the initial application) may, at the request of the applicant, be divided into two or more applications, before the trademark is entered into the Trademark Register, by dividing the list of products and/or services.

The divided application shall preserve the filing date of the initial application and its priority date, if the priority has been claimed.

The representation of the mark cannot be altered nor can the list of goods and/or services in the application be expanded subsequently.

Inscribing the mark in a special type of letters or fonts shall not be considered as an alteration of the mark.

Alterations in the application pertaining to the correction of the applicant's name and address as well as the corrections of errors made in the text or transcript may be done at the request of the applicant or *ex officio*, provided that these alterations do not result in the expansion of the list of goods and/or services contained in the application.

If the application has already been published, the alterations to the application shall be published subsequently in the Official Gazette.

### **Application Filing Date Priority**

#### Article 22

As of the filing date the applicant shall enjoy a priority right over all other persons who have subsequently filed an application for the same mark or for a similar mark concerning the same or similar goods and/or service.

Following the payment of the required administrative fees, the competent authority shall issue a certificate of the priority right at the request of the applicant or the trademark holder.

The content of the application for the issuance of the certificate of the priority right and the content of the certificate of the priority right shall be determined by the Ministry.

### **Union Priority Right**

#### Article 23

An applicant having filed for the first time an application in any member state of the Paris Union or in any member state of the World Trade Organization, shall be entitled to invoke the date of the first filing when filing the application in Montenegro for the same trademark, provided that he files the application in Montenegro within six months from the date of the first filing (hereinafter referred to as: the Union Priority Right).

The applicant invoking the Union Priority Right referred to in paragraph 1 of the present Article shall indicate in the application information on the country, date and application number.

Should the need arise to prove the Union Priority Right, the applicant shall submit the certificate of the priority right issued by a

competent authority of the Paris Union member state or World Trade Organization member state, which has been translated into the Montenegrin language.

### **Exhibition Priority Right**

#### Article 24

The applicant who has displayed goods or provided services marked under a particular mark at an official or officially recognized international exhibition in any a member state of the Paris Union or in any member state of the World Trade Organization, may request that the date of the day of the first exhibition of the goods or of providing of the services, be accorded as the date of the first application, provided that the application in Montenegro has been filed within six months from that date.

Within the meaning of paragraph 1 of the present Article, an international exhibition shall mean any exhibition pursuant to the Convention on International Exhibitions.

The applicant invoking the exhibition priority right shall with the application filed to the competent authority file the certificate issued by the competent authority of a member state of the Paris Union or a member state of the World Trade Organization which has been translated into the Montenegrin language indicating the type of exhibition, venue, exhibition opening and closing date as well as the first day of the exhibition of the goods and/or services specified in the application.

### **Order of Application Examination**

#### Article 25

Applications shall be examined in the order determined by the date of their filing.



Notwithstanding the provision of paragraph 1 of the present Article, the application may be examined in an expedited procedure:

1) In case of the procedure initiated before a court, inspection supervision procedure or customs related procedure at the request of the court, competent inspection authority or the customs authority;

2) If, at the request of the applicant, the registration must be done for the purpose of exercising the union or exhibition priority right abroad;

3) If expedited registration needs to be done in accordance with other regulations.

### **Application Examination Phases**

#### **Article 26**

The application examination procedure shall include: examining whether the requirements referred to in Article 20 of the present Law have been fulfilled and examining whether grounds for refusing of the registration referred to in Article 6 of the present Law exist.

### **Application Examination**

#### **Article 27**

The application shall be deemed as being correct if it meets the requirements referred to in Article 20 of the present Law.

Where the application has been found not to be correct and complete, the competent authority shall notify and call on the applicant to remedy the deficiencies within sixty days from the day the notification has been received.

Should the applicant remedy the detected deficiencies within a time period referred to in paragraph 2 of the present Article, the application shall be considered as having been correct as from the beginning.

Should the applicant fail to remedy the detected deficiencies within the time period referred to in paragraph 2 of the present Article, the application shall be deemed as having been withdrawn, and the competent authority shall pass a decision to stop the proceedings.

Upon the request of the applicant, the competent authority may extend the time limit referred to in paragraph 2 of the present Article for not more than sixty days.

### **Examination as to the Absolute Grounds for Refusal of the Application**

#### **Article 28**

The competent authority shall examine the correct application in terms of determining possible grounds for refusing the registration referred to in Article 6 of the present Law.

Should the competent authority detect reasons grounds for refusal of the registration referred to in Article 6 of the present Law, it shall notify the applicant thereof in writing.

The applicant shall be entitled to submit evidence of facts which might affect the final decision of the competent authority, within sixty days from the day of receiving the written notification specifying grounds for refusal of the requested registration.

At the request of the applicant, the time limit referred to in paragraph 3 of the present Article may be extended for a time period not more than sixty days.

### **Publication of the Application**

#### **Article 29**

A correct application which has not been found to contain grounds for refusal referred to in Article 28 of the present Law, shall be published in the official gazette.

The content of the application data published in the official gazette referred to in paragraph 1 of the present Article shall be determined by the Ministry.

### **Opinion of Other Persons**

#### Article 30

Following the publication of the application referred to in Article 29 of the present Law, legal and natural persons or associations of manufacturers of goods and/or providers of services, retailers and consumers, may, within a time period of ninety days from the date of publication, submit to the competent authority a substantiated opinion in writing on absolute grounds for refusal of the registration referred to in Article 6 of the present Law.

Persons referred to in paragraph 1 of the present Article shall not be parties to the proceedings.

Following the receipt of the opinion referred to in paragraph 1 of the present Article, the competent authority shall act in accordance with Article 28 of the present Law and shall render a decision either refusing the registration of the trademark or approving the registration of the trademark, which shall be published in an Official Gazette.

### **Opposition against Trademark Registration**

#### Article 31

An opposition against the registration of a trademark due to reasons referred to in Articles 7 and 8 of the present Law shall be filed with the competent authority within a time period of ninety days from the date of publication of an application in the Official Gazette.

Opposition referred to in paragraph 1 of the present Article may be filed by the holder of the earlier trademark or acquirer of the license, based on the authorization of the trademark holder.

If the procedure for the removal of earlier trademark or for invalidating the trademark has been initiated before a competent court, the competent authority shall stay the opposition examination procedure until the court decision has become final.

The time limit for filing the opposition referred to in paragraph 1 of the present Article shall not be subject to extension.

The opposition referred to in paragraph 1 of the present Article shall be subject to the payment of administrative fees.

### **Examination of the Opposition**

#### **Article 32**

The competent authority shall examine whether the opposition has been filed by a person referred to in Article 31 paragraph 2 of the present Law and whether the opposition has been filed within a prescribed time limit.

If the requirements referred to in paragraph 1 of the present Article have not been met, the competent authority shall render an official decision rejecting the appeal.

The competent authority shall submit a copy of the opposition to the applicant and shall notify the applicant to submit his/her observations regarding the opposition within a period of sixty days .

### **Review of the Opposition**

#### **Article 33**

Should the applicant submit his/her observations regarding the opposition within a time period referred to in Article 32 of the present Law, the competent authority shall assess the validity of the reasons stated in the opposition and in the applicant's observations.

The holder of the earlier registered trademark who has opposed the trademark registration shall be obliged to prove, at the request of the applicant, that during a period of five years prior to the date of publication of the application he/she has been using in

Montenegro the trademark referred to in Article 17 of the present Law for goods and/or services for which such trademark has been registered and which he/she states as the reason for an opposition.

The holder of the earlier registered trademark which has been registered for at least five years prior to the application disclosure date, in case of existence of justified reasons for not using the trademark, shall be obliged to offer proof of justified reasons for not using the trademark, provided that the earlier registered trademark had already been registered on the date of publication of the application.

Should the holder of the earlier registered trademark fail to prove the use of the trademark referred to in paragraph 2 of the present Article or should he/she fail to offer valid reasons for not using the trademark referred to in paragraph 3 of the present Article, the competent authority shall render a decision refusing the opposition.

If the earlier registered trademark has been used only for some goods and/or services for which it has been registered, it shall be considered, in the course of the opposition procedure, that such trademark has been registered only for those particular goods and/or services.

Should the competent authority, in the course of the opposition procedure, ascertain that the opposition is without merits, it shall render a decision refusing the opposition.

Should the competent authority, in the course of the opposition procedure, ascertain that the opposition has merits, it shall render a decision refusing the trademark registration of the published application, either entirely or in part for certain goods and/or services.

The competent authority shall forward the decision referred to in paragraphs 4, 6 and 7 of the present Article to the applicant and to the opponent.

The decision referred to in paragraph 7 of the present Article shall be subject to an appeal which can be filed with the Ministry.

Should the applicant fail to submit his/her observations within a prescribed time period, the requested trademark registration shall be refused within the limits of the requests stated in the opposition.

### **Continuation of the Proceedings**

#### Article 34

The applicant or another person who has failed to perform an action within a specified time period may file a request with the competent authority for the continuation of the proceedings.

The procedure continuation request may be filed within a time period of sixty days from the expiry of the time period within which the action should have been undertaken.

The competent authority shall allow the continuation of the procedure, if the loss of right has not come into effect, provided that the applicant effects payment of administrative fees for the continuation of the procedure and provided that the applicant undertakes the action within the time period referred to in paragraph 2 of the present Article.

The continuation of the procedure may not be requested for failing to observe the deadlines for the following: the application referred to in paragraph 2 of the present Article, priority right recognition application referred to in Articles 23 and 24 of the present Law, opposition referred to in Article 31 of the present Law, the request for *restitutio in integrum* referred to in Article 38 of the present Law and the request for the renewal of a trademark referred to in Article 42 of the present Law.

Should the competent authority approve the request for the continuation of the procedure referred to in paragraph 1 of the present Article, it shall be considered that the consequences of failing to observe the deadlines have not come into effect and shall nullify the official decisions it had rendered in respect of failure to observe the deadlines.

## **Trademark Registration**

### **Article 35**

If an opposition against trademark registration has not been filed or if such opposition has been rejected or refused, the competent authority shall call on the applicant to effect payment of the trademark registration-related administrative fees, the fee for the first ten years of trademark protection and the costs of publication of the trademark registration in the Official Gazette.

The application shall be deemed withdrawn if the applicant fails to effect payment of the prescribed fees and costs within the time limit referred to in paragraph 1 of the present Article.

Following the payment of fees and costs referred to in paragraph 1 of the present Article, the competent authority shall render a decision on trademark registration based on which it shall enter the trademark into the Register and publish the trademark registration in the Official Gazette.

The regulations issued by the Ministry shall prescribe the particulars of the information on trademark registration published in the Official Gazette.

The trademark holder shall acquire rights resulting from trademark on the day the trademark is registered, pursuant to the present Law.

The date of the official decision on the trademark registration shall also be considered as the date when the trademark has been entered into the Register.

## **Division of a Trademark**

### **Article 36**

A trademark registered for multiple goods and/or services (hereinafter referred to as: the Initial Registration) may be divided,

at the request of the holder of the trademark, into two or more trademarks according to the list of products and/or services.

Divided trademarks shall preserve all rights contained in the initial registration.

A special decision shall be issued on a division of a trademark specifying: the number of the initial registration, number of the new trademarks, the mark from the initial registration as well as the goods and/or services which remain in the initial registration and goods and/or services that belong to separate trademark(s).

A divided trademark shall be entered into the Trademark Register while the trademark holder shall be issued a decision on trademark registration.

Information on divided trademarks shall be entered into the Register and shall be published in the Official Gazette.

The request referred to in paragraph 1 of the present Article shall contain, in particular: the trademark registration number; information about the trademark holder; a representation of the mark; a designation of the class numbers under the International Classification of Goods and Services remaining in the initial registration, and the class numbers under the International Classification of Goods and Services to which the separated trademark refers.

The Ministry shall prescribe the particulars of the application referred to in paragraph 1 of the present Article, and shall specify the documentation to be filed with the application.

### **Entry of Alterations into the Register**

#### **Article 37**

At the request of the trademark holder, the changes which occurred following the trademark registration pertaining to the change of the name and address of the holder of rights, alteration of the list of goods and/or services and transfer of rights, shall be entered into the Register.



Alterations referred to in paragraph 1 of the present Article shall not alter the representation of the registered trademark nor expand the list of goods and/or services.

Alterations entered into the Register shall be published in the Official Gazette.

The Ministry shall prescribe in more detail the content of the request referred to in paragraph 1 of the present Article and the documentation submitted together with the request.

### ***Restitutio in integrum***

#### Article 38

The applicant or trademark holder who has been unable, despite due diligence and for justified reasons, to perform a certain action in the procedure before a competent authority, may request *restitutio in integrum* if the omission resulted in the loss of rights.

The request for *restitutio in integrum* referred to in paragraph 1 of the present Article shall be submitted in writing within a time period of sixty days from the day reasons for omissions have ceased to exist.

The request for *restitutio in integrum* referred to in paragraphs 1 and 2 of the present Article may not be submitted following the expiry of a time period of one year from the day of omission having taken place.

The applicant filing the request for *restitutio in integrum* shall be obliged to provide in his/her application the reasons due to which he/she has been prevented from performing such activities referred to in paragraph 1 of the present Article within the prescribed time period and shall be obliged to sufficiently substantiate such circumstances.

The competent authority shall review the request for *restitutio in integrum* provided that the applicant effects payment of the administrative fees within a time period referred to in paragraph 2 of

the present Article and performs the action he/she had failed to perform.

*Restitutio in integrum* may not be requested for failing to observe the filing deadlines for: *restitutio in integrum* request referred to in paragraphs 2 and 3 of the present Article, application for the priority right recognition or establishment referred to in Articles 23 and 24 of the present Article, application for the continuation of the proceedings referred in Article 34 of the present Law and request for making corrections or amendments.

If the trademark holder has established his/her right to a trademark through *restitutio in integrum*, such trademark shall not produce effect in respect of another person who has in good faith put goods on the market or extended services under an identical or similar mark, during the time from the loss of right referred to in paragraph 1 of the present Article until the reestablishment of rights resulting from the trademark.

## V. TRADEMARK AS PROPERTY RIGHT

### **License**

#### Article 39

A trademark holder may, on the basis of a license agreement, grant license for the right to use the trademark in respect of all or some of the goods and/or services.

The license agreement, referred to in paragraph 1 of the present Article, shall be entered into the Register at the request of the trademark holder or the licensee.

The entry of the license agreement into the Register referred to in 1 of the present Article shall be subject to an official decision.

The entry of the license agreement into the Register referred to in 3 of the present Article shall be published in the Official Gazette.

The trademark holder may invoke rights resulting from the trademark against the licensee violating any provision from the license agreement in the course of license validity, in respect of the registered trademark's representation, manner in which the trademark is being used, scope of goods and services for which the license is granted, territories where the trademark can be used, or quality of goods manufactured or services offered by the licensee.

A trademark shall not be subject of a compulsory license.

### **Transfer of a Trademark**

#### **Article 40**

The holder of the trademark right may transfer to another person the trademark either for all or some goods and/or services for which such trademark has been registered.

If the trademark is transferred in respect of only some goods and/or services for which the trademark has been registered, the trademark registration shall be separated pursuant to Article 36 of the present Law.

The procedure for the entry of the trademark transfer shall be initiated on the basis of a written request accompanied by:

- 1) The proof of legal title for the entry;
- 2) The power of attorney if the procedure for the registration of the transfer, license or pledge is initiated through an agent;
- 3) The proof of payment of the administrative fees charged for the registration of an transfer, license or pledge.

Registration of the license and/or pledge may be requested on the basis of a single request referred to in paragraph 3 of the present Article, provided that the trademark holder and license and/or pledge assignee are the same.

The transfer of the trademark shall be entered into the Register and published in the Official Gazette.

The Ministry shall prescribe in more detail the content of the request referred to in paragraph 3 of the present Article and the documentation submitted together with the request.

### **Pledge, Levy of Execution and Bankruptcy**

#### Article 41

A trademark may be the subject of a pledge based on a pledge agreement and subject to enforced performance.

The pledge right shall be entered into a Register at the request of a pledger or the pledgee.

The court tasked *ex officio* with the levy of execution shall be obliged to notify, without delay, the competent authority on the launching of the levy of execution procedure in respect of a trademark for the purpose of entering it into the Register.

Pledge and levy of execution shall be published in the Official Gazette.

Where a trademark is subject of bankruptcy, the information on bankruptcy procedure shall be entered into the Register and published in the Official Gazette at the request of the competent court.

Regulations governing pledge shall be applicable to pledge or levy of execution procedures.

## **VI. DURATION, RENEWAL AND CESSATION OF TRADEMARK RIGHTS**

### **Duration of Protection and Renewal of the Trademark**

#### Article 42

The trademark right shall last for ten years from the date of filing of the application.

The trademark shall be renewed for a further ten-year period for an unlimited number of times, provided that, prior to the expiry of the ten-year period, the trademark holder submits to the competent authority the request for the renewal of a trademark accompanied by proof of payment of the required administrative fees and duties.

The request for the renewal of a trademark may be submitted within a time limit of six months following the expiry of the time period referred to in paragraph 1 of the present Article, provided that the double amount of the required administrative fees be paid.

The new trademark protection period shall commence on the day of expiry of the previous ten-year period.

The trademark holder or a person authorized by him/her, shall be entitled to file the request for the renewal a of a trademark with the competent authority.

Where the request for the renewal of a trademark is filed in respect of certain goods and/or services only for which the trademark has been registered, the trademark registration shall be renewed for those goods and/or services only.

The renewal of a trademark shall be entered into the Register.

If the trademark protection is not renewed, the trademark shall cease to be protected on the date on which the existing protection period expires.

The trademark protection expiry date referred to in paragraph 8 of the present Article shall be entered into the Register.

The Ministry shall prescribe in more detail the content of the request referred to in paragraphs 2 and 5 of the present Article as well as the documentation submitted together with the request.

## **Ceasing of the Trademark Rights**

### **Article 43**

The trademark shall cease to have the effect upon expiry of a ten-year period unless its protection has been renewed.

The trademark shall cease to have the effect prior to the expiry of the period referred to in paragraph 1 of the present Article:

1) if the holder of a trademark surrenders his/her trademark rights — on the day the declaration of surrender is submitted to the competent authority;

2) as a result of a court decision or a decision by the competent authority, in cases set out in the present Law — on the day specified by such decision;

3) if the legal person that is the holder of the trademark ceased to exist or if the natural person who is the holder of the trademark has deceased — on the day of the cessation or the day of death respectively, unless the trademark has been transferred to the successors in rights of such persons.

The trademark holder may surrender in writing his/her trademark rights pertaining to certain or all goods and/or services for which such trademark has been registered.

The competent authority shall issue a decision on ceasing of the effect of a trademark referred to in paragraph 2 of the present Article.

If a certain right has been entered into the Register in favor of another person, the trademark holder cannot surrender the trademark without a prior written consent of a person to whose name that right has been registered.

Should the trademark holder fail to pay the required administrative fees within a prescribed time period, the competent authority shall notify such person that the required administrative fees and duties have not been paid, and that such fees may be paid within the time period of six months from the beginning of the year in which the following trademark validity period commences.

The ceasing of the effect of trademark rights referred to in paragraph 2 items 1 and 3 of the present Article shall be entered into the Register and shall be published in the Official Gazette.

## VII. COLLECTIVE TRADEMARK

## **Definition of the Collective Trademark**

### **Article 44**

A collective trademark shall mean a trademark of a legal person representing a certain type of association of manufactures and/or service providers, which may be used by persons who are members of such association, under the conditions prescribed by the present Law.

A collective trademark may be used to protect any mark pursuant to Article 2 paragraphs 2 and 3 of the present Law and any mark for which there are no grounds for refusal the registration thereof referred to in Articles 6, 7 and 8 of the present Law.

Collective trademark may not be subject of a license.

## **Geographical Indication Protected by a Collective Trademark**

### **Article 45**

A collective trademark may be used to protect a mark which denotes certain geographical origin of goods and/or provision of services.

Provisions of Article 6 item 4 of the present Law shall not be applicable to the trademark referred to in paragraph 1 of the present Article.

The trademark rights referred to in paragraph 1 of the present Article shall not entitle the holder to prohibit another person from using marks or signs in the trade of goods and/or services denoting the geographical origin of the goods, provided that he/she uses them in accordance with good business practices.

The trademark referred to in paragraph 2 of the present Article shall produce no effect on another person that has the right to use the geographical indication.

The person using the collective trademark shall be entitled to use the trademark only in the manner prescribed by the general act on collective trademarks.

### **Submitting an Application for a Collective Trademark**

#### Article 46

The applicant or the collective trademark rights holder may be a legal person who is entitled to exercise rights, take on obligations, sign contracts or perform other legal action on its own behalf.

### **General Act on Collective Trademarks**

#### Article 47

In addition to the application for the registration of a collective trademark pursuant to Article 20 of the present Law, the applicant shall also submit the general act on a collective trademark.

The general act on a collective trademark shall contain in particular the following:

- 1) persons authorized to use the collective trademark;
- 2) membership requirements for joining the association;
- 3) conditions for the use of the trademark including sanctions;

Any person shall have access to the general act referred to in paragraph 1 of the present Article.

The holder of the collective trademark which is used to mark geographic origin of goods and/or services shall be obliged to enable any person, whose goods and/or services originate from a particular geographical area and meet the conditions required for the use of the collective trademark in accordance with the general act on a collective trademark, to use the collective trademark, under the conditions prescribed by the general act on a collective trademark.



## **Amendments to the General Act on a Collective Trademark**

### **Article 48**

The holder of the collective trademark rights shall be obliged to submit to the competent authority amendments to the general act governing the use of a collective trademark.

The competent authority shall verify whether the amendments to the general act meet the requirements laid down in Article 47 of the present Law.

The amendments to the general act shall produce effect on other persons following their publication in the Official Gazette.

Information on the amendments to the general act shall be entered into the Register.

## **VIII. INTERANTIONAL REGISTRATION OF TRADEMARKS**

### **International Registration Application**

#### **Article 49**

A trademark holder and/or applicant may file a request for the international registration of a trademark through a competent authority.

The request referred to in paragraph 1 of the present Article shall be accompanied by the following:

- 1) A representation of the mark;
- 2) A list of the goods and/or services drawn up according to the International Classification of Goods and Services, written in the English language;
- 3) A power of attorney if the request is filed through a representative;
- 4) Proof of payment of the required administrative fees.

If the request for the international registration of a trademark is found to be complete, the competent authority shall set the deadline to the applicant within which payment of the fee for the international registration of the trademark is to be effected to the International Bureau and the proof of payment thereof is to be submitted to the competent authority.

If the application for the international registration of a trademark is not complete, the competent authority shall notify the applicant in writing inviting him/her to remedy the deficiencies within the time period of thirty days.

If the applicant fails to remedy the detected deficiencies in his/her application within the time limit referred to in paragraph 4 of the present Article, the competent authority shall reject the application.

Upon the applicant's submission of the proof of payment referred to in paragraph 3 of the present Article, the competent authority shall forward the application to the International Bureau.

If the applicant fails to submit the proof of payment referred to in paragraph 3 of the present Article within the prescribed time period, the competent authority shall reject the application.

The trademark holder shall submit the request for the entry of changes into the international register and the request for subsequent extension of the international registration to the International Bureau directly.

The Ministry shall prescribe the content of the application for the international registration of a trademark and proof accompanying the application.

## **International Registration of a Trademark with the Indication of Effect in Montenegro**

### Article 50

Provisions of Articles 2, 6, 7 and 8 of the present Law shall be applicable to the international registration of a trademark with the indication of effect in Montenegro.

Should the holder of an international registration of a trademark referred to in paragraph 1 of the present Article fail to submit his/her observations regarding the preliminary notification of the competent authority on the intention to refuse the validity of such trademark in Montenegro, the competent authority shall render a decision refusing the validity of the trademark which is submitted to the International Bureau.

The publication of the international registration of a trademark in the Gazette of the International Bureau of the World Intellectual Property Organization shall be considered a publication of the trademark registration in Montenegro.

## IX. CIVIL LAW PROTECTION

### **Declaration of Trademark Invalidity Claim**

#### Article 51

Any legal or natural person may file a claim with the competent court seeking declaration that a trademark is invalid in whole or in part.

The complaint referred to in paragraph 1 of the present Article may be filed if the trademark has been registered contrary to the provisions of Article 6 of the present Law.

The court shall be obliged to submit to the competent authority the final ruling declaring the trademark either entirely or partially invalid.

### **Removal of a Trademark from the Register Claim**

#### Article 52

Any legal or private person may file a complaint with a competent court requesting that a trademark be removed from the Register and that the use of the mark be prohibited in the following cases:

1) If the holder of the trademark has registered the trademark in bad faith;

2) If the trademark has been registered contrary to the provisions of Articles 7 and 8 of the present Law;

3) If due to certain actions taken or permissions given by the holder of the trademark, such trademark has become an ordinary term in trade of goods and/or services for which such trademark has been registered;

4) If the trademark holder or another person having trademark holder's consent, has been using the trademark for goods and/or services in such manner as to mislead the public, in particular regarding the type, quality and geographical origin of the goods and/or services.

Any legal or natural person may, in addition to reasons referred to in paragraph 1 of the present Article, file a complaint requesting that a collective trademark be removed from the Register and that the use of the mark be prohibited in the following cases:

1) If the holder of the collective trademark has ceased to exist;

2) If the general act governing the use of the collective trademark has been altered and if the alterations are contrary to Article 48 of the present Article;

3) If the representation of the collective trademark has been altered to such an extent that there are reasons for its nullification pursuant to Article 6 of the present Law;

The claim requesting that a trademark be removed from the Register may not be filed following the expiry the five-year period from the registration date, unless the trademark has been registered in bad faith.

The competent authority shall remove the trademark from the Register following the receipt of a final decision ordering that the trademark be removed.

### **Challenging the Trademark Rights Claim**

#### **Article 53**

Any legal or natural person who, in commercial activity, uses a mark for marking of goods and/or service for which other person has filed an application or has registered it in its name for marking of the same or similar goods and/or services, may request the court to declare such person as being the rights holder, provided that such person is able to prove that the concerned mark was well known for marking of its goods and/or services before the defendant had filed his/her registration application.

If the defendant is able to prove that, prior to the trademark registration referred to in paragraph 1 of the present Article, he/she has used in commercial activity the same mark which is part of the trademark during the same period of time as plaintiff or longer, the court shall reject the claim referred to in paragraph 1 of this Article.

The action referred to in paragraph 1 of this Article may not be filed following the expiry of a five-year period from the day of the trademark's registration.

At the request of the plaintiff, the competent authority shall enter him/her into the Register as the trademark holder, following the receipt of the court's final decision.

### **Non-use of the Trademark Claim**

#### **Article 54**

An interested party may file a claim with a competent authority for the revocation of a trademark either entirely or only for some goods and/or services, if the holder of the trademark or a person authorized by him/her has failed, without a justified reason,

to genuine use the trademark on the national marketplace for marking of goods and/or services to which the trademark relates, for an uninterrupted period of five years from the date the trademark was entered in the Trademark Register or from the date of its last use.

During the proceedings referred to in paragraph 1 of the present Article, the trademark holder or a person authorized by him/her shall be obliged to either prove that the trademark has been used and/or to offer substantiated reasons for not using the trademark.

The competent authority shall not issue a decision on revocation of a trademark due to its non-use, if the use of the trademark had begun or has continued following the expiry of an uninterrupted five-year period of non-use of the registered trademark and prior to the submission of a claim for revocation of trademark due to its non-use, except if the commencement or continuation of use of the registered trademark occurred after the holder of the right had become aware that a claim for the revocation of his/her trademark will be submitted and if the use had begun or had continued within a period of three months prior to the submission of a claim for the revocation of a trademark.

## **Trademark Infringement Claim**

### **Article 55**

Any unauthorized use of a protected mark by any economic operator within the meaning of Articles 10 and 11 of the present Law shall constitute an infringement of a trademark.

The trademark rights holder may file an action requesting that the court establishes trademark infringement.

In the event referred to in paragraph 2 of the present Article, the claim may be filed and the plaintiff may request the following:

- 1) Termination of the infringement;
- 2) Destruction or alteration of the infringing objects;

3) Destruction or alteration of the tools and equipment used to manufacture the infringing objects;

4) Reimbursement of pecuniary damage and justifiable legal expenses;

5) Publication of the court decision at the expense of the defendant;

6) Supplying information about third parties participating in the infringement of trademark rights.

Any infringer shall be liable for the damage in accordance with general rules on compensation of damages.

In deciding on complaints referred to in paragraph 3 items 2 and 3 of the present Article, the competent court shall take into consideration all circumstances of the case, in particular the proportionality between the severity of infringement and the damage caused.

Proceedings on action referred to in paragraph 2 of the present Article shall be urgent.

An action for trademark rights infringement may be filed within a period of three years from the day on which the plaintiff became aware of the infringement and the infringer's identity, but not later than five years from the day of the first infringement.

### **Provisional measures**

#### **Article 56**

At the request of a person that makes it probable that his/her registered trademark or the right arising from the registered trademark has been infringed or is about to be infringed, the court may order a provisional measure for seizure or removal from trade of infringing products, the equipment for manufacturing such products, and/or an injunction prohibiting the continuation of activities already commenced which could result in an infringement.

The provisional measures referred to in paragraph 1 of the present Article and the securing of evidence referred to in Article 57 of the present Law may be requested even before initiating

trademark infringement claim or infringement of the right arising from the application, provided the claim is initiated within a term of fifteen days from the date of rendering the decision imposing provisional measure and/or the decision ordering the securing of evidence.

An appeal against the court decision pronouncing the provisional measure referred to in paragraph 1 of the present Article shall not delay the enforcement of the decision.

### **Securing of evidence**

#### *Article 57*

At the request of a person who makes it probable that its trademark or rights arising from the trademark application have been infringed, and that there is reasonable suspicion that evidence thereof will be destroyed or that later it will not be possible to obtain such evidence, the court may decide to secure evidence without prior notification or hearing of the person from whom the evidence is to be collected.

An inspection of premises, vehicles, books and documents, as well as the seizure of objects, examination of witnesses and expert witnesses shall be considered as securing of evidence within the meaning of paragraph 1 of the present Article.

The court decision imposing a provisional measure aimed at securing evidence shall be served on the person from whom the evidence is being collected at the time of the collection of evidence, while such decision shall be served on the absent person as soon as it becomes possible.

### **Collateral Security**

#### *Article 58*

At the request of a person against whom proceedings for infringement of a registered trademark or proceedings for imposing a provisional measure have been initiated, the court may determine



an appropriate amount of money, to be borne by the applicant, as a security in the event that request is found to be groundless.

### **Obligation to Provide Information**

#### Article 59

If no reasons exist for withholding witness account pursuant to the provisions of the law governing civil law proceedings, the court may order the defendant and/or the witness to provide information about any third parties who have participated in the infringement of trademark rights and their the distribution channels.

Should the person referred to in paragraph 1 of the present Article fail to fulfill the obligation of providing information, such person shall be held liable for any damage arising thereof.

## X. REPRESENTATION

### **Representation Requirements**

#### Article 60

Representation before competent authorities shall be performed by trademark representatives.

A trademark representative may be:

1) A natural person with Montenegrin citizenship residing in Montenegro, having university degree and having successfully passed the trademark representative exam before a competent authority;

2) A lawyer registered in the Montenegro Bar Association Register or a law office employing a lawyer registered in the Montenegro Bar Association Register or having cooperation with such person based on a signed contract;

3) A legal person with its legal seat in Montenegro employing at least one employee meeting the criteria referred to in paragraph 1 of the present Article or having cooperation with such person based on other type of contractual relationship and providing registration

services before competent authorities as its registered business activity.

## **Register of Representatives**

### Article 61

The competent authority shall maintain the Register of Trademark Representatives.

Persons meeting the requirements referred to in Article 60 of the present Law shall be entered into the Register of Trademark Representatives.

Entry into the Register of Trademark Representatives shall be subject to the payment of prescribed administrative fees.

The trademark representative exam referred to in Article 60 paragraph 2 of the present Law shall be taken before a panel of experts of the competent authority.

The curriculum and the manner of taking the trademark representative exam, the panel composition, examination fee and content of the Register of Trademark Representatives shall be determined by the Ministry.

## **Removing a Representative from the Register of Trademark Representatives**

### Article 62

A representative shall be removed from the Register of Trademark Representatives:

- 1) At his/her own request;
- 2) If a final court judgment has been passed prohibiting him/her from performing representation activities;
- 3) If he/she has been convicted to a prison sentence exceeding six months, of which he/she must duly notify the competent authority.

## **XI. TRANSITIONAL AND FINAL PROVISIONS**

### **Finalization of Earlier Applications and Harmonization of the Register**

#### **Article 63**

Procedures initiated prior to the coming into force of this Law shall be finalized in compliance with this Law, if this is more favorable to the party.

The Trademark Register established prior to the coming into force of this Law shall be harmonized with the present Law within a time period of six months from the date of coming into force of this Law.

The Trademark Application Register established prior to the coming into force of the present Law shall become a record of applications and shall be harmonized with the present Law, within a time period of six months from the date of coming into force of this Law.

### **The Right to the Continuation of Use**

#### **Article 64**

Marks used in good faith until the present Law came into force shall not be prohibited pursuant to Articles 10 and 11 of the present Law.

### **Recognized Rights**

#### **Article 65**

Trademarks registered and entered into the Trademark Register with the Intellectual Property Office of Serbia and Montenegro (herein after referred to as: Serbia and Montenegro Office), and/or with the Intellectual Property Office of Serbia

(herein after referred to as: the Serbian Office) until 28 May 2008, shall be valid until the expiry of their protection period, and/or until the expiry of the time period for which the trademark maintenance fee pursuant to the law was paid to the Serbian Office, without requiring the payment of an additional fee and without requiring any registration.

Trademarks, for which the competent authority has issued the trademark validity certificate in a form of a note affixed to the copy of the certificate issued by the Serbia and Montenegro Office or by the Serbian Office, shall be entered into the Register by the competent authority within a time period of one year from the date of coming into force of this Law, without requiring a separate application be filed.

The competent authority shall issue the trademark validity certificate for trademarks for which rights validity applications have been filed and it shall enter those trademarks into the Register within a time period of one year from the effectiveness date of the present Law.

Requests for the renewal of a trademark, requests for transfer and requests for the change of name and address, for trademark referred to in paragraph 1 of the present Article shall be deemed as requests for entry into the Register.

Trademarks referred to in paragraph 1 of the present Article, for which requests referred to in paragraphs 2, 3 and 4 of the present Article have not been filed, shall be effective in Montenegro if their holders file a request for entering such trademarks into the Register within a time period of one year from the date of coming into force of the present Law.

### **Community Trade Mark as an Earlier Trademark**

#### Article 66

Community Trade Mark which has been granted the earlier priority right referred to in Articles 22, 23 and 24 of the present Law

by the Office for Harmonization in the Internal Market of the European Union, shall be considered as an earlier trademark pursuant to Article 7 of the present Article until Montenegro's accession to the European Union.

The holder of the Community Trade Mark referred to in paragraph 1 of the present Article shall be entitled to file an opposition referred to in Article 31 of the present Law if, until the opposition filing date he/she files the application for the registration of a trademark in Montenegro.

### **By-laws**

#### Article 67

By-laws for the enforcement of the present Law shall be adopted within six months from the date of coming into force of this Law.

Until the adoption of the by-laws referred to in paragraph 1 of the present Article, by-laws adopted on the basis of the Trademark Law („Official Gazette of Serbia and Montenegro”, Nos. 61/04 and 7/05) shall be applicable, unless they are contrary to the provisions of the present Law.

### **Cessation of the Application of the Law**

#### Article 68

The Trademark Law („Official Gazette of Serbia and Montenegro” Nos. 61/04 and 7/05) shall cease to be applicable as of the date of coming into force of the present Law.

### **Effectiveness**

#### Article 69

This Law shall enter into force on the eighth day from the date of its publication in the “Official Gazette of the Montenegro”.

SU-SK No. 01-386/7  
Podgorica  
30 November 2010

**Parliament of Montenegro in its 24<sup>th</sup> convocation**  
Speaker of the Parliament  
**Ranko Krivokapić (sgd.)**