

Unofficial translation

ACT ON TRADE NAMES

(Swedish Statute Book SFS 2018:1653)

Chapter 1. Basic provisions

Trade names and other commercial symbols

Article 1. A trade name is the denomination under which a trader carries out its activities. If a part of the activities is carried out under a specific denomination, this constitutes a specific trade name. What is said about trade names in this Act also applies to a specific trade name.

Another symbol that a trader uses for its activities is called a secondary symbol.

The common denomination for trade names and secondary symbols is commercial symbols.

Acquisition of exclusive rights

Exclusive right through registration or establishment on the market

Article 2. A trader acquires an exclusive right in a trade name through registration or through establishment on the market. The exclusive right in a secondary sign is acquired through establishment on the market.

A trade name is registered in accordance with the provisions in this Act and what is prescribed in other statutes concerning registration of certain types of trade names. The exclusive right in a registered trade name applies within the territory for which it has been registered.

A commercial symbol is deemed to be established on the market if it is, within this country, known within a considerable part of the turnover sphere to which it is addressed (the turnover sphere) as an indication for the activity carried out under the symbol. If the commercial symbol is established on the market only within a part of the country, the exclusive right applies only within that territory.

Exclusive right in trade symbols and personal names as commercial symbols

Article 3. The holder of a trademark or another trade symbol has an exclusive right to the symbol as a commercial symbol. If the trade symbol is protected only within a part of the country, the exclusive right applies only within that territory.

A party using its personal name as a commercial symbol has an exclusive right to the symbol as a commercial symbol if the name is distinctive for the activity for

which it is used. If the name is used only within a certain part of the country, the exclusive right applies only within that territory.

Meaning of the exclusive right

Article 4. The exclusive right in a commercial symbol pursuant to Articles 2 and 3 implies that no one other than the holder is, without his consent, entitled to use, in the course of commercial activities, a sign that is

1. identical with the commercial symbol and is used for an activity of the same kind,
2. identical with, or similar to, the commercial symbol for an activity of the same or similar kind, if a risk for confusion exists, including the risk that the use of the sign leads to the impression that a link exists between the user of the sign and the holder of the commercial symbol, or
3. identical with, or similar to, a commercial symbol which is, in this country, known within a substantial part of the turnover sphere, if the use without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the reputation of the commercial symbol, regardless of whether the use relates to activities of the same, similar or other kind.

The exclusive right in a registered trade name does not prevent anyone else from using, in commercial activities, a sign referred to in the first Paragraph within the territory where the trade name is protected, if it can be shown that the holder of the trade name cannot suffer any damage therefrom.

Limitation of the exclusive right

Article 5. The exclusive right in a commercial symbol does not provide any independent protection for a part of the symbol that lacks distinctiveness.

The exclusive right in a commercial symbol does not prevent anyone else from using, in the course of commercial activities, when it is carried out in conformity with honest business practices,

1. his personal name or his address,
2. indications about the type of the activity or the kind, quality, quantity, intended use, value, geographical origin or other characteristics of the goods or services offered in the course of the activity, or the time of production of the goods or the performance of the services,
3. a commonly used name of a place.

Conflicting rights

Article 6. If several parties claim an exclusive right in commercial symbols which are identical or similar in the manner prescribed in Article 4, the one having the earlier title to his claim shall prevail unless otherwise follows from Article 7.

Article 7. The right in a commercial symbol established on the market shall coexist with an earlier right in a commercial symbol which is identical or

confusingly similar in the way provided for in Article 4, if the holder of the earlier right has not, within a reasonable time, taken measures to prevent the use of the later symbol. In these situations, the right in the later commercial symbol does not prevent the use of the earlier one.

Upon a claim by one of the parties, a Court may, in the cases referred to in the first Paragraph, decide, if this is reasonable, that one of the symbols, or both, may be used only in a specific manner, such as in a certain styling or with the addition of an indication of a place or of the name of the holder.

Chapter 2. Registration of trade names

General requirements for registration

Article 1. A trade name may be registered only if it is capable of distinguishing the activity of its holder from those of others.

For the purposes of assessing whether a trade name is distinctive, consideration shall be given to the time and the scope of the use of the trade name. If the trade name consists only of a general denomination of the character of the activity or of a product or service offered in the activity, or if the trade name consists only of a generally used name of a place or something similar, the trade name shall not in itself be considered to be distinctive. If a denomination like a limited company, partnership or economic association, or an abbreviation of such a denomination, constitutes a part of the trade name, this denomination shall be disregarded in the assessment.

Public interests as obstacles to registration

Article 2. A trade name must not be registered if the trade name

1. is contrary to law or other statutes or to morality or public order,
2. includes, without permission, such a state or international designation that by law or other statute must not be used without permission as a trade name, or anything that may easily be mistaken for such a designation,
3. includes, without permission, a designation that under the Act (2014:812) on protection of designations in international humanitarian law must not, without permission, be used as a trade name or anything that may be mistaken for such a designation,
4. contains or reproduces in its essential parts an earlier plant variety denomination relating to a plant variety of the same or closely related plant variety to the extent that the plant variety is protected under the Act on the Protection of Plant Breeders Rights (1997:306) or Union law, or
5. is otherwise likely to mislead the public.

Other rights as obstacle to registration

Article 3. A trade name must not be registered if the trade name

1. is identical with an earlier commercial symbol for activities of the same kind,
2. is identical with, or similar to, an earlier commercial symbol for activities of the same or similar kind, if there is a risk for confusion, including the risk that the use of the trade name leads to the impression that a link exists between the user of the trade name and the holder of the commercial symbol,
3. is identical with or similar to an earlier commercial symbol that is known within a substantial part of the turnover sphere, and the use of the trade name would, without any reasonable cause, constitute an improper advantage from, or would create a damage to, the distinctiveness or reputation of the commercial symbol, regardless of whether the use relates to the same, similar or other kind of activities,
4. may be mistaken for a symbol which was, in this country or abroad, used by someone else at the time of the application and is still in use, if the applicant was in bad faith at the time of the application.

Article 4. The obstacles to registration of a trade name referred to in Article 3, items 1 to 3, apply in the same way to

1. a trademark registered pursuant to Chapter 2. of the Trademark Act (2010:1877) or an international trademark registration with effect in Sweden,
2. a trademark registered pursuant to the Regulation (EU) 2017/1001 of 14 June 2017 by the European Parliament and of the Council on European Union trademarks, or an international trademark registration with effect in the European Union, and
3. a trade symbol established on the market.

Article 5. If the trade name to which an application for registration refers shall have effect in the entire country and an earlier right relating to a commercial symbol established on the market or to a personal name or trade symbol established on the market protected pursuant to Chapter 1, Article 3, the obstacle to registration pursuant to Articles 3 and 4 exists only if the protection for the earlier right has effect in a substantial part of the country.

Article 6. A trade name must not be registered if it contains, or consists of

1. someone else's family name enjoying specific protection, or someone else's commonly known artistic name or similar name, if the use of the trade name would cause a disadvantage to the holder of the name and if the name obviously does not refer to a person long deceased,
2. something that violates another party's copyright in a literary or artistic work, or
3. something that is likely to give the impression of being the denomination of a foundation, a not-for-profit association or similar association.

Article 7. The provisions in Articles 3, 4 and 6 do not constitute an obstacle to registration if the holder of the earlier right consents to the registration.

Registration in several languages

Article 8. A trade name may be registered in two or more languages on condition that the language versions correspond as to their content. What is said in this Act on trade names shall apply to each one of the language versions.

Term of validity of the registration

Article 9. The registration has effect from the date when the application for registration was filed at the Registration Authority.

Chapter 3. Revocation of a registration

Grounds for revocation

General grounds

Article 1. A registration of a trade name may be revoked, if

1. the trade name has been registered in violation of this Act or of another statute,
2. the registration still conflicts with the Act or statute,
3. the right in the trade name may anyhow not persist pursuant to Chapter 1, Article 7, and
4. otherwise do not follow from Article 2 of this Chapter.

A registration may also be revoked if

1. the holder has ceased to be a trader,
2. the trade name has lost its distinctiveness,
3. the trade name has come in conflict with law or other statutes or morality or public order, or
4. the trade name has become misleading.

In the assessment of whether the registration of a trade name should be revoked due to lack of distinctiveness only such distinctiveness shall be taken into account which the trade name has acquired through use before the application for revocation.

Article 2. If a claim for revocation of the registration of a trade name has as its ground that an earlier registered trade name pursuant to Chapter 2, Article 3, constitutes an obstacle and if, at the time of application for revocation, more than five years had passed after the issue of registration of the earlier trade name was finally decided, the following applies. The registration of the later trade name may be revoked only if the earlier trade name has, within the latest five years before the

application for revocation, been put to genuine use in the way provided for in Article 3 for the activity constituting the ground for the claim.

If at the time of registration of the later trade name more than five years had passed after the issue of the registration of the earlier trade name was finally decided, the earlier trade name shall, furthermore, have been put to genuine use within the latest five years before the application for registration of the later trade name.

If the earlier trade name has not been used to the extent provided for in the first and second Paragraphs the registration of the later trade name may nevertheless be revoked if proper reasons exist why the earlier trade name has not been used to that extent.

Failure to use

Article 3. A registration of a trade name may be revoked, if the holder has not made genuine use of the trade name in Sweden for the activity for which it has been registered within five years from the date when the issue of registration has been finally decided or within a period of five consecutive years. The registration must, however, not be revoked on grounds of failure to use, if there are proper reasons why the trade name has not been used.

As use referred to in the first Paragraph, shall be considered also use of the trade name

1. in a form different from the registered one, if the difference relates only to details that do not change the distinctiveness of the trade name,
2. by someone else with the consent of the holder.

The registration must not be revoked if the trade name has been used during the interval between the expiry of the five-year period and the filing of the application for revocation of the registration. Use that is commenced or resumed after the expiry of the five-year period and within three months before the filing of the application for revocation shall, however, be disregarded, if the preparations for the commencement or resumption occurred after the time when the holder became aware of the fact that an application for revocation might be filed.

Procedure

The party wishing to initiate a proceeding for the revocation of a registration may bring an action before a Court or apply for the revocation of the registration at the appropriate Registration Authority pursuant to Articles 5 to 19 (administrative revocation).

An action for revocation of a registration pursuant to Article 1, second Paragraph, or Article 3, or Chapter 2, Article 1 or 2, may also be brought by a Public Authority. The Government may, pursuant to Chapter 8, Article 7, of the Instrument of

Government, issue regulations concerning which Authority shall be competent to do that.

Administrative Revocation

Content of the application

An application for administrative revocation shall contain

1. information about the parties to the extent prescribed in Chapter 33, Article 1, of the Code of Judicial Procedure,
2. a claim for revocation and information about the registration to which the claim refers, and
3. an account of the facts invoked as a ground for the claim for revocation.

The applicant shall pay the prescribed application fee.

The Government or the Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue regulations about what the application shall otherwise contain.

Deficiencies in the application

Article 6. If the application is so defective that it cannot form the basis for a processing of the matter, the Registration Authority shall invite the applicant to remedy the deficiencies within a specified time. The same applies if the applicant has not paid the application fee.

If the applicant fails to comply with the invitation, the application shall be dismissed. The applicant shall be informed about this in the invitation.

The application shall also be dismissed if it aims at a measure other than revocation of a registration or if another obstacle exists to its processing.

Removal following withdrawal

Article 7. If the applicant withdraws the application, the matter shall be removed from the files.

Unfounded application

Article 8. If it can be assumed that the application is unfounded, it shall be treated as if the holder has opposed it. In such a case, Article 12 applies.

Invitation to the holder to respond

Article 9. If the Authority accepts the application for processing, the Authority shall invite the holder of the registration to respond within a specified time after the serving of the application to the holder.

In the invitation, the holder shall be requested to

1. indicate whether the application is admitted or contested, and, if the application is contested, the reasons for the contestation,
2. provide information about himself or herself as indicated in Chapter 33, Article 1, first to third Paragraphs, of the Code of Judicial Procedure, to the extent that the information in the application is insufficient or incorrect.

Information shall be given in the invitation that the matter may be decided even if the holder fails to respond.

The Government or the Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue more detailed regulations concerning any further content of the invitation.

Serving of the invitation

Article 10. The invitation referred to in Article 9 shall be served upon the holder. The serving shall be carried out in the way prescribed in the Code of Judicial Procedure for the serving of summons in a civil case.

A copy of the application documents shall be attached to the invitation when the documents contain something in addition to what is indicated in the invitation.

If the applicant shall see to it that the serving is carried out, Chapter 32, Article 2, of the Code of Judicial Procedure applies.

Article 11. If the Registration Authority has not been able to serve the invitation, the Authority shall consider whether the efforts to carry out the serving shall continue or if the applicant shall be offered the opportunity to carry out the serving himself or herself. Consideration shall be given to the work and the cost that have so far been put into the serving, the chances that further efforts will succeed and to other circumstances. If the applicant does not accept the offer, the application shall be dismissed.

If the applicant shall take care of the serving, Chapter 32, Article 2, of the Code of Judicial Procedure applies.

Transfer to a Court

Article 12. If the holder in due time contests the application, the Registration Authority shall inform the applicant about this. If the applicant wishes to maintain the claim, he or she may request the matter to be transferred to the Court.

A request for a transfer shall have been filed at the Registration Authority within one month from the date when the information about the contestation was transmitted to the applicant. In the request, the applicant shall indicate the circumstances and the pieces of evidence invoked and what shall be proved by each piece of evidence. The applicant shall at the same time file the written evidence and other documents invoked.

If the applicant has requested a transfer in due time, the Registration Authority shall transmit the matter to the Court. If the applicant has not requested transfer in due time, the matter shall be removed from the files.

Article 13. A notification of the holder's contestation of the application pursuant to Article 12, first Paragraph, shall contain information concerning

1. that the applicant may request a transfer to the Court,
2. the time within which such a request shall be filed,
3. the content of such a request, and
4. what else is laid down in Article 12.

Revocation of the registration

Article 14. If the holder has not contested the application in due time, the Registration Authority shall revoke the registration in accordance with the application.

Reopening

Article 15. The holder of a registration which has been revoked pursuant to Article 14, may apply for reopening of the matter. Such an application shall be filed at the Registration Authority within one month from the date of the decision.

If the holder has applied for reopening in due time, the Registration Authority shall transfer the matter to the Court. In other cases, the Authority shall dismiss the application.

Notifications

Article 16. A notification of revocation shall be sent to the applicant and to the holder.

If an application for revocation is dismissed, the Registration Authority shall inform the applicant about this. If an application for reopening is dismissed, the Authority

shall inform the holder about this. If the Authority takes any other decision to the effect that the matter is concluded, both the applicant and the holder shall be informed about the decision unless this is obviously unnecessary.

Legal force

Article 17. After the time for an application for reopening has expired, a decision on revocation pursuant to Article 14 has legal force in accordance with what applies to a judgment in a civil case which has obtained legal force.

Further processing at the Court

Article 18. If a matter has been transferred to the Court, the claim shall be deemed to have been filed when the application for administrative revocation was filed at the Registration Authority. The documents filed by the applicant shall be deemed to constitute an application for a summons. A summons is deemed to be issued when the Court takes a decision on the processing of the case.

Article 19. If a matter has been transferred to the Court, the plaintiff shall pay the prescribed supplementary fee. In such a case, the provisions on application fees in Chapter 42, Articles 3 and 4, of the Code of Judicial Procedure apply to the supplementary fee.

If a case where the Registration Authority has decided on revocation is being dismissed by the Court because the supplementary fee has not been paid, the Court shall at the same time set aside the decision by the Registration Authority.

Appeal

Article 20. A decision under Article 14 on administrative revocation of a registration of a trade name must not be appealed. The same applies to a decision on the transfer to a Court or a decision on removal from the files pursuant to Article 12, third Paragraph. Other decisions on administrative revocation may be appealed to the Patent and Market Court within three weeks from the date of the decision. A decision during the processing of such a matter must not be appealed separately.

Enabling clause

Article 21. The Government is authorized to issue provisions on fees in matters relating to administrative revocation of a registration under this Act.

Removal after revocation

Article 22. If the registration of a trade name has been revoked by the Registration Authority pursuant to Article 14 or by the Court, the Registration Authority shall remove the registration of the trade name when the decision has obtained legal force. The decision on removal shall be announced.

In connection with the revocation of the registration of a trade name, the Registration Authority or the Court may decide that the trade name may remain in the register for a certain time, if this is reasonably necessary for the holder to be able to find a new trade name and apply for its registration.

Effect of a revocation

Article 23. If a registration of a trade name has been revoked pursuant to Article 1, first Paragraph, the registration shall be deemed to never have had any legal effect.

If a registration has been revoked pursuant to Article 1, second Paragraph, or Article 3 the registration shall be deemed to have lost its effect from the date of the application for revocation. Upon a claim by a party, the Court or, in the case of administrative revocation, the Registration Authority, may decide that the registration shall instead be deemed to have lost its effect on the date when the circumstances constituting the ground for revocation came into existence.

Chapter 4. Transfer and prohibition against attachment and sale

Article 1. A trade name may be transferred only together with a transfer of the commercial activity where it is being used.

A transfer of the commercial activity includes also the trade name, unless otherwise agreed. This does, however, not apply if the trade name includes the family name of the transfer or, in the case of a transfer of a partnership, of a partner.

If a trade name which includes the family name of the deceased forms part of an estate, the estate administrator must not transfer the trade name without consent of the parties to the estate.

Article 2. A trade name must not be attached and sold. If the holder enters into bankruptcy, the right to the trade name forms part of the bankruptcy estate, unless the trade name includes the family name of the debtor or, in the case of bankruptcy of a partnership, one of the partners. A trade name which does not form part of a bankruptcy estate may nevertheless be used during the time the activity continues on behalf of the estate.

Chapter 5. Criminal liability, prohibition on penalty of a fine, damages, etc.

Criminal liability

Article 1. A person who wilfully or by gross negligence infringes the right in a commercial symbol (trade name infringement) shall be punished by fines or imprisonment for not more than two years. A party that has violated a prohibition on penalty of a fine pursuant to Article 3, must not be held liable for infringements covered by the prohibition.

Attempts, or preparatory acts, to commit offences under the first Paragraph are punished pursuant to Chapter 23 of the Penal Code.

The Public Prosecutor may bring a prosecution for an offence only if the injured party reports it for prosecution of the offence and a prosecution is, for special reasons, called for in the public interest.

Forfeiture

Article 2. The property to which an offence pursuant to Article 1 relates, shall be declared forfeited if this is not obviously unreasonable. Instead of the property its value may be declared forfeited. Also profits from such an offence shall be declared forfeited unless this is obviously unreasonable. The same applies to what someone has received as a compensation for costs related to such an offence, or the value of what has been received, if the act of receiving constitutes an offence under Article 1.

Property which has been used as an implement in an offence under Article 1 may be declared forfeited if this is necessary for the prevention of offences or if otherwise special reasons exist. The same applies to property that has been intended to be used as an implement in an offence under Article 1, if the offence has been completed or if the act has constituted a punishable attempt or a punishable preparation. Instead of the property its value may be declared forfeited.

Prohibition on penalty of a fine

Article 3. Upon a claim by a party that has suffered a trade name infringement, the Court may issue an injunction prohibiting, on penalty of a fine, the party that commits, or contributes to, the infringement to continue that act.

The Court may issue an injunction under penalty of a fine for the time until the case has been finally adjudicated or otherwise has been decided if

1. the plaintiff shows a probable cause that a trade name infringement or a contribution to an infringement, takes place, and
2. it may reasonably be expected that the defendant, through the continuation of the act, or the contribution thereto, diminishes the value of the exclusive right in the trade name.

Before such an injunction pursuant to the second Paragraph is issued, the defendant shall be given an opportunity to respond, unless a delay would entail a risk for damage.

The first to third Paragraphs also apply to acts involving attempts to, or preparations of, infringements.

Article 4. A prohibition pursuant to Article 3, second Paragraph, may be issued only if the plaintiff deposits a security at the Court for the damage that may be

caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him or her from it.

The provisions in Chapter 2, Article 25, of the Enforcement Code shall apply as regards the type of security to be deposited. The security shall be examined by the Court unless it has been approved by the defendant.

Article 5. If a prohibition has been issued pursuant to Article 3, second Paragraph, the Court shall, when the case is adjudicated, consider whether the prohibition shall continue to apply.

As regards appeal against decisions pursuant to Article 3, second Paragraph, and Article 4, and as regards proceedings in higher Courts, the provisions on appeals against decisions in Chapter 15 of the Code of Judicial Procedure apply.

Article 6. A claim for the imposition of a fine may be brought by the party that has requested the prohibition.

Damages

Article 7. Anyone who wilfully or by negligence commits a trade name infringement shall pay a reasonable compensation for the exploitation of the commercial symbol and compensation for the further damage caused by the infringement. When the amount of the compensation for the further damage is decided special consideration shall be given to

1. lost profit
2. profit made by the party committing the infringement
3. damage caused to the reputation of the commercial symbol,
4. moral damage, and
5. the interest of the right-holder that infringements are not committed.

Anyone who without intent or negligence commits a trade name infringement shall pay a compensation for the exploitation of the commercial symbol to the extent reasonable.

Limitation of criminal liability, liability to pay damages and possibility of forfeiture

Article 8. If a trade name infringement is related to a trade name protected solely on the basis of a registration,

1. no criminal liability pursuant to Article 1 shall be adjudicated for the infringement committed before the date of the registration,
2. forfeiture pursuant to Article 2 must not relate to the infringement committed before the date of the registration, and
3. compensation pursuant to Article 7 shall be paid for the infringement committed before the date of the registration only if the infringement has been committed wilfully.

Statutory limitation of the right to damages

Article 9. The right to compensation for damages shall be statute-barred if an action has not been brought within five years from the time when the damage occurred. The right to compensation for an infringement of a trade name protected solely on the basis of a registration is, however, in no case statute-barred earlier than one year from the registration date.

Measures relating to property and implements

Article 10. Upon a claim by a party suffering a trade name infringement, the Court may, in so far as is reasonable, decide that property on which commercial symbols appears without permission shall be recalled from the market, be altered or destroyed or some other measure be taken in respect of it. The same applies to implements that have been, or have been intended to be, used for the infringement.

Property referred to in the first Paragraph may be seized if it can reasonably be assumed that an offence pursuant to Article 1 has been committed. In respect of such seizures, the provisions on seizure in criminal cases in general apply.

The first and second Paragraphs apply also to attempts and preparations to commit an infringement.

Article 11. A decision on a measure referred to in Article 10, first Paragraph, must not imply that the party suffering a trade name infringement will be obliged to pay a compensation to the party against which the measure is directed.

The measures shall be paid for by the defendant where there are no specific reasons against it.

A decision referred to in Article 10 shall not be issued if forfeiture or a measure for the prevention of wrongful acts shall be decided pursuant to Article 2 or the Penal Code.

Dissemination of information about a judgment

Article 12. In a case relating to a trade name infringement the Court may, upon a claim by the plaintiff, decide that the party having committed, or contributed to, the infringement shall defray appropriate measures to disseminate information about the judgment in the case.

The first Paragraph applies also to attempts and preparations to commit an infringement.

Chapter 6. Orders to provide information and infringement investigations.

Order to provide information

Basic provisions

Article 1. If an applicant shows a probable cause that someone has committed a trade name infringement, the Court may order, on penalty of a fine, that one or several of the parties referred to in the second Paragraph shall provide information to the applicant concerning the origin and distribution networks of the goods or services in respect of which the infringement has been committed (order to provide information). Such an order may be issued upon a claim by the party suffering the infringement. It may be issued only if the information can be assumed to facilitate the inquiry into an infringement relating to the goods or services.

An order to provide information may be directed against any party that

1. has committed, or contributed to, the infringement,
2. has on a commercial scale exploited the goods that the infringement concerns,
3. has on a commercial scale exploited the service that the infringement concerns,
4. has on a commercial scale made available an electronic communication service or another service that has been used in the infringement, or
5. has been identified by a party referred to in items 2 to 4 as being involved in the production or distribution of the goods, or the making available of the service, that the infringement concerns.

The information about the origin or distribution network of goods or services may, in particular, include

1. the names and addresses of producers, distributors, suppliers and others who have previously held the goods or made available the services,
2. the names and addresses of intended wholesalers and retailers, and
3. information about how much has been produced, delivered, received or ordered and about the price fixed for the goods or services.

The first to third Paragraphs apply also to attempts and preparations to commit an infringement.

Article 2. An order to provide information may be issued only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or to any other opposite interest.

The obligation to provide information under Article 1 does not include information the revelation of which would disclose that the provider of the information or any person closely related to him or her as referred to in Chapter 36, Article 3, of the Code of Judicial Procedure has committed a criminal offence.

The Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) contains provisions limiting the use that may be made of personal data received.

Processing of matters relating to orders to provide information

Article 3. If the claim for an order to provide information is directed against the applicant's opposing party in a case relating to an infringement, the provisions on court procedures for that case apply. A decision on an order to provide information may be appealed separately.

If the claim for an order to provide information is directed against a party other than the one referred to in the first Paragraph, the provisions in the Act (1996:242) on Court Matters apply. The Court may decide that each party shall bear its own litigation costs.

An action for the imposition of a fine may be brought by the party that applied for the order.

Right to compensation

Article 4. Anyone who under Article 1, second Paragraph, items 2 to 5, has been ordered to provide information under the first Paragraph of the same Article, has a right to a reasonable compensation for the costs and inconvenience caused. The compensation shall be paid by the party applying for the order to provide information.

Obligation to notify in certain cases

Article 5. A party that makes available an electronic information service and who has, pursuant to an order to provide information, delivered information referred to in Chapter 6, Article 20, of the Act (2003:389) on Electronic Communication, shall send a written notification concerning this fact to the party whom the information concerns not earlier than one month and not later than three months from the delivery of the information. Costs for the notification shall be compensated in accordance with Article 4.

Infringement investigation

Basic provisions

Article 6. If it can reasonably be assumed that someone has committed, or contributed to, a trade name infringement, the Court may, for the preservation of evidence relating to the infringement, order that an investigation be undertaken in respect of that party to search for objects or documents that may be assumed to be important for the inquiry into the infringement (*infringement investigation*). Such an order may be issued upon a claim by the party suffering the infringement. If legal proceedings have not been initiated, the claim shall be submitted in writing.

The first Paragraph applies also to attempts and preparations to commit an infringement.

Article 7. An order for an infringement investigation may be issued only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or to any other opposite interest.

Processing of matters relating to an infringement investigation

Article 8. Before an order for an investigation is issued, the opposite party shall be given an opportunity to respond. If a delay would entail a risk that objects or documents of importance for the inquiry into the infringement would be removed, destroyed or distorted, the Court may, however, immediately issue an order to be valid until otherwise decided.

In other respects, any issue relating to an infringement investigation which arises before legal proceedings have been initiated shall be processed in the same way as if the issue had arisen during a legal proceeding.

Posting of a security

Article 7. An order for an infringement investigation may be issued only if the applicant posts a security at the Court for the damage which may be caused to the opposite party. If the applicant is not able to post such a security, the Court may liberate him or her from it.

The provisions of Chapter 2, Article 25, of the Enforcement Code shall apply in respect of the security to be posted. The security shall be examined by the Court unless the opposite party has approved it.

The decision on an infringement investigation

Article 10. An order for an infringement investigation shall include information about

1. the purpose of the investigation,
2. the objects and documents that may be searched for, and
3. the premises that may be searched.

If necessary, the Court shall set also other conditions for the execution of the order.

Appeal against the decision

Article 11. In respect of appeals against the decision by the Court for an infringement investigation and in respect of the proceedings in higher Courts the provisions on appeal against decisions in Chapter 15 of the Code of Judicial Procedure apply.

Execution of an order for an infringement investigation.

Article 12. A decision on an order for an infringement investigation is immediately enforceable. If an application for its execution has not been filed within one month from the decision, the order becomes invalid.

Article 13. An order for an infringement investigation is executed through the Enforcement Authority in accordance with the conditions prescribed by the Court and in applying Chapters 1 to 3, Chapter 17, Articles 1 to 5, and Chapter 18, of the Enforcement Code. The applicant's opposite party shall be informed about the execution only if the decision on an infringement investigation has been issued after hearing the opposite party. The Authority has the right to take photographs and to make video and sound recordings of such objects for which it is authorised to search. The Authority also has the right to make copies of, and extracts from, such documents for which it is authorised to search.

An infringement investigation must not concern written documents referred to in Chapter 27, Article 2, of the Code of Judicial Procedure.

Legal assistance and right to attend the infringement investigation

Article 14. The opposite party has the right to summon an attorney when a decision on an infringement investigation shall be executed. The execution must not begin before the attorney has arrived. This does, however, not apply if

1. the investigation is thereby unnecessarily delayed, or
2. there is otherwise a risk that the purpose of the measure will not be achieved.

During the execution the Enforcement Authority is authorised to engage, if necessary, the services of an expert.

The Authority may permit the applicant or a representative of the applicant to attend the investigation in order to provide information. If such a permission is granted, the

Authority shall see to it that the applicant or the representative is not informed about the findings more than can be justified by the execution.

Invalidation of a measure taken at an infringement investigation

Article 15. If the applicant does not, within one month from the conclusion of the execution, file an action or in some other manner initiates a proceeding relating to the matter, any measure undertaken in the context of the execution shall immediately be invalidated to the extent possible. The same applies if a decision on an infringement investigation is invalidated after the execution has been concluded.

Processing of material from the infringement investigation

Article 16. The Enforcement Authority shall list photographs and video and sound recordings of objects as well as copies of, and extracts from, documents from the Infringement investigation. The material shall be held available for the applicant and the opposite party.

Chapter 7. Other provisions

Competent Court

Article 1. The Patent and Market Court is the competent Court in matters pursuant to this Act if they are not to be processed under the Act (1974:371) on Litigation in Labour Disputes.

The provisions in the Code of Legal Procedure about limitation of the competence of a Court in cases which shall be processed otherwise than by a Court shall not apply to claims for an order to provide information or for an infringement investigation.

Notification of judgments

Article 2. The Court shall inform the Registration Authority about any judgment relating to

1. revocation of the registration of a trade name, or
2. infringement of a registered trade name.

The Court shall also inform the Registration Authority about any judgment in cases where an action has been brought for a declaratory judgment relating to a registered trade name.

Objection related to invalidity

Article 3. If an action for infringement of a registered trade name is brought and the party against which the action is brought asserts that the registration is not valid, the issue of invalidity may be considered only after an action for revocation has been brought. The Court may invite the party claiming that the registration is

not valid, to bring such an action before a Court within a specified period of time. Has no action for invalidation been brought, the issue of invalidity may nevertheless be adjudicated in a criminal case and in a case referred to in Article 4.

The first Paragraph applies also if, in a case concerning a declaratory judgment relating to a registered trade name, it is asserted that the registration is invalid.

Specific requirements for approval of an action relating to an infringement

Article 4. If an action is brought relating to infringement of a registered trade name and if, at the time of the filing of the action, more than five years had lapsed after the issue of the registration of the trade name was finally decided, the following applies. The action may be approved only if the trade name has, within the five latest years before the filing of the action, been put to genuine use in the manner prescribed in Chapter 3, Article 3, for the activity constituting the basis for the claim.

If a claim pursuant to the first Paragraph relates to an infringement through the use of a later registered trade name and at the time for the application for registration of the later trade name more than five years had lapsed after the matter of the registration of the earlier trade name was finally decided, the earlier trade name shall, furthermore, have been put to genuine use within the five latest years before the registration of the later trade name.

If the earlier trade name has not been used to the extent provided for in the first and second Paragraphs, the claim may nevertheless be approved if there are proper reasons why it has not been used to that extent.

The first to third Paragraphs shall be applied also when an action has been brought for a declaratory judgment on whether a certain activity constitutes an infringement of a registered trade name.

Obstacles to the adjudication of liability, etc.

Article 5. If a registration of a trade name has been revoked pursuant to Chapter 3, Article 1, first Paragraph, the Court must not adjudicate liability pursuant to Chapter 5, Article 1, or decide on damages or another measure pursuant to Chapters 5 or 6. If a registration has been revoked pursuant to Chapter 3, Article 1, second Paragraph, or Article 3, the Court must not adjudicate liability pursuant to Chapter 5, Article 1.

Processing of personal data

Article 6. In addition to what follows from Chapter 3, Articles 8 and 9, of the Act (2018:218) on Additional Provisions relating to the European Union Data Protection Regulation, personal data on violations of law constituting offences under Chapter 5, Article 1, may be processed if this is necessary in order for a legal claim to be established, asserted or defended.

Signing of a trade name

Article 7. Signing of a trade name is done through a clear indication of the complete trade name and the signing of the name of the trade name signatory. At the signing of the trade name for a part of the activity carried out under a specific trade name, also the trade name for the entire activity shall be indicated.

In the case of liquidation or bankruptcy the signing of the trade name shall include an addition stating the modified situation.

In respect of the signing of a trade name, what is stated in other statutes also applies.

Trade names established in a specific way

Article 8. An authority or another institution or association for which the Government has established a trade name has an exclusive right to that name as if it had been registered under this Act.

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1. This Act enters into force on January 1, 2019.
 2. This Act repeals the Trade Names Act (1974:156)
 3. The repealed Act still applies
 - a. to acts undertaken or rights acquired before the entry into force, and
 - b. as regards the provisions on competent Courts and proceedings in Courts, in respect of cases and matters initiated in ordinary Courts before September 1, 2016.
 4. The new Act applies also to commercial symbols which have been established on the market, trade names which have been registered and applications for registration which have been filed before the entry into force, unless otherwise follows from item 3.
 5. National and international trademarks which have, through registration, been granted protection in Sweden pursuant to earlier regulations shall be deemed to be trademarks referred to in Chapter 2, Article 4, item 1.
 6. The Swedish Central Bank and "Svenska Skeppshypotekskassan" and any other institution or association which has been granted an exclusive right to its trade name in accordance with the Trade Names Act (1974:156), Article 27, shall continue to enjoy an exclusive right in the trade name as if it had been registered as a trade name under this Act.
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