

Based on Article 6 paragraphs 2 and 7 Article 15 paragraph 4 and Article 17 of the Law on Customs Measures for Protection of Intellectual Property Rights (Official Journal of the Republic of Macedonia no. 38/2005) the Minister of Finance adopted

**A BOOK OF RULES FOR IMPLEMENTATION OF THE LAW ON CUSTOMS
MEASURES FOR THE PROTECTION OF INTELLECTUAL PROPERTY
RIGHTS**

I. GENERAL PROVISIONS

Article 1

This Book of Rules regulates in more detail the provisions of the Law on Customs Measures for Protection of Intellectual Property Rights, hereinafter referred to as ‘the Law’, that concern the: right-holder, the proof that the applicant is the right-holder, the form on which the application for action shall be submitted, the request of particulars by the customs authority, collection of the fee for the processing of the application for action, the time limits for the carrying out of the procedure and submission of a guarantee.

Article 2

Representative of the right-holder or other domestic and foreign, legal and natural person that has the right to use any of the intellectual property rights in accordance with Article 3 item 3) sub-item 2. of the Law on Customs Measures for the Protection of Intellectual Property Rights (hereinafter referred to as the ‘Law’) may be a natural or legal person. The term ‘legal person’ shall include collecting societies which have as their sole and principal purpose the management or administration of copyrights or related rights; groups and councils who have lodged a registration application for a protected designation of origin or a protected geographical indication.

**II. APPLICATION FOR ACTION AND DOCUMENTS TO ACCOMPANY THE
APPLICATION**

Article 3

(1) If an application for action within the meaning of Article 6 (1) of the Law is lodged by the right-holder himself, the proof required shall be as follows:

a) in the case of an industrial right that is registered or for which an application has been lodged, proof of registration with the relevant office or proof that the application has been lodged. An extract from the database of a foreign or domestic authority may be considered proof. For a protected designation of origin of the product and protected geographical indication, additionally proof needs to be provided also that the right-holder is a producer or a group of producers, as well as proof that the designation of origin of the product or the geographical indication is registered. This subparagraph shall apply *mutatis mutandis* for wines and spirits.

b) in the case of a copyright and related right which is not registered or for which an application has not been lodged, any evidence of authorship or of the applicant's status as original holder.

(2) Where the application for action is lodged by any other domestic and foreign, legal and natural person authorised to use one of the intellectual property rights, proof shall, in addition to the proof required under paragraph (1) of this Article, consist in the document by virtue of which the person is authorised to use the right in question.

(3) Where the application for action is lodged by a representative of the right-holder or of any other domestic or foreign, legal and natural person authorised to use one of the intellectual property rights, proof shall, in addition to the proof referred to in paragraph (1) of this Article, consist in his authorisation to act as representative. The representative, shall also produce a declaration in accordance with Article 7 of the Law, signed by the persons referred to in paragraphs (1) or (2) or by the representative himself.

Article 4

(1) The form of the application for action is given in Annex 1 of this Book of Rules.

(2) The form referred to in paragraph (1) of this Article shall contain the following: date of receipt of the application for action, the name and address of the competent authority at which the application has been submitted, details on the applicant, the status of the applicant, the type of rights to which the application relates, the name and address of the contact persons, the essential technical data on the original goods, particulars on

the type or scheme of the fraud, statement on the attached documents as proof that the applicant is the right-holder and an attached statement for undertaking, other useful information that the right-holder may possess.

(3) The form on which the statement for undertaking shall be submitted in accordance with Article 7 of the Law is given in Annex 2 of this Book of Rules.

(4) The form referred to in paragraph (1) and (3) of this Article shall be completed by electronic or mechanical means, or legibly by hand. Handwritten forms shall be completed in ink and in block capitals. Forms shall contain no erasures, overwritten words or other alterations. Where the form is filled in electronically, it shall be made available to the applicant in digital form on one or more public sites that are directly accessible by computer and may subsequently be reproduced. Documents and photos attached to the application for action in accordance with boxes 8, 9, 10 and 11 of the Form referred to in paragraph (1) of this Article shall be deemed to be an integral part of the form.

(5) The form referred to in paragraph (1) of this Article shall be made up of two copies:

- a) the copy for the customs authority, marked '1' and
- b) the copy for the right-holder, marked '2'.

(6) The applications, duly completed and signed, accompanied by documents and photos indicated in boxes 8, 9 and 10 shall be presented to the Central Administration of the Customs Administration, which, after accepting the form, shall retain it for at least one year longer than its legal period of validity.

Article 5

For the purposes of Article 6 paragraph 5 of the Law, the place of manufacture or production, the distribution network or names of licensees and other information may be requested by the Central Administration of the Customs Administration in order to facilitate the technical analysis of the products concerned.

III. FEE FOR THE PROCESSING OF THE APPLICATION FOR ACTION

Article 6

The customs authority shall for the processing of the application for action collect a fee in the amount of 5.000 denars, i.e. a fee of 2.000 denars for the processing of an application for extension of the period on the application for action.

IV. TIME LIMITS FOR TAKING ACTION

Article 7

If an application for action is lodged in accordance with Article 5 of the Law before expiry of the time limit of three working days and accepted by the Central Administration of the Customs Administration, the time limits referred to in Articles 11 and 13 of the Law shall be counted only from the day after the application is received. If the customs authority informs the declarant or holder of goods that the goods are suspected of infringing an intellectual property right and that, pursuant to Article 5 of the Law, they have been detained, or their release suspended, the time limit of three working days shall be counted only from the time the right-holder is notified.

Article 8

In the case of perishable goods, the procedure for suspension of release or for detention of the goods shall be initiated primarily in respect of products for which an application for action has already been lodged.

Article 9

Where Article 11 paragraph (4) of the Law applies, the right-holder shall notify the customs authority that proceedings have been initiated to determine whether an intellectual property right has been infringed in accordance with Article 14 of the Law. Except in the case of perishable goods, if insufficient time remains to apply for such proceedings before the expiry of the set period of 10 days, the situation may be deemed an appropriate case for extension of the period to 10 more work days within the meaning of Article 13 paragraph (1) of the Law.

V. GUARANTEE

Article 10

When determining the type, the procedure and the manner of lodging of the guarantee referred to in Article 15 of the Law, as well as its collection and refund, the provisions of the customs rules that refer to a guarantee covering a customs debt shall be applied accordingly by the customs authority.

VI. FINAL PROVISION

Article 11

This Book of Rules shall enter into force on the day of its publication in the '*Official Journal of the Republic of Macedonia*'.

No.

Minister of Finance

___ June 2005

Nikola Popovski, MA, handwritten signature

Skopje