

## **LAW NO 4679 (GOVERNMENT GAZETTE A' 71/20.03.2020)**

**Trade marks - transposition of Directive (EU) 2015/2436 on the approximation of the laws of the Member States relating to trade marks and Directive 2004/48/EC on the enforcement of intellectual property rights and other provisions.**

### **CHAPTER A**

#### **CONCEPT AND CONDITIONS OF PROTECTION**

##### **Article 1**

(Articles 1, 2 of Directive 2015/2436/EU)

##### **Scope - definitions – components of the trade mark**

1. With this Law, Directive 2015/2436/EU "on the approximation of the laws of the Member States relating to trade marks" is incorporated into Greek law and Directive 2004/48/EC "on the enforcement of intellectual property rights" is re-incorporated.

2. This Law shall apply to national trade marks. It shall also apply to international trade mark registrations filed in accordance with the Madrid Protocol (1989) ratified by the first article of Law No. 2783/2000 (A' 1), in the International Register maintained by the International Bureau of the World Intellectual Property Organization (WIPO), provided that their protection has been extended to Greece, as provided for in the afore mentioned Protocol.

‘3. For the purposes of this Law the following terms shall have the meaning set out next to each of them:

a) National trade mark, or simply trade mark: the right granted by the Trade Marks Directorate or the Administrative Courts, in accordance with this Law, regulated by this Law and having effect in the Greek Territory.

b) EU trade mark: the right granted by the European Union Intellectual Property Office (EUIPO) in accordance with Regulation 2017/1001/EU, regulated by it and having effect throughout the European Union, with a uniform character in all Member States.

c) International trade mark or approved international registration: the right based on an International Registration in the international trade mark register maintained by the World Intellectual Property Organization (WIPO) in accordance with the Madrid Protocol (1989), which is granted by the Trade Marks Directorate or the Administrative Courts in accordance with the above Protocol and this Law, following an application for extension of protection in the Greek Territory and is protected in the same way as a national trademark.

d) International Registration: registration in the International Register maintained by the International Bureau of the World Intellectual Property Organization (WIPO) in accordance with the above Protocol.

(e) International Register: the register of international registrations maintained by the World Intellectual Property Organization (WIPO) in accordance with the above Protocol.

f) Hellenic Industrial Property Organisation (HIPO): the private legal entity of Law No. 1733/1987 (A' 171), which is responsible under this Law for maintaining the register of trade marks and has the jurisdiction provided for in paragraph 1 of Article 47.<sup>1</sup>

(g) Auditors: officials of the Trade Marks Directorate appointed in accordance with paragraph 3 of Article 20, who shall examine the trade mark applications with regard to the completeness of their content, the representation of the trade mark, the description of the goods and services, the fees and any other information or documents accompanying them.

h) Researchers: officials of the Trade Marks Directorate appointed in accordance with paragraph 3 of Article 20 who carry out investigations of earlier trade marks within the meaning of paragraphs 1 and 2 of Article 5.

(i) Examiners: officials of the Trade Marks Directorate appointed in accordance with paragraph 3 of Article 20 who examine the existence of absolute grounds for inadmissibility within the meaning of Article 4.

j) Registrars: officials of the Trade Marks Directorate appointed in accordance with paragraph 3 of Article 20 who enter trade marks in the Register after verifying that no oppositions have been filed or that these have been rejected by a decision of the Administrative Trade Marks Committee for which the time limit for appeal to the Administrative Court of First Instance has expired or that these have been rejected by a decision of the Administrative Courts which is or has become final.

k) Administrative Trade Marks Committee: the Committee referred to in Article 30 which has the jurisdiction provided for in paragraph 2 of Article 47.

(l) Register of Trade Marks or, simply, Register: the Register referred to in Article 33 which shall contain national trade marks, national collective trade marks, national certification trade marks, international trade marks, as well as the relevant declarations (applications) pending examination.

(m) Declaration of filing of a trade mark or, simply, declaration: an application for the grant of a right to a national trade mark examined in accordance with the formal and substantive requirements herein.

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<sup>1</sup> Point f' was replaced, points f' to l' were added and paragraph 3 was formed as above by article 39 of Law No. 4796/2021, Government Gazette A 63/17.4.2021.

n) Registration: the definitive entry of the trade mark filing application in the Trade Mark Register after the examination of the formal and substantive requirements herein, which gives rise to the right to the national trade mark.

o) Claiming international priority or claiming priority or priority rights: the fictitious temporal priority enjoyed in Greece by a declaration of filing of a national trade mark under Article 4 of the International Paris Convention 1883 (Law 213/1975, A' 258) or an international registration under Articles 3, 3ter and 4 of the Madrid Protocol of 1989.

p) Trade Marks Directorate: where reference is made to the Trade Marks Directorate, this shall mean the HIPO.

(q) Director or Head of the Trade Marks Directorate: where the Director or Head of the Trade Marks Directorate is referred to herein, this means the Board of Directors of the HIPO.

r) Website of the Ministry of Development and Investments: where the website of the Ministry of Development and Investments is referred to herein, this means the website of the HIPO.

(s) Minister of Development and Investments: the powers of the Minister of Development and Investments provided for in par. 6 of Article 2, concerning the determination of the technical specifications of the file of the representation of the mark, in par. 1 of Article 20, concerning the determination of the form of the trade mark declaration, in par. 6 of Article 33 concerning the technical specifications of the electronic trade mark register, in par. 4 of Article 35, concerning the determination of the specifications for the electronic and physical file and the keeping of files, in paragraph 3 of Article 82, concerning the determination of the form of the declaration of conversion of an international trade mark, in par. 3 of Article 84, concerning the determination of the form of the declaration of conversion of a trade mark of the European Union, shall be transferred to the Board of Directors of the HIPO. Where reference is made in these provisions to a decision of the Minister of Development and Investments, this shall mean a decision of the Board of Directors of the HIPO.<sup>2</sup>

## **Article 2**

(Article 3 of Directive 2015/2436/EU)

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<sup>2</sup> Effective, in accordance with Article 48 of this Law, from the adoption of a joint decision of the Ministers of a) Development and Investments and b) Finance, upon the recommendation of the Board of Directors of the Hellenic Industrial Property Organisation.

See Joint Decision No. 48793/13.05.2022 of the Ministers of Finance and Development and Investments on "Entry into force of Chapter C of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Hellenic Industrial Property Organisation of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022)

### **Signs of which a trade mark may consist - signal representation<sup>3</sup>**

1. The national trade mark may consist of any signs, in particular words, including the name of persons, or designs, letters, numerals, colors, the shape of the good or the packaging of the good, or sounds, provided that these signs:

(a) are capable of distinguishing the goods or services of one undertaking from the goods or

services of other undertakings and

(b) may be represented in the register in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

2. For the purpose of point b of paragraph 1, the representation of the trade mark shall be submitted to the Register in any appropriate form, using commonly available technology, which enables its representation in a clear, precise, self-contained, easily accessible, intelligible, durable and objective manner.

3. The representation of the trade mark determines the subject of the registration. If the representation is accompanied by a description pursuant to points (d), (e), (f), (bb) and (h) of paragraph 4 or paragraph 5, that description must be consistent with the representation and must not broaden its scope. In the event of a discrepancy between the description and the representation, the latter shall prevail.

4. If the declaration relates to any type of trade mark referred to in points (a) to (j) below, it shall contain an indication of the type of the trade mark. The type of trade mark and its representation must be consistent with each other and the conditions set out in paragraphs 1 to 3 must also be fulfilled. For this purpose, the representation of the mark shall be as follows:

(a) in the case of a mark consisting exclusively of words, letters, numerals, other common characters or a combination of the above (word trade mark), the trade mark shall be represented by a standardised font and layout, without any graphic feature or color,

(b) in the case of a mark where non-standard characters, a manner of representation or arrangement or a graphic feature or color (figurative trade mark) are used, including trade marks consisting exclusively of figurative elements or a combination of verbal and figurative elements, the trade mark shall be represented by a representation showing all its elements and, where appropriate, its colors,

(c) in the case of a trade mark consisting of or including a three-dimensional shape, including the containers, packaging and the product itself or its appearance (three-dimensional shape trade mark), the trade mark shall be represented either by a

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<sup>3</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

graphic representation of the shape, among others, by means of computer-generated images, or by a photographic representation. The graphical or photographic representation may contain more perspectives. If the representation is not submitted electronically, it may contain up to six (6) different perspectives,

(d) in the case of a mark consisting of the particular way in which the mark is placed or affixed to the good (affixed mark), the trade mark shall be represented by a representation which appropriately identifies the position of the mark and its size or its proportion in relation to the goods concerned. The elements which are not the subject of the registration shall be visually differentiated, preferably by dotted or broken lines. The representation may be accompanied by a detailed description of how the mark is affixed to the goods,

(e) in the case of a trade mark consisting exclusively of a set of elements which are repeated in an orderly manner (pattern mark), the trademark shall be represented by a display showing the repeated pattern. The representation may be accompanied by a detailed description of the orderly manner in which its elements are repeated,

(f) in the case of a trade mark consisting of color:

(aa) if the trade mark consists exclusively of a single color without contours, the trade mark shall be represented by a representation of the color accompanied by a mention of that color referring to a generally recognized color code,

(bb) if the mark consists exclusively of a combination of colors without contours, the mark shall be represented by a representation showing the systematic arrangement of the combination of colors in a uniform and predetermined manner, accompanied by a mention to those colors referring to a generally recognized color code. A detailed description of the systematic arrangement of the colors may also be provided.

(g) in the case of a trade mark consisting exclusively of a sound or combination of sounds (sound trade mark), the trade mark shall be represented by means of an audio file in which the sound is reproduced or by the exact representation of the sound by means of musical notation,

(h) in the case of a trade mark which consists of or includes a movement or a change in position of the elements of the trade mark (motion trade mark), the trade mark shall be represented by a video file or by a series of successive still images representing the movement or change in position. Where still images are used, they may be numbered or accompanied by an explanatory description of the sequence,

(i) in the case of a trade mark consisting of or including a combination of video and audio (audiovisual trade mark), the trade mark shall be represented by means of an audiovisual file containing the combination of video and audio,

(j) in the case of a trade mark consisting of elements with holographic characteristics (holographic mark), the trade mark shall be represented by means of a video file or a graphic or photographic representation containing the perspectives necessary to adequately identify the holographic effect as a whole.

5. If the trade mark does not belong to the species listed in paragraph 4, its representation must comply with the conditions laid down in paragraphs 1 and 2 and may be accompanied by a description.

6. The type, size and any other technical detail of the electronic or paper imaging file of the trade mark to be filed shall be determined by a decision of the Minister of Development and Investment.

### **Article 3**

(Article 10(1) of Directive 2015/2436/EU)

#### **Acquisition of the right to the trade mark<sup>4</sup>**

The right to the trade mark is acquired by its registration in the register.

### **Article 4**

(Article 4 of Directive 2015/2436/EU)

#### **Absolute grounds for inadmissibility<sup>5</sup>**

1. Shall not be registered as trade marks, or if registered they may be declared invalid, signs which:

a) cannot constitute a trade mark in accordance with paragraph 1 of Article 2

b) are devoid of any distinctive character,

(c) consist exclusively of signs or indications which may serve in trade to designate the kind, quality, quantity, destination, value, geographical origin, or the time of production of the good or provision of the service or other characteristics of the good or service,

(d) consist exclusively of signs or indications which have become customary in everyday language or in the fair and established practice of the trade,

(e) consist exclusively of:

(aa) the shape or other characteristic imposed by the very nature of the good or

(bb) the shape or other characteristic of the goods necessary to achieve a technical result, or

(cc) the shape or other characteristic of the product which gives it substantial value,

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<sup>4</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>5</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

- (f) are contrary to public order or morality,
- (g) could mislead the public, in particular as to the nature, quality or geographical origin of the product or service,
- h) their filing, in the absence of the permission of the competent authorities, is contrary to Article 6ter of the International Convention of Paris (1883), ratified by Law No. 213/1975 (A` 258),
- (i) in addition to those referred to in Article 6ter of the Paris Convention (1883), consist of or include distinctive symbols, emblems or escutcheons which are of public interest and which have not been authorised for registration by the competent authorities,
- (j) their registration is excluded by Greek or EU legislation or international agreements to which the Union or Greece is a party, which provide for the protection of designations of origin and geographical indications,
- (k) their registration is excluded by the EU or Greek legislation or the international agreements to which the Union or Greece is a party, which provide for the protection of traditional wine names,
- (l) their registration is excluded by EU legislation or by international agreements to which the Union is a contracting party, which provide for the protection of traditional specialty guaranteed products,
- m) consist of or reproduce in their essential elements an earlier name of a plant variety registered in accordance with Greek or EU legislation or international agreements to which the Union or Greece is a party, which provide for the protection of plant variety rights and which relate to plant varieties of the same species or closely related species,
- (n) are filed contrary to good faith,
- o) have great symbolic significance, especially religious symbols, representations and words.

2. Notwithstanding the points (b), (c) and (d) of paragraph 1, a sign shall be accepted for registration if, by the date of its filing, has acquired a distinctive character through its use. A registered trade mark shall not be declared invalid on the same grounds if, before the date of the application for a declaration of invalidity, it has acquired distinctive character through use.

## **Article 5**

(Article 5 of Directive 2015/2436/EU)

### **Relevant grounds for inadmissibility<sup>6</sup>**

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<sup>6</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

1. Where an opposition under Article 25 is filed by the proprietor of an earlier trade mark, a sign shall not be accepted for registration or, if registered, shall be invalidated following an application for a declaration of invalidity under Article 52 or following a counterclaim for invalidity in an action for infringement of a trade mark under paragraph 12 of Article 38:

(a) if it is identical with an earlier trade mark and the goods or services for which the trade mark is applied for or registered are identical with those for which the earlier trade mark is protected,

(b) if because of its identity with, or similarity to, the earlier trade mark and the identity or similarity of the goods or services covered by the two trade marks, there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association with the earlier trade mark,

(c) whether it is identical or similar to an earlier trade mark, regardless of whether the goods or services for which it is applied for or registered are identical or similar or not similar to those for which the earlier trade mark is registered, provided that the earlier trade mark has a reputation in Greece or, in the case of a European Union trade mark, it has a reputation in the Union and the use of the later trade mark, without due cause (*sans juste motif, ohne rechtfertigenden Grund*), would take unfair advantage of, or be detrimental to, the distinctive character or the reputation of the earlier trade mark.

2. Earlier trade marks within the meaning of this Law shall mean:

a) trade marks, including international trade marks valid in Greece, and European Union trade marks, which have been filed before the date of filing of the trade mark declaration, after taking into account the priority or seniority rights of those claimed,

b) earlier trade mark declaration, including the above international trade marks and European Union trade marks, without prejudice to their registration,

c) trade marks which, on the date of filing of the trade mark declaration or, where applicable, on the date of priority claimed in support thereof, are well known throughout the world within the meaning of Article 6bis of the Paris Convention (1883).

3. Upon the filing of an opposition under Article 25 by the proprietor of an earlier right, a sign shall not be accepted for registration or, if registered, shall be invalidated upon the filing of an application for the declaration of invalidity under Article 52 or upon the filing of a counterclaim in an action for infringement of a trade mark under paragraph 12 of Article 38, if:

a) it infringes a right to an earlier distinctive sign used, in the course of trade, which confers on the proprietor the right to prohibit the use of a later mark, provided that that right was acquired before the date of filing of the sign in question, taking into account the priority rights claimed,



b) infringes a prior right of personality of a third party or a prior intellectual or industrial property right other than those regulated by this Law,

c) is likely to cause confusion regarding a trade mark registered and in use in a foreign country at the time of filing the declaration, if the declaration is made in bad faith by the applicant,

d) an agent or representative has filed in his own name a sign to which the represented party was entitled without the latter's authorisation, unless the agent or representative can justify his act,

e) it conflicts with an earlier designation of origin or geographical indication protected under EU or Greek law, or with an earlier application for registration of a designation of origin or geographical indication, without prejudice to its registration, provided that the designation of origin or geographical indication in question confers on the person entitled to exercise the rights deriving from it, the right to prohibit the use of a subsequent trade mark.

4. The written consent of the proprietor of an earlier trade mark or other right referred to in paragraph 3, submitted at any stage of the examination of the trade mark until final judgment, shall remove the bar to its registration provided for in paragraph 1 or 3.

5. During the examination of the declaration of filing of the trade mark, the Researcher of the Trade Marks Directorate shall identify the earlier trade marks, as well as the earlier trade mark declarations, including international registrations with Greece as the country of designation within the meaning of paragraph 1, and shall inform, by any appropriate means, including by electronic mail, the proprietors, so that they may, if they wish so, file an opposition. In any case, third parties shall be informed of the lodging of an opposition on the website of the Ministry of Development and Investments, where the decision of the Examiner accepting the declaration is posted.

## **Article 6**

(Article 7 of Directive 2015/2436/EU)

### **Grounds for refusal concerning only some of the goods or services<sup>7</sup>**

If the grounds for refusal of a trade mark exist in respect of only some of the goods or services for which the trade mark has been applied, the refusal shall cover those goods or services only.

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<sup>7</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

## **CHAPTER B**

### **CONTENT OF THE RIGHT - LEVEL OF PROTECTION**

#### **Article 7**

(Articles 10, 16 par. 5, 28 par. 5 and 32 of Directive 2015/2436/EU)

#### **Content of the right**

1. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark, registration of the trade mark shall confer an exclusive right on the proprietor. In particular, it confers the right to use it, the right to affix it to the goods which it is intended to distinguish, to designate the services provided, to affix it to the wrapping and packaging of goods, to stationery, invoices, price lists, advertisements, advertisements of all kinds and other printed matter, and to use it in electronic, audiovisual or social media.

2. Use of the trade mark is also considered to be:

(a) the use of the trade mark in a form differing in elements, which do not alter the distinctive character of the mark in its registered form, regardless of whether or not the trade mark in the form as used is also registered in the name of the proprietor,

(b) the affixing of the trade mark to goods or packaging solely for export,

(c) the use of the trade mark with the consent of the proprietor, as well as the use of a collective trade mark or a certification trade mark by persons entitled thereto, shall be deemed to be use by the proprietor of the trade mark himself.

3. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark, the proprietor of that registered trade mark shall be entitled to prohibit any third party from using in trade, without his consent, a sign for goods or services where:

(a) the sign is identical with the trade mark and is used for goods or services identical to those for which the trade mark is registered,

(b) the sign is identical or similar to the trade mark and is used for goods or services which are identical or similar to the goods or services for which the trade mark is registered, if there is a likelihood of confusion on the part of the public. The likelihood of confusion includes the likelihood of association between the sign and the trade mark,

(c) the sign is identical or similar to the trade mark, whether or not it is used for goods or services identical, similar or dissimilar to those for which the trade mark is registered, if it has a reputation in Greece and the use of the sign, without due cause (sans juste motif, ohne rechtfertigenden Grund), would take unfair advantage of the

distinctive character or the reputation of the trade mark or would be detrimental to that character or reputation.

4. If the conditions laid down in paragraph 3 are fulfilled, it may in particular be prohibited:

- a) to affix the sign to the products or their packaging,
- (b) to affix the trade mark on genuine goods produced by the proprietor, who intended to market them as anonymous or under another mark,
- (c) the removal of the trade mark from genuine products of the proprietor and their placing on the market as anonymous or under another trade mark,
- (d) the offering or marketing of goods or the holding of goods for marketing or the offering or provision of services using the sign,
- (e) the import or export of products using the mark,
- (f) the use of the sign as a trade or company name or as part of a trade or company name,
- (g) the use of the sign in professional printed material and in advertising, including social media,
- h) the use of the sign in comparative advertising in a manner contrary to paragraph 2 of Article 9 of Law No. 2251/1994 (A`191).

5. Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the registered trade mark in question, the proprietor of a registered trade mark protected in Greece shall also be entitled to prevent all third parties from importing into Greece, in the course of trade, goods which have not been released for free circulation in the Greek territory, where those goods, including the packaging, come from third countries and bear, without authorisation, a trade mark which is identical with the registered trade mark for the goods in question or which cannot be distinguished in its essential aspects from that registered trade mark. This prohibition applies to any customs procedure, including transit, transshipment, customs warehousing, temporary storage, inward processing or temporary importation, even if the products are not intended to be placed on the Greek market. The right of the proprietor of the trade mark pursuant to the first subparagraph shall cease to exist if, in the context of the procedure initiated pursuant to the Regulation (EU) 608/2013 of the European Parliament and of the Council (L 181), in order to determine whether the registered trade mark has been infringed, the declarant or proprietor of the goods provides evidence proving that the proprietor of the registered trade mark is not entitled to prohibit the marketing of the products in the country of final destination.

## **Article 8**

(Article 11 of Directive 2015/2436/EU)

### **Right to prohibit preparatory acts in relation to the use of packaging or other means**

Where the risk exists of using the packaging, labels, tags, security features, authenticity devices or any other means to which the trade mark may be affixed to goods or services and such use would constitute an infringement of the trade mark proprietor's rights under paragraphs 3 and 4 of Article 7, the proprietor shall have the right to prohibit the following acts, if they are carried out in the course of trade:

(a) affixing a sign identical with, or similar to, the trade mark on packaging, labels, tags, security features, authenticity devices or any other means to which the mark may be affixed, (b) offering or placing on the market or stocking for marketing or importing or exporting of packaging, labels, tags, safety features, authentication devices or any other means to which the mark is affixed.

### **Article 9**

(Article 12 of Directive 2015/2436/EU)

#### **Reproduction of trade marks in dictionaries**

If the reproduction of the trade mark in a dictionary, encyclopaedia or similar reference work, in printed or electronic form, gives the impression that it constitutes the generic name of the goods or services for which the trade mark is registered, the publisher of the work shall, at the request of the proprietor of the trade mark, ensure that the reproduction of the trade mark is, without delay and, in the case of works in printed form, at the latest in the next edition of the publication, accompanied by an indication that it is a registered trade mark.

### **Article 10**

(Article 13 of Directive 2015/2436/EU)

#### **Prohibition of the use of a trade mark registered in the name of an agent or representative**

1. Where a trade mark has been registered in the name of the agent or representative of the proprietor of that trade mark without his consent, the proprietor shall be entitled to do both or either of the following:

(a) to oppose the use of his trade mark by his agent or representative, subject to the provisions of Chapter E (Articles 38-48),

(b) to demand the assignment of the trade mark in his favor in an action brought before the civil courts.

2. Instead of the assignment of the trade mark under point (b), the proprietor may apply for a declaration of invalidity pursuant to Article 52 or bring a counterclaim for invalidity pursuant to paragraph 12 of Article 38.

3. Paragraphs 1 and 2 shall not apply if the agent or representative justifies his act.

## **Article 11**

(Article 14 of Directive 2015/2436/EU)

### **Limitation of the effects of a trade mark**

1. The right conferred by the trade mark shall not entitle its proprietor to prohibit third parties from using, in the course of trade:

(a) the surname or address of the third party, where that third party is a natural person,

(b) signs or indications which are not distinctive or which refer to the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services,

(c) the trade mark for the purpose of identifying or referring to goods or services as those of the proprietor of that trade mark, in particular, where the use of the trade mark is necessary to indicate the intended purpose of a product or service, in particular in as accessories or spare parts.

2. Paragraph 1 shall apply only where the use made by the third party is in accordance with honest practices in industrial and commercial matters.

3. The right conferred by the trade mark shall not entitle the proprietor to prohibit a third party from using, in the course of trade, an earlier right which only applies in a particular locality, if the use of that right is made within the limits of the territory in which it is recognised.

## **Article 12**

(Article 9 of Directive 2015/2436/EU)

### **Loss of entitlement due to acquiescence**

1. The proprietor of an earlier trade mark, within the meaning of paragraph 2 of Article 5, or of another earlier right, within the meaning of points (a) and (b) of paragraph 3 of Article 5, shall not be entitled to apply for a declaration of invalidity or to prohibit the use of the later registered in Greece trade mark, in respect of the goods or services for which it has been used, provided that he has knowingly acquiesced in the use of that trade mark for a period of five (5) successive years, unless registration of the later trade mark was applied for in bad faith.

2. In the case referred to in paragraph 1, the proprietor of the later registered trade mark shall not be entitled to prohibit the use of the earlier trade mark or other right.

### **Article 13**

(Article 15 of Directive 2015/2436/EU)

#### **Exhaustion of the rights conferred by a trade mark**

1. The right conferred by the trade mark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the Union under that trade mark by the proprietor himself or with his consent.

2. Paragraph 1 shall not apply where there exist legitimate reasons (motif legitimes, berechtigte Gründe) for the proprietor to oppose further commercialisation of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market.

### **Article 14**

#### **Declaration of restriction**

The applicant may at any time make a declaration of restriction on the products or services mentioned in the declaration of filing of the trade mark.

### **Article 15**

(Article 41 of Directive 2015/2436/EU)

#### **Division of the declaration of filing or registration of a trade mark**

1. The applicant or the proprietor of a trade mark may divide the declaration of filing or the trade mark registration respectively, by indicating that a part of the goods or services included in the original declaration or registration will be the subject of one or more divisional declarations or registrations. The goods or services in the divisional declaration may not overlap with those remaining in the original or divisional declaration of filing or registration.

2. The time priority of each divisional declaration of filing or registration shall relate back to the time of filing of the original declaration.

3. If an opposition under Article 25 has been lodged against the declaration of filing or an application or counterclaim for revocation or invalidity of registration has been filed and the decision has not become final or the proceedings have not otherwise been terminated, a declaration of division resulting in the division of the goods or services which are the subject of the opposition or the application or the counterclaim for revocation or invalidity of registration shall be inadmissible.

## **CHAPTER C**

### **THE TRADE MARK AS AN OBJECT OF PROPERTY**

#### **Article 16**

(Article 22 of Directive 2015/2436/EU)

##### **Transfer**

1. The right to the trade mark may be transferred, in life or after death, in respect of all or some of the goods or services for which it is registered, irrespective of the transfer of the undertaking.
2. The contractual transfer of the whole of the undertaking shall include the transfer of the trade mark except where there is an agreement to the contrary or circumstances clearly dictate otherwise.
3. The agreement for the transfer is in writing. Either the transferor or the transferee shall request that the transfer be entered in the register of trade marks.
4. In the case of a declaration of filing of a trade mark which is pending examination, a change in the person of the filing applicant is permitted by written agreement. Paragraphs 1 to 3 shall apply accordingly.
5. Where a declaration of filing of a trade mark is transferred while the case is pending before the Trade Marks Directory or the Administrative Trade Mark Committee or the Administrative Courts or the Council of State, the special or universal successor shall be entitled to intervene. The intervention shall make him the principal party to the proceedings and he may exercise all the rights of his assignee, who shall be excluded from the proceedings.
6. Up until the hearing before the Administrative Court of Appeal, the applicant may acquire by transfer an earlier trade mark, which prevents the registration of the declaration in question, in which case the registration of the transfer in the trade marks register shall automatically remove the ground which prevented registration. The administrative court shall take the above transfer into account by merely producing at the hearing a copy of the registration of the trade mark in which the transfer is noted, without the need to invoke the transfer by means of a statement of additional grounds. The same shall apply if the earlier trade mark, which prevents the registration of the declaration in question, has ceased to be valid.

#### **Article 17**

(Article 25 of Directive 2015/2436/EU)

## **License for use**

1. The granting of an exclusive or non-exclusive license to use the national or international valid in Greece trade mark or the declaration of filing of the trade mark, for part or all of the goods or services covered and for all or part of the Greek territory, is permitted. The agreement for the grant of a trademark license shall be in writing. Either the proprietor, by declaration, or the licensee, by authorization of the proprietor, shall request the registration of the grant in the trade marks register.

2. The proprietor of the trade mark may exercise the rights conferred by that trade mark against a licensee who contravenes any provision in his licensing contract with regard to:

(a) the duration of the license,

(b) the form covered by the registration in which the trade mark may be used,

(c) the scope of the goods or services for which the license is granted,

(d) the territory in which the trade mark may be affixed,

(e) the quality of the goods manufactured or services provided by the licensee.

3. The parties may agree that the licensee of a trade mark shall be entitled to grant further licenses to its use, in accordance with the procedure and conditions set out in paragraphs 1 and 2.

4. Without prejudice to the provisions of the licensing contract, the licensee of the trade mark may independently bring proceedings for infringement of a trade mark, provided that its proprietor consents thereto. Unless differently agreed, the exclusive licensee may, even without the consent of the proprietor, independently bring proceedings for infringement of the trade mark where the latter, although having been formally notified for the infringement of the trade mark, does not pursue his claims within an appropriate period of time.

5. Where the proprietor brings an action, the licensee may intervene and seek compensation for the damage he suffered.

6. Where the license agreement is terminated or amended, the trade mark register shall be informed accordingly by the proprietor of the trade mark.

7. A declaration by the proprietor that the grant of the license for use has expired in any way, automatically results in the deletion of the license entered in the register.

## **Article 18**

(Articles 23, 24 and 26 of Directive 2015/2436/EU)

## **Rights in rem - levy of execution - bankruptcy proceedings**



1. A pledge or other in rem right may be establishment on the trade mark by registration of the relevant contract in the trade mark register.
2. The trade mark may be the subject of a precautionary or compulsory attachment and levy of execution. Such acts shall be entered in the register of trade marks.
3. The trade mark shall belong to the bankruptcy estate. The decision declaring bankruptcy shall be entered in the register of bankruptcy.
4. Paragraphs 1 to 3 shall also apply to declaration of filing of a trade mark.

## **Article 19**

### **Results vis-à-vis third parties**

Legal transactions relating to a trade mark referred to in Articles 16, 17 and paragraph 1 of Article 18 shall produce effects vis-à-vis third parties only after they have been entered in the register. By way of exception, they shall have effect even before registration in respect of persons who acquired rights in the trade mark after the date of the transaction in question but who were aware of it at the date on which they acquired their rights.

## **CHAPTER D**

### **REGISTRATION PROCEDURE**

## **Article 20**

### **Declaration of filing of a trade mark**

1. For the registration of a national trade mark, a declaration of filing of a trade mark is filed with the Trade Marks Directorate of the Ministry of Development and Investments. The form and content of the declaration of filing of a trade mark shall be determined by a decision of the Minister of Development and Investments.
2. The declaration of filing of a trade mark is given a number, a date and time of filing, is entered in the trade marks register and its details are posted in common or linked trade mark databases and web portals provided for by Greek or Union legislation.
3. The trade mark application shall be checked as to the completeness of its contents, the representation of the trade mark, the description of the goods and services, the fees and any other information or documents accompanying it by an Auditor. Thereafter, an examination of earlier trade marks within the meaning of paragraphs 1 and 2 of Article 5 shall be carried out by an Researcher. The existence of absolute grounds for inadmissibility within the meaning of Article 4 shall be examined by an Examiner. If there are no absolute grounds for inadmissibility, the Examiner shall be

competent to accept the declaration of filing of the trade mark. In such a case, the Examiner shall order the publication of his decision accepting the declaration of filing of the trade mark by posting it on the website of the Hellenic Industrial Property Organisation in order to inform any third party who wishes to file an opposition in accordance with Article 25. If no oppositions are filed or if they are rejected by a decision of the Administrative Trademarks Committee, for which the time limit for filing an appeal with the Administrative Court of First Instance has expired, or if they are rejected by a decision of the Administrative Courts which is or has become final, the trade mark shall be entered in the register of trade marks by an act of the Registrar responsible for checking these conditions. The officials performing the functions of Auditors, Researchers, Examiners and Registrars shall be determined by a decision of the Administrative Council of the Hellenic Industrial Property Organisation. A decision of the Board of Directors of the Hellenic Industrial Property Organisation shall also define the formal and substantive qualifications, which the above-mentioned officials must possess to ensure that they have sufficient scientific training or professional experience and that their work is of high quality. By decision of the Director-General of the Hellenic Industrial Property Organisation, such officials may be authorized to sign.<sup>8 9</sup>

## **Article 21**

(Articles 37, 38, 42 and 50 of Directive 2015/2436/EU)

### **Conditions for granting a filing date**

1. The declaration of filing of a trademark shall be accompanied by proof of payment of the filing fee and shall contain:

(a) an application for registration of a trade mark,

(b) a representation of the trade mark,

c) the name, residence, contact telephone number and e-mail address of the applicant. For legal persons, the name, registered office, office address, contact telephone number and e-mail address shall be indicated. The applicant is obliged to notify the Trade Marks Directorate of any change in the above information. The postal

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<sup>8</sup> Effective, in accordance with Article 48 of this Law, from the adoption of a joint decision of the Ministers of a )Development and Investments and b) Finance , upon the recommendation of the Board of Directors of the Hellenic Industrial Property Organisation.

See Joint Decision No. 48793/13.05.2022 of the Ministers of Finance and Development and Investments on "Entry into force of Chapter C of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Industrial Property Agency of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022).

<sup>9</sup> The fifth, seventh and eighth subparagraphs of paragraph 3 were amended, the ninth subparagraph was added and para. 3 was amended by Article 40 of Law 4796/2021, Government Gazette A 63/17.4.2021

or electronic address last indicated shall be deemed to be the legal address of the applicant to which documents or electronic messages relating to the relevant trade mark declaration are lawfully sent,

(d) a list of the goods or services which the trade mark is intended to distinguish, classified by class, with an indication of the relevant class by group of goods or services, in accordance with Article 23.

2. The date of filing of the declaration is the date of its submission to the Trade Marks Directorate.

3. If the declaration of filing does not comply with the requirements of paragraph 1, the Auditor of the Trade Marks Directorate shall invite the applicant or his procedural representative to correct or complete the irregularities or deficiencies found within a period of thirty (30) days from the day following the date of notification of the invitation. The notice of the invitation shall be served by means of a receipt at the postal or electronic address of the applicant or representative. If there is proof of notification, the person concerned shall be deemed to have knowledge of it on the date indicated in the notification. If the applicant complies with the Auditor's invitation within the time limit, the Auditor shall grant the date on which all the irregularities or omissions found have been corrected or completed as the date of filing of the declaration, without prejudice, however, to the more specific provisions of paragraph 2 of Article 22 and paragraph 7 of Article 23. If this is not the case, the examination of the declaration shall not be completed and the declaration shall be filed by an act of the Auditor of the Trade Marks Directorate. This act shall be notified to the applicant or his procedural representative and shall be challenged before the Administrative Trade Marks Committee within a period of sixty (60) days from the day following the date of notification. The second and third subparagraphs shall apply mutatis mutandis to such notification.

## **Article 22**

### **Other formal requirements of the declaration of filing**

1. In addition to the particulars referred to in paragraph 1 of Article 21, the declaration of filing of the trade mark shall contain:

(a) the signature of the applicant or, where applicable, of his or her attorney,

(b) if international priority is claimed, the date of the earlier filing and the country where it applies,

(c) if the applicant is represented by a lawyer, the name, address, telephone number and e-mail address of the lawyer. If there are several applicants for the same declaration, a common proxy shall be appointed,

(d) the appointment of a legal representative, his/her address, contact telephone number and e-mail address. If there are several depositors for the same declaration,

a joint procedural representative shall be appointed. The applicant is obliged to notify the Trade Marks Directorate of any change in the above details. The last declared postal or electronic address of the procedural representative shall be deemed to be his legal address, to which documents or electronic messages relating to the relevant trade mark application are lawfully sent,

(e) an indication of the type of trade mark in accordance with paragraph 4 of Article 2 or paragraph 1 of Article 56 or paragraph 1 of Article 64,

f) if the mark is written in characters other than those of the Greek and Latin alphabets, the rendering of these characters in the Greek or Latin alphabet.

2. If the declaration does not meet the requirements of paragraph 1, the Auditor of the Trade Marks Directorate shall invite the applicant or the procedural representative to correct or complete the irregularities or deficiencies found within a period of thirty (30) days from the day following the date of notification of the invitation. If the applicant complies with the invitation of the Directorate within the time limit, the original date of filing shall apply. Otherwise, the Auditor of the Trade Marks Directorate shall reject it and notify the applicant or the procedural representative of the decision. Regarding the notifications, Article 21(3) shall apply *mutatis mutandis*. The rejection decision shall be submitted to the Administrative Trade Marks Committee within a period of sixty (60) days from the day following the date of notification.

3. The declaration, as well as the representation of the mark, must be filed in electronic form by submitting a digital disc or other suitable electronic storage medium to the Trade Marks Directorate.

4. The declaration of filing, accompanied by the representation of the trade mark, may also be filed remotely by electronic means. In that case, the declaration of filing and the representation of the mark shall be filed electronically.

‘5. By joint decision of the Ministers of Development and Investments and Digital Governance, upon the recommendation of the Board of Directors of the Hellenic Industrial Property Organisation, the terms, conditions, procedure, technical specifications, technical management and any other issue related to the electronic submission of the declaration of filing and representation of the trademark and the application of par. 3 are determined. The declaration of filing shall be signed with the authorised electronic signature of the natural person filing the application or, where applicable, of his authorised attorney, or the authorised electronic seal of the legal

person filing the application, or identified by any electronic identification system within the meaning of Regulation (EU) 910/2014.<sup>1011</sup>

## **Article 23**

(Article 39 of Directive 2015/2436/EU)

### **Designation and classification of products and services**

1. The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the system of classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957 ('the Nice Classification', ratified by Law No. 2505/1997, A`118). The current international classification of goods and services is posted on the website of the Ministry of Development and Investment in Greek.

2. The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that sole basis, to determine the extent of the protection sought.

3. For the purposes of paragraph 2, the general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision set out in this Article.

4. The use of general terms, including the general indications of the class headings of the Nice Classification, shall be interpreted as including all the goods or services clearly covered by the literal meaning of the indication or term. The use of such terms or indications shall not be interpreted as comprising a claim to goods or services which cannot be so understood.

5. Where the applicant seeks registration for more than one heading, he shall group the goods and services according to the headings of the Nice Classification, each group being preceded by the number of the heading to which that group of goods or services belongs and each group being listed in the order of the headings.

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<sup>10</sup> The first subparagraph of paragraph 5 was replaced and the paragraph was amended by article 41 of Law 4796/2021, Government Gazette A 63/17.4.2021.

<sup>11</sup> Effective, pursuant to Article 48 of this Law, from the adoption of a joint decision of the Ministers of a) Development and Investments and b) Finance, upon the recommendation of the Board of Directors of the Hellenic Industrial Property Organisation.

See Joint Decision No. 48793/13.05.2022 of the Ministers of Finance and Development and Investments on "Entry into force of Chapter C of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Hellenic Industrial Property Organisation of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022).

6. Goods and services are not considered similar to each other because they appear in the same heading in the Nice classification. The goods and services are not considered different from each other because they appear in different headings in the Nice Classification.

7. The Auditor of the Trade Marks Directorate shall reject a trade mark application on the grounds that the indications or terms are unclear or inaccurate or classified in the wrong class, where the applicant does not propose an acceptable wording or classification within a period of thirty (30) days from the day following the date of notification of the relevant invitation by the Auditor to the applicant or the procedural representative. If the filer proposes an acceptable wording or classification within the time limit, the date of filing of the original declaration shall apply. If the applicant does not propose an acceptable wording or classification, the Auditor of the Trade Marks Directorate shall reject the trade mark application and notify the applicant or the procedural representative of the decision. Article 21(3) shall apply mutatis mutandis to notifications. An appeal against the refusal shall be lodged with the Administrative Trade Marks Committee within a period of sixty (60) days from the day following the date of notification.

## **Article 24**

### **Examination of the grounds of inadmissibility<sup>12</sup>**

1. The Examiner of the Trade Marks Division is responsible for examining the grounds for inadmissibility referred to in Article 4 and for deciding whether to accept or reject the declaration of filing of the trade mark.

2. If there is no ground for inadmissibility under Article 4, declaration of filing of the trade mark is accepted by the Examiner of the Trade Marks Directorate and the relevant decision is published on the website of the Ministry of Development and Investments within a period of fifty (50) days from the day following the date of filing.

3. If the examination carried out by the Examiner of the Trade Marks Directorate reveals that the declaration of filing of the trade mark is inadmissible pursuant to Article 4 for all or part of the goods or services covered by the filing declaration, the applicant or the procedural representative shall be invited, within thirty (30) days of the day following the notification of the invitation, either to withdraw the application or to limit the scope of protection of the trade mark to the extent that it becomes admissible, or to submit his observations. The second and third subparagraphs of Article 21(3) shall apply mutatis mutandis to such notification.

4. If the applicant restricts the scope of protection of the trade mark to the extent that it becomes admissible or if his observations are considered valid, the application is

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<sup>12</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

accepted by decision of the Examiner of the Trade Marks Directorate published on the website of the Ministry of Development and Investment, within thirty (30) days from the day following the submission of the restriction or the applicant's observations.

5. If the applicant does not reply within the prescribed period or does not withdraw his application or does not restrict the scope of protection of his trade mark to such an extent as to render it admissible or, finally, if his observations are not considered admissible and well founded, the Examiner of the Trade Marks Directorate shall reject the application, either in its entirety or in respect of the part of the goods or services to which objections have been raised.

6. The decision to reject the trade mark declaration in its entirety shall be notified to the applicant or his procedural representative, as the case may be, by the Trade Marks Department, by any appropriate means, preferably by e-mail or fax, and shall be published on the website of the Ministry of Development and Investments, without this publication triggering the opposition period under Article 25. The second and third subparagraphs of Article 21(3) shall apply mutatis mutandis to such notification. If the above decision of the Examiner is subsequently overturned, following an appeal under Article 29 or 32, by decision of the Administration of Trade Marks Committee, , which is not subject to any remedy or appeal, or by a final decision of the administrative courts, respectively, the above decision shall be published on the website of the Ministry of Development and Investment for the purposes of Article 25.

7. The decision of the examiner accepting the trade mark application in part shall be notified to the applicant, or his procedural representative, as the case may be, by any appropriate means, preferably by e-mail or by fax, and shall be published on the website of the Ministry of Development and Investments, without this publication triggering the opposition period under Article 25. If the applicant wishes to accelerate the commencement of the opposition period under Article 25 and the registration of the trade mark, he may either file a request for division or waive the appeal against the part of the decision rejecting the declaration of filing of the trade mark or allow the period to expire without action. In such cases, a new publication shall be made on the website of the Ministry of Development and Investment for the purpose of starting the opposition period under Article 25. If an appeal is lodged, the publication of the decision for the purposes of Article 25 shall be suspended until a decision on the aforementioned appeal has been issued, which shall no longer be subject to any appeal or remedy.

## **Article 25**

(Article 43(1) and (2) of Directive 2015/2436/EU)

## **Opposition <sup>13</sup>**

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<sup>13</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

1. An opposition may be lodged against the decision of the Examiner of the Trade Marks Directorate or the Administrative Trade Mark Committee or the final decision of the administrative courts which, where applicable, have accepted the declaration of filing of a trade mark, within a period of three (3) months from the day following the publication of the decision on the website of the Ministry of Development and Investment, on the grounds that the registration is contrary to one or more of the grounds referred to in Article 4 or paragraphs 1 and 3 of Article 5.

2. In the case of grounds referred to in Article 4, the opposition shall be brought by any natural or legal person, as well as by any association, group or body representing manufacturers, producers, service providers, traders or consumers, stating the grounds on which the declaration is to be rejected.

3. In the case of the grounds referred to in paragraphs 1 and 3 of Article 5, the opposition shall be brought by the proprietors of the earlier marks or rights in accordance with paragraphs 2 and 3 of Article 5, and by the holders of licences to use those marks who are authorised to do so, in accordance with paragraph 4 of Article 17, which shall apply *mutatis mutandis*

4. The opposition is filed in a document which is always filed with the Trade Marks Directorate and forwarded to the Administrative Trade Marks Board for examination, even if the trade mark declaration has been accepted by a final decision of the administrative courts.

## **Article 26<sup>14</sup>**

### **Elements of the opposition**

The opposition shall be accompanied by proof of payment of the fee and shall contain:

(a) the number of the declaration of filing of the trade mark against which it is directed and the particulars of its proprietor,

(b) the grounds on which it is based. If the opposition is based on earlier filed or registered trade marks, or other earlier rights, it must specifically mention them. In that case, it must also state specifically whether it is based on all or only part of the goods or services for which each earlier registered trade mark or other prior right is valid. If the opposition is based on several earlier filed or registered trade marks or other earlier rights, they must all belong to the same proprietor.

(c) a clear designation of the goods or services of the declaration of filing of the trade mark against which the opposition is directed.

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<sup>14</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.



## **Article 27**

(Article 43(3) of Directive 2015/2436/EU)

### **Examination of the opposition<sup>15</sup>**

1. The Trade Marks Directorate shall immediately issue the opposing party with a file number with the date of filing and the date of the meeting of the Administrative Trade Marks Committee, which will examine the opposition. A certified copy of the opposition, together with the act appointing the hearing and a summons to attend it, shall be served with the care of the opposing party to the applicant or his procedural representative, where applicable, by a bailiff at least thirty (30) full days before the meeting of the Administration of Trade Marks Committee. If this deadline is not observed, the opposition shall be inadmissible and shall be rejected.

2. Additional grounds for opposition shall be filed at least twenty (20) full days prior to the meeting of the Administrative Trademarks Committee that will examine the opposition. A certified copy of the additional grounds shall be served with the care of the opposing party to the applicant or his procedural representative, where applicable, by a bailiff at least fifteen (15) full days before the meeting of the Administrative Trade Marks Committee. If this deadline is not observed, the additional grounds shall be inadmissible and shall not be taken into consideration.

3. If the party complained against is resident or has its head office abroad, the time limits in paragraphs 1 and 2 shall be extended by thirty (30) full days.

4. The procedure laid down in Article 30 shall apply to the examination of the opposition. At the hearing, the Chairman of the Committee shall grant the opposing party and the applicant for a trade mark declaration, only at their joint request, a period of at least two (2) months in the opposition proceedings, in order to allow for the possibility of a friendly settlement between them, even without submission to the mediation procedure provided for in Article 31.

5. The Administrative Trade Marks Committee shall decide on the opposition in accordance with the principle that the parties delimit the subject-matter of the proceedings, on the basis of the evidence made available to it by the parties. However, it shall not be prevented from considering *ex officio*, facts which are so conclusive that there is no reasonable doubt that they are true.

6. If it appears from the examination of the opposition that the registration of the trade mark declaration cannot be accepted for all or part of the goods or services for which it is registered, the declaration shall be refused in whole or in part for certain

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<sup>15</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

goods or services. Otherwise, the opposition shall be rejected and the declaration of filing shall be accepted.

## **Article 28**

(Article 44 of Directive 2015/2436/EU)

### **Proof of use**

1. At the request of the person who filed the trade mark declaration against which the opposition is directed, the opposing party who is the proprietor of an earlier trade mark within the meaning of paragraph 2 of Article 5, shall prove either that, during the period of five (5) years preceding the date of filing of the opposing declaration or the date of its priority, genuine use has been made of the earlier trade mark for the goods or services in respect of which it was registered and on which the opposition is based, or that there is a reasonable cause for non-use, provided that, at the date of filing of the opposing declaration or the date of its priority, the earlier trade mark has been registered for at least five (5) years. Where the opposition is based on an earlier European Union trade mark, its genuine use shall be determined in accordance with Article 18 of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 (L 154).

2. The request for proof of genuine use shall be submitted, under penalty of inadmissibility, during the examination of the opposition before the Administrative Trademark Committee. In this case, the Chairman of the Committee shall grant the opposing party a period of at least thirty (30) full days prior the date of the hearing to submit a statement of grounds and to furnish proof of the use applied for and of the arguments put forward in support of the opposition. The Chairman of the Committee shall also allow the applicant of the trade mark declaration against whom the opposition is directed a period of at least twenty-five (25) full days, commencing after the expiry of the previous time limit granted to the opposing party, to take cognisance of the evidence and arguments of the opposing party and to submit its own statement of defence and evidence. Within three (3) full days after the expiry of the above deadline, the parties shall submit a supplementary reply. The Committee shall consider the case on the basis of the evidence submitted and the arguments put forward by the parties. However, it shall not be prevented from considering ex officio, facts which are so well known that there is no reasonable doubt as to their veracity.

3. For the purposes of this Article, if the opposing party does not prove genuine use of his trade mark or that there is reasonable cause for non-use, the opposition shall be rejected without consideration of the merits of the case.

4. For the purposes of this Article, if the earlier trade mark has been used for only part of the goods or services for which it was registered, it shall, for the purposes of the examination of the opposition, be deemed to be registered only for that part of the goods or services.

## **Article 29**

### **Action before the Administrative Trade Mark Committee**

1. Decisions of the Examiners of the Trade Marks Directorate rejecting in whole or in part the declaration of filing of a trade mark shall be subject to appeal within a period of sixty (60) full days commencing on the day following the notification of the contested decision pursuant to paragraph 5 of Article 24.
2. The appeal shall be filed in a document submitted to the Trade Marks Directorate and shall be examined by the Administrative Trade Marks Committee in accordance with the law and the merits of the case.
3. The Trade Marks Directorate shall immediately provide the applicant with a copy of the appeal, indicating the file number assigned to it, the date of filing and the date of the meeting of the Administrative Trade Mark Committee which will examine it.
4. Additional grounds of appeal shall be submitted at least fifteen (15) full days before the meeting of the Administrative Trade Marks Committee to consider the appeal.
5. The procedure laid down in Article 30 shall apply to the examination of the appeal.

## **Article 30**

### **(Article 45(1) of Directive 2015/2436/EU)**

#### **Administrative Trade Marks Committee<sup>161718</sup>**

‘1. The Administrative Trade Marks Committee shall have its head office in Athens and shall meet at the Hellenic Industrial Property Organisation, in an office designated by decision of its Board of Directors. Any costs or expenses incurred in the operation of

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<sup>16</sup> Effective, in accordance with Article 48 of this Law, from the adoption of a joint decision of the Ministers of a) Development and Investments and b) Finance, upon the recommendation of the Board of Directors of the Hellenic Industrial Property Organisation.

See Joint Decision No. 48793/13.05.2022 of the Ministers of Finance and Development and Investments on "Entry into force of Chapter C of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Hellenic Industrial Property Organisation of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022).

<sup>17</sup> Article 30 was amended as above by article 56 of Law 4982/2022, Government Gazette A 195/15.10.2022.

<sup>18</sup> According to article 235 of Law 4782/2021, Government Gazette A` 36/09.03.2021 'The effect of par. 3, as well as the first and last sections of par. 8 of Article 30 of Law No. 4679/2020 (A' 71) shall enter into force on 20 March 2022. Until the date of the first subparagraph, the provisions of par. 2 of Article 145 and the first subparagraph of paragraph 4 of Article 145 shall continue to apply'.

the Administrative Trade Marks Committee shall be borne by the Hellenic Industrial Property Organisation.

2. The Administrative Trade Marks Committee is competent to accept or reject the following

applications:

- (a) an opposition in accordance with Article 25,
- (b) an appeal against decisions of the Examiners in accordance with Article 29,
- (c) an application for revocation of the right to the trade mark pursuant to Article 50
- d) an application for a declaration of invalidity of a trade mark pursuant to Article 52,
- (e) an intervention in accordance with par. 12 in any proceedings pending before it and
- (f) for the resolution of any dispute arising between the Hellenic Industrial Property Organisation and the applicants or proprietors of trade marks or third parties in the application of this Law.

3. The Administrative Trade Marks Committee is established by decision of the Board of Directors of the Hellenic Industrial Property Organisation, and operates in three-member departments. Each department shall consist of:

- a) a member of the State Legal Service, as Chairman, with his deputy,
- b) an official who is employed in any employment relationship with the Hellenic Industrial Property Agency, in the category of University Education (TE) or Specialist Educational Staff (STS), with proven experience in the field of trade marks, as a member, with his deputy,
- c) an official, TE or STS, with a degree in law, or a lawyer with a mandate employed by the Hellenic Industrial Property Organisation, as a member, with his deputy.

In points b) and c), instead of the employees or lawyers serving at the Hellenic Industrial Property Organisation, employees serving at bodies under Article 3 of Law No. 4440/2016 (A' 224) or legal or external collaborators of the Industrial Property Agency with scientific expertise or scientific training or experience in trade mark law or intellectual property law, a may be appointed as members of the Administrative Trade Marks Committee or as their deputies.

The incompatibilities, obligations, disciplinary offences and disciplinary proceedings provided for in Articles 12, 13 and 13A of the Law no. 3959/2011 (A' 23) shall apply to these members accordingly.

The most senior, according to the yearbook of the State Legal Service, Chairman of the Administrative Trade Marks Committee is the head of all its departments and exercises administrative responsibilities for all organisational matters. The Chairman, members, secretaries and deputy members of the Administrative Trade Marks

Committee shall be paid an indemnity, per meeting and at a flat rate, by the Hellenic Industrial Property Organisation. A joint decision of the Ministers of Finance and Development and Investments, adopted on the recommendation of the Board of Directors of the Industrial Property Organisation, shall define all necessary details concerning the amount of such compensation.

4. The rapporteurs in the cases of the Administrative Trade Marks Committee shall be appointed by an act of the Chairman of the division to which the case is submitted for examination. The allocation of cases to the divisions of the Committee shall be determined in accordance with the chronological order, in which the relevant applications referred to in paragraph 2 are filed.

5. The Administrative Trade Marks Committee meets on days and at times to be determined by the Board of Directors of the Hellenic Industrial Property Organisation at the beginning of each year and is notified by means of a notice on the wall at the office of the competent Directorate, as well as by posting on the website of the Hellenic Industrial Property Organisation. The discussion in each department of the Committee shall be based on the exhibit prepared by its chairman. The exhibit shall be posted on the wall of the Hellenic Industrial Property Organisation and on the above mentioned website eight (8) full days before the day of the meeting of the Committee.

6. The meetings of the Administrative Trade Marks Committee are public and minutes are kept by the secretary of each section, appointed by decision of the Board of Directors of the Hellenic Industrial Property Organisation. The secretarial and administrative support of the Administrative Trade Marks Committee shall be provided by employees, preferably of university or technological education, who are employed by the Hellenic Industrial Property Organisation.

7. The members of the Administrative Trade Marks Committee may not have participated in the decisions of the Hellenic Industrial Property Organisation regarding the acceptance or rejection of the contested trademark application.

8. The Chairman and members of the Administrative Trade Marks Committee shall be independent in the performance of their duties and may be removed from office by decision of the Board of Directors of the Hellenic Industrial Property Organisation for serious reasons relating to the performance of their duties, in particular for breach of the principle of impartiality, unjustified absence from the performance of their duties and refusal or obstruction of service.

9. The Administrative Trade Marks Committee is supported by officials of the Hellenic Industrial Property Organisation, as well as by officials of the General Secretariat for Trade and Consumer Protection of the Ministry of Development and Investments through secondments to the Hellenic Industrial Property Organisation, in accordance with Law no. 4440/2016 (A' 224).

10. Any person who submits to the Administrative Trade Marks Committee applications under par. 2, as well as the Administrative Trade Marks Committee, either

in person or represented by an attorney, and may develop their arguments in writing and submit any evidence or documents useful in support of their case. Attorneys shall at the same time be the procedural representatives of the parties they represent. For their lawful legal representation, they must provide a postal address and an e-mail address to which they can be notified. Attorneys may also be present by means of a declaration lodged with the competent registrar no later than the day before the meeting and marked immediately on the exhibit. In this case, they must be informed by the Committee's Secretariat at their own initiative of any request for proof of use and of the progress of the case in general. The absence of the parties concerned shall not be presumed to constitute a confession and the Administrative Trade Marks Committee shall take a decision as if all parties were present. Before the Committee, regarding opposition, appeal and dispute resolution cases, the evidence provided for by the provisions of the Code of Administrative Procedure shall be admissible, and in cases concerning applications for revocation or invalidity of trade marks, the evidence provided for by the provisions of the Code of Civil Procedure shall be admissible. In all cases, affidavits shall be admissible before a judge or a notary or a consul, provided that the other party has been summoned at least two working days in advance. The Committee may allow witnesses to be examined before it.

11. Decisions of the Committee shall be taken by majority vote and shall state the reasons on which they are based. Rejection decisions of the Administrative Trade Marks Committee shall be notified, with the care of the Hellenic Industrial Property Organisation, to the parties concerned or their representatives by any appropriate means, in particular by electronic mail. The second and third subparagraphs of paragraph 1 shall apply *mutatis mutandis* to notifications.

12. Any person having a legitimate interest may intervene before the Administrative Trade Marks Committee. The intervention shall be made in a document filed with the Hellenic Industrial Property Organisation and shall be notified, with the care of the intervener, to the other parties to the proceedings by a bailiff at least five (5) full days before the hearing. If this deadline is not observed, the intervention shall be inadmissible.

## **Article 31**

(Article 43(3) of Directive 2015/2436/EU)

### **Mediation<sup>19</sup>**

1. In the case of disputes between private parties, which are the subject of proceedings pending before the Administrative Trade Marks Committee, a joint request for mediation may be submitted by the parties at any time after the filing of an opposition, an application for revocation or invalidity and intervention. The request

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<sup>19</sup> Paragraph 3 of Article 31 was amended as above by article 57 of Law 4982/2022, Government Gazette A 195/15.10.2022.

shall be filed with the Trade Marks Directorate and forwarded to the Administrative Trade Marks Committee. If a joint request for mediation is filed, the proceedings before the Administrative Trade Marks Committee shall be suspended.

2. From the date of the filing of the request for mediation, the time limits are suspended and continue to run from the date of the resumption of the proceedings. Mediation shall be completed within six months from the day after the request is submitted. The parties may agree in writing to extend the above time limit for a period of up to three (3) months. The relevant extension agreement shall be filed with the Trade Marks Directorate and forwarded to the Administrative Trade Marks Committee. The Administrative Trade Marks Committee shall compulsorily postpone the hearing of the case by scheduling a new hearing after the expiry of six months or three months, as the case may be.

3. The parties shall jointly appoint a mediator legally accredited in Greece, in accordance with Article 28 of Law No. 4640/2019, or in another member state of the European Union.

4. The parties shall jointly agree with the mediator on the specific details of the mediation.

5. In the mediation procedure, the parties are represented by their attorney. The power of the attorney to represent the parties before the Administrative Trade Marks Committee shall also cover the agreement to submit to mediation.

6. If it is not possible for the parties and the mediator to be physically present at the same time and place, the mediation may be conducted by means of videoconferencing, using a computer or other videoconferencing system to which the parties have access.

7. At the end of the mediation procedure, a mediation record is signed, which is drawn up by the mediator and signed by the mediator, the parties and their attorneys. The record shall include the identity of the mediator, the parties and their lawyers and other persons involved in the mediation, the place and time of the mediation, and the agreement reached by the parties or the finding that the mediation failed. If the mediation fails, the record may only be signed by the mediator, who shall mention that the parties have not reached an agreement. The record shall be submitted to the Trade Marks Directorate by the mediator or any party and shall be forwarded to the Administrative Trade Marks Committee.

8. The discussions and negotiations conducted in the context of the mediation shall be of confidential nature, which shall be binding on all persons involved, in particular the mediator, the parties and their agents.

9. Mediators must enjoy independence and neutrality and be impartial in the performance of their duties.

10. The Trade Marks Directorate may cooperate with other accredited Greek, European or international organisations engaged in mediation activities.

## **Article 32**

### **Appeal to the administrative courts**

1. Decisions of the Administrative Trademarks Committee ruling on decisions of the Examiners of the Trade Marks Directorate, on oppositions, or on applications for dispute resolution, shall be subject to appeal to the administrative courts within a period of sixty (60) days starting from the day following the notification of such decisions.
2. The appeal shall have suspensive effect.
3. In the hearing before the administrative courts, those who have participated in the proceedings before the Administrative Trademark Committee shall be called upon to intervene in accordance with the Code of Administrative Procedure. Persons who have been duly summoned to intervene in accordance with the foregoing, shall not be entitled to bring an opposition under Article 25. In all other respects, the provisions of the Code of Administrative Procedure shall apply.

## **Article 33**

### **Registration - register of trade marks**

1. The Trade Marks Directorate shall keep and update a register of trade marks.
2. The register shall contain the following entries:
  - (a) the particulars of the declarations of filing of trade marks,
  - (b) the decisions of the Examiners, the Administrative Trade Marks Committee, the administrative courts and the Council of State, as well as the decisions of the civil courts on oppositions under Article 583 of the Civil Code concerning the revocation or invalidity of trade marks,
  - (c) the particulars of applications before the Administrative Trade Marks Committee pursuant to paragraph 2 of Article 30,
  - (d) the particulars of appeals and remedies before the administrative courts and the Council of State,
  - (e) variations and acts on trade mark declarations or registrations,
  - (f) the particulars of any counterclaims for revocation or invalidity of a trade mark and of any decisions and appeals issued in respect thereof.

Documents or applications relating to any kind of challenge to a registered trade mark shall be entered in the Register of Trade Marks under the supervision of the parties concerned or the Trade Marks Directorate.



3. A trade mark application shall be entered in the register when the following conditions are fulfilled:

(a) when the application is published by posting on the web site of the Ministry of Development and Investments and the time limit for filing an opposition under Article 25 has expired without effect, or

(b) where, following an opposition under Article 25, the application is accepted by a decision of the Administrative Trade Marks Committee and the time limit for appealing against that decision to the administrative courts has expired without effect, or

(c) where, following an appeal to the administrative courts, the application has been accepted by a decision of the administrative courts which has become final.

In such cases, the word 'registered' shall be entered in the register in the section of the trade mark with any changes in the goods or services to which the trade mark relates.

4. A trade mark which has been accepted shall be deemed to have been registered from the date of filing of the declaration or, where applicable, from the date referred to in paragraph 3 of Article 21.

5. The register of trade marks shall be public. Copies or extracts of the registrations shall be supplied immediately to any applicant.

6. The trade mark register may be in electronic form. The Minister of Development and Investments shall by decision determine the terms, conditions, the procedure for electronic registrations, the technical specifications, the technical management and any other matter relating to the creation and maintenance of the electronic trade marks register.

#### **Article 34**

(Article 53 of Directive 2015/2436/EU)

#### **Database - data protection**

1. The Trade Marks Directorate shall keep the register of trade marks in accordance with Article 33, collect and store in a physical and/or electronic database all data provided by applicants or other parties to the procedure in accordance with the provisions of this Law.

2. The physical (paper) and/or electronic database may contain personal data, in addition to those contained in the register pursuant to Article 33, to the extent that such data are required by this Law.

3. The processing of personal data by the Trade Marks Directorate shall be subject to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (L 119) and Law No. 4624/2019 (A` 137).

4. The processing of data is carried out for the following purposes:

- (a) processing of declarations and/or trade mark registrations as described herein,
- (b) keeping a public register for inspection by public authorities and individuals and for their information, in order to enable them to exercise the rights granted to them by this Law and to be informed of the existence of prior rights of third parties,
- (c) access to the information required to facilitate and improve the efficiency of the procedures involved,
- (d) communication with applicants and other parties to the proceedings,
- (e) the preparation of reports and statistics aimed at optimising the work of the Trade Marks Directorate and improving the functioning of the system.

5. The Trade Marks Directorate shall collect, organise, publish and store the data referred to herein for the purposes of paragraph 4.

6. All data relating to the records referred to herein shall be deemed to serve public interest purposes and shall be accessible to any third party. Records in the register shall be kept indefinitely.

7. Personal data not related to entries in the register shall also be kept in the Trade Marks Directorate indefinitely. However, the interested party - personal data subject may request the deletion of the above personal data from the database after eighteen (18) months from the expiry of the validity of the trade mark or the issuance of a final decision on the revocation or invalidity of the trade mark.

8. The decisions of the Examiners of the Administrative Trade Marks Committee and the administrative courts, as well as of the civil courts on oppositions under Article 583 of the CCP on the revocation or invalidity of a trade mark or revocation or invalidity counterclaims may be made publicly accessible to the public via the Internet, so that the general public may have access to them and be informed for the purposes of commercial information, transparency and predictability. Any party to the proceedings under which the decision was given may request that the personal data contained in the decision, which is posted on the Internet, be deleted from the text of the decision posted on the Internet. Such a request may be made at any time to the authority which has issued or is about to issue the decision and shall be granted provided that it does not substantially undermine the public interest in information, transparency and predictability.

## **Article 35**

### **Keeping of files**

1. The Trade Marks Directorate shall keep the files of all proceedings relating to a trade mark declaration or registration.
2. If the files are kept in electronic form, the relevant files and the electronic files or back-up copies thereof shall be kept indefinitely. The original documents filed by the parties to the proceedings and forming the basis of the electronic files shall cease to be kept after a specified period of time has elapsed following their receipt by the Trade Marks Directorate and shall be pulped in accordance with the provisions of Law No. 3979/2011 (A` 138).
3. If the files or parts of the files are kept in non-electronic form, the documents or evidence forming part of these files shall be kept for at least five years from the end of the year in which the application was refused by a decision in respect of which the time limit for challenging it by means of an appeal or other legal action or remedy has expired, or the application has been withdrawn or the registration of the trade mark has expired definitively or a total renunciation of the trade mark has been entered or the trade mark has been completely removed from the register of trade marks. After the expiry of the abovementioned period of time, they shall be ordered to be pulped.
4. By decision of the Minister of Development and Investments, the details of the implementation of paragraphs 2 and 3 and in particular, the manner and procedure for keeping the files in electronic form, the manner and procedure for keeping the files in non-electronic form, the procedure and bodies for the pulping of non-maintained data or files, as well as any other relevant matter shall be determined. The same decision may authorise the Head of the Trade Marks Directorate to regulate by decision all or some of the above details.

### **Article 36**

(Articles 48 and 49 of Directive 2015/2436/EU)

#### **Duration and renewal of registration**

1. The registration of a trade mark shall be valid for a period of ten years starting from the date of filing of the declaration or, where applicable, the date referred to in paragraph 3 of Article 21 and expiring on the corresponding date after the expiry of ten (10) years.
2. The registration may be renewed every ten years at the request of the proprietor and upon timely payment of the renewal fee. The Trade Marks Directorate shall inform the trademark's proprietor regarding the expiry of the registration at least six (6) months before its expiry. The Trade Marks Directorate shall not be liable if it neglects to provide such information.
3. The renewal fee shall be paid within the last six months of protection. It may be paid within an additional period of six (6) months after the expiry of the registration, provided that the renewal fee is paid, increased by half and without prejudice to the

rights of third parties acquired in the meantime. If the application is filed or the fees are paid for only part of the goods or services for which the trade mark has been registered, the registration shall be renewed only for those goods or services.

4. The renewal shall take effect from the day following the expiry date of the registration and the expiry date shall coincide with the expiry date of the registration under paragraph 1. The renewal shall be entered in the Register.

5. In the event of non-renewal, the protection of the trade mark shall automatically cease.

6. Any dispute concerning the renewal of protection shall be resolved by the Administrative Trademarks Committee upon request of the party concerned.

## **Article 37**

### **Restitutio in integrum**

1. The applicant or proprietor of a trade mark or any party to proceedings before the Trade Marks Directorate or the Administrative Trade Marks Committee who, although having exercised due diligence in the circumstances, has been unable to observe a time limit prescribed herein vis-à-vis the Trade Mark Directorate or the Administrative Trade Marks Committee on account of force majeure, accident or other significant cause for which he is not responsible, he may request that the situation be restored to its previous state and that his rights be restored if the impediment had the direct consequence of causing the loss of a right or remedy.

2. Paragraph 1 shall not apply to the time limits for bringing an opposition under Article 25 or to the time limit for claiming priority under paragraph 2 of Article 85.

3. An application for restitutio in integrum shall be filed, as the case may be, before the Trade Marks Directorate or the Administrative Trade Marks Committee within a period of two (2) months from the cessation of the impediment and, in any event, not later than one (1) year from the expiry of the period which has not been observed. In the event of loss of the time limit for renewal of a trade mark, the additional period of six (6) months referred to in Article 36(3)(3) shall not be counted towards the above period of one (1) year.

4. The application shall be subject to the payment of a fee.

5. An applicant who has succeeded in having his rights restored, following an application for restitutio in integrum, may not invoke them against third parties who acquired a right in good faith during the period between the expiry of the time limit that was not observed and the issuance of the decision of the Trade Marks Directorate or the Administrative Trade Marks Committee on restitutio, or who in good faith put goods on the market or provided services.

## **CHAPTER E**

### **INFRINGEMENT OF A TRADE MARK**

#### **Article 38**

(Articles 10 and 13 of Directive 2004/48/EC)

#### **Claims for infringement**

1. Any person who, in breach of Articles 7, 8 or 10, uses or in any other way infringes a trade mark belonging to another person may be actioned for the removal of the infringement and for its omission in the future.

2. In the claim for the removal of the infringement the proprietor may in particular request:

(a) the withdrawal from the market or seizure of the goods found to infringe the trade mark right and, where appropriate, of the materials which have been mainly used in the creation or manufacture of those goods,

(b) the removal of the offending sign or, if that is not possible, the permanent withdrawal from the market of the goods bearing the offending sign and

(c) their destruction.

The court shall order the enforcement of these measures at the expense of the party infringing the trade mark, unless there are special reasons to the contrary.

3. If the court obliges an omission to act, it shall threaten for each violation a fine of up to one hundred thousand (100,000) euros in favour of the beneficiary, as well as personal detention for up to one (1) year. The same shall apply when the conviction is made in the proceedings for injunctions. Article 947 of the Code of Civil Procedure shall otherwise apply.

4. The rights under paragraphs 1 and 2 shall also apply to the proprietor and against an intermediary whose services are used by a third party to infringe rights.

5. Any person who, by intent or serious negligence, infringes a foreign trade mark shall be liable to pay damages and, depending on the nature of the infringement, may also be sued for monetary compensation for the moral damages suffered by the proprietor of such infringement.

6. The damages may be calculated as a flat-rate amount which the infringer would have paid for royalties or other fees if he had requested the license for use from the proprietor.

7. In determining the amount of damages, the court shall take into account, in particular, the negative economic consequences, as well as the loss of profits suffered by the proprietor and the benefits obtained by the person infringing the trade mark.

8. In the absence of deceit or serious negligence on the part of the person liable, the proprietor may claim either the amount which the person liable has derived from the exploitation of the trade mark without his consent or the return of the profits which the person liable has made from such exploitation.

9. The single-member court of first instance shall have jurisdiction over disputes referred to in paragraphs 1 to 8, irrespective of the value of their subject-matter, and shall hear and determine them in accordance with the ordinary procedure. The claim for damages shall lapse five years after the end of the year in which the infringement began.

10. The claims referred to in paragraphs 1 to 8 shall be brought before the multi-member court of first instance if they are cumulated with other claims, in particular claims for unfair competition or infringement of distinctive signs (Articles 1 and 13 of Law 146/1914).

11. In the case of identical trade marks and the goods or services distinguished by them or of trade marks differing in elements which do not affect their distinctive character, the production of the registration certificate of the challenged trade mark shall be sufficient for full proof of infringement.

12. A defendant in an infringement action may bring a counterclaim for revocation or invalidity of the mark on which the action is based. The counterclaim shall be brought in a separate pleading and shall be based only on the grounds for revocation or invalidity provided for herein. The civil courts shall consider the trade mark to be valid unless the defendant challenges its validity by means of a counterclaim for revocation or invalidity. The revocation or invalidity of a trade mark may not be raised in a separate declaratory action. Without prejudice to a proof of use objection, revocation or invalidity of a trade mark may not be raised as an objection. The provisions relating to the objection of proof of use shall apply mutatis mutandis to a counterclaim for the invalidity of a trade mark. If the counterclaim is brought in proceedings in which the proprietor of the trade mark is not a party, the opposing party shall be obliged to serve the document on the proprietor of the trade mark so that the latter may intervene in the proceedings.

13. A counterclaim for revocation or invalidity of a trade mark shall be inadmissible if the opposing party fails to notify a copy of the counterclaim to the Trade Marks Registry for registration no later than the date of the hearing of the dispute.

14. When the decision on the counterclaim becomes final, it shall be entered in the Trade Mark Register. The civil court ruling on a counterclaim for revocation or invalidity of a trade mark shall order that the judgment be notified to the Trade Mark Register at the expense of the losing party. The notification of the decision may be effected by any party to the proceedings.

15. The defendant, after service by the plaintiff of the action for infringement of the trade mark, shall be entitled to claim revocation or invalidity of the trade mark only by counterclaim.

16. If an application for revocation or invalidity has been filed with the Trade Marks Directorate before service of the action, the court may, if there are no special grounds for continuing the proceedings, order the suspension of the proceedings until a final decision by the Administrative Trade Marks Committee or a final decision by the court on revocation or invalidity. In such a case the court may also, ex officio, order such injunctions as it deems appropriate for the duration of the suspension.

17. A counterclaim for revocation or invalidity shall be dismissed as inadmissible if the matter has already been finally decided in a case concerning the same subject-matter, on the same grounds and between the same parties.

### **Article 39**

(Articles 6 and 8 of Directive 2004/48/EC)

#### **Evidence - right to information**

1. Where a party has presented reasonably available and sufficient evidence in support of his allegations concerning the infringement of a trade mark, while relying on evidence under the control of the opposing party, the judge may, at the request of the party, order that such evidence be presented by the opposing party. The existence of a sufficient quantity of products with the mark at issue shall be considered as admissible evidence.

2. Where there is an infringement of the mark on a commercial scale, the court may also, at the request of a party, order the communication of banking, financial or commercial documents under the control of the opposing party.

3. The court shall, in any event at the request of the party required to provide information, take appropriate measures to ensure the protection of confidential information.

4. In the case of an infringement of a trade mark, the court may, upon a reasoned request of the party to the proceedings, submitted in the action or in the context of proceedings for injunctions, and before the hearing of the case, order the opposing party to provide information on the origin and distribution networks of the goods or services infringing the trade mark (right of information). The same may be ordered against any other person who: a) was found to possess the infringing goods on a commercial scale; b) was found to be using the infringing services on a commercial scale; c) was found to have provided, on a commercial scale, services used to infringe a trade mark; or d) was indicated by a person referred to in points (a) to (c) as being involved in the production, manufacture or distribution of the goods or the provision of the services produced or offered on a commercial scale. The right to information

may also be exercised by means of a separate action, independent of an action for the removal and restraint of the infringement or for damages.

5. The information referred to in paragraph 4 shall include, where appropriate: a) the full names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as of the receiving wholesalers and retailers; b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services.

6. Persons referred to in Articles 401 and 402 of the Code of Civil Procedure shall be entitled to refuse to provide the information requested above.

7. Paragraphs 4 and 5 shall apply without prejudice to other provisions which: a) grant the right holder rights to fuller information; b) govern the use, in civil or criminal proceedings, of information communicated pursuant to paragraphs 4 and 5; c) govern responsibility for misuse of the right of information; or d) govern the protection of the confidentiality of information sources or the processing of personal data.

8. If a party is summoned and unjustifiably fails to present evidence in accordance with paragraphs 1 and 2, the court shall be free to assess such refusal. Any person who unjustifiably breaches an order of the court under paragraphs 1 to 3 shall be liable, in addition to costs, to a fine of up to one hundred thousand (100,000) euros.

9. If the person subject to the information obligation provides incorrect information through intent or serious negligence, he shall be liable for the damage caused thereby.

10. Information provided in accordance with this Article may not be used for the purpose of prosecuting the information provider.

## **Article 40**

(Article 17 of Directive 2015/2436/EU)

### **Non-use as a defence in trade mark infringement proceedings**

1. The proprietor of a trade mark shall not be entitled to prohibit the use of a sign except to the extent that he cannot be declared ineligible for revocation of his rights pursuant to point (a) of paragraph 2 and paragraph 4 of Article 50, at the time when the action for infringement is brought. At the request of the defendant, the plaintiff, proprietor of the trade mark, shall prove that, during the period of five (5) years preceding the date of filing of the action, genuine use has been made of the trade mark in accordance with paragraphs 1 and 2 of Article 7 for the goods or services in respect of which it was registered and on which the action is based, or that there is reasonable cause for non-use, provided that, at the date of filing of the action, the earlier trade mark has been registered for at least five (5) years.



2. Under penalty of inadmissibility, the request for proof of genuine use shall be submitted by the defendant in writing to the secretariat of the court in which the action is pending within a period of thirty (30) days from the service of the action on him. The request must clearly identify the trade marks and the goods or services for which proof of use is sought. The secretariat of the court shall promptly provide the defendant with a copy of the request for proof of use filed by the plaintiff with a certificate of the date of filing of the request. The defendant shall, within the same time limit, notify the plaintiff, under penalty of inadmissibility, by a non-judicial declaration, of the request for proof of use. Such notification may also be made to the attorney who signs the application as procedural representative. If the plaintiff is a foreigner, no translation of the request is required, nor is the above time limit altered.

3. If a request for proof of use is submitted, the plaintiff shall provide evidence of the requested use with his/her proposals. The parties shall submit their observations with their additions.

4. For the purposes of this Article, if the plaintiff fails to prove genuine use of his trade mark or that there is reasonable cause for non-use, the action shall be dismissed without consideration of the merits of the case. If the trade mark has been used for only part of the services or goods in respect of which it is registered and in respect of which the action is brought, it shall be deemed to be registered only in respect of that part of the services or goods.

#### **Article 41**

(Article 14 of Directive 2004/48/EC)

#### **Legal costs**

In the cases provided for in this Law, general legal costs and fees shall include all related expenses, such as the costs of witnesses, translators, the fees of attorneys, the fees of experts and technical advisers of the parties, as well as the costs of discovering the offenders to which the successful party has reasonably been subjected, unless reasons of lenity require otherwise. In all other respects, Articles 173 to 193 of the Code of Civil Procedure shall apply.

#### **Article 42**

(Articles 9 and 11 of Directive 2004/48/EC)

#### **Injunctions**

1. Any person who has a claim for revocation and omission on account of infringement of a trade mark registered by him may also apply for injunctive relief. Article 40 shall apply mutatis mutandis to provisional measures where the request for proof of use is submitted orally at the hearing.

2. The proprietor of the trade mark may apply for the provisional seizure or temporary delivery of the goods bearing the sign infringing his trade mark in order to prevent their entry or circulation in the commercial distribution network.

3. In the case of infringements committed on a commercial scale and where there are circumstances likely to jeopardise the payment of compensation, the court may order the provisional seizure of the defendant's assets and the freezing of his bank accounts. For this purpose, the court may require the infringer to communicate banking, financial or commercial documents or to give proper access to the relevant information, provided that the protection of confidential information is ensured.

4. The injunctions referred to in paragraphs 1 to 3 may be ordered without a prior hearing of the defendant, in particular where the delay could cause irreparable damage to the proprietor of the trade mark.

5. In order for the competent court to take the above measures, it may require the applicant to submit any available evidence to enable it to form the belief that his right is being infringed or is likely to be infringed. In any event, paragraphs 4 to 7 of Article 43 shall apply.

6. The declaration of the filing of a trade mark by the person against whom the application for injunctions or the action for infringement of a trade mark is directed shall not prevent the granting of provisional measures against him or the institution of the ordinary proceedings.

7. The single-member court of first instance of both the district in which the goods or services are located and the district in which the undertaking whose goods or services bear the infringed trade mark has its registered office shall have jurisdiction to grant injunctions.

8. The proprietor of the trade mark may apply for injunctive relief against the intermediaries whose services are used by a third party to infringe his trade mark.

9. Where an application for injunctions for temporary judicial protection of a trade mark is filed, the defendant may file a counterclaim for revocation or invalidity of the trademark in a separate pleading. The provisions relating to a counterclaim for revocation or invalidity shall apply *mutatis mutandis*, but notification of the counterclaim to the Register shall not be required. The decision on the injunction shall not cause the trade mark to be revoked or declared invalid.

## **Article 43**

(Articles 7 and 9 of Directive 2004/48/EC)

### **Measures for preserving evidence**

1. At the request of the plaintiff or the applicant for interim measures, the court may, where the evidence presented suggests that there is a likelihood of infringement or

imminent infringement of the trade mark and that any delay may cause irreparable damage to the proprietor of the trade mark, or where there is a demonstrable risk that the evidence will be destroyed, issue a preliminary recovery injunction, as a precautionary measure, the provisional seizure of the unlawful goods held by the defendant and, where appropriate, of the materials and implements used for the production and distribution of those goods, as well as the documents relating thereto. Instead of a provisional seizure, the court may order a detailed inventory of these items, their photographing and taking samples of the aforementioned goods and relevant documents. In the above cases, the court may hear the application for a preliminary recovery injunction without summoning the person against whom the application is directed in accordance with paragraph 2 of Article 691A of the Code of Civil Procedure.

2. Where it is likely that such measures are appropriate to enable the applicant to substantiate the claims of infringement of the trade mark, the court shall order the measures referred to in paragraph 1 while ensuring the protection of confidential information.

3. The application of the proprietor of the trade mark shall not require a detailed specification of the evidence, but it shall be sufficient to specify it by category.

4. If preliminary recovery injunction is granted on an application for interim measures without the defendant being heard, the latter shall be informed by notification of the preliminary recovery injunction to him not later than three (3) working days after the execution of the preliminary recovery injunction, otherwise the procedural acts constituting the execution shall become null and void.

5. The court may order the above measures subject to the condition that a security be given by the applicant specified in its decision or in the interim order, in order to ensure compensation for the damage that the defendant may suffer.

6. In the cases referred to in paragraph 1, the court shall set a mandatory time limit for bringing the action in the main case, which may not exceed thirty (30) days. If the aforesaid period expires without the time limit having been complied with, the injunction shall be automatically lifted.

7. If the injunction is revoked or ceases to be in force because of any act or omission of the applicant, or if it is found that, there has been no infringement or threatened infringement of the rights of the proprietor of the trade mark, the court may order the applicant, upon application by the defendant, to compensate him in full for all damages.

#### **Article 44**

(Article 3 of Directive 2004/48/EC)

#### **Proportionality**

The provisions, sanctions and measures referred to in Articles 38 to 43 must be legitimate and fair and comply with the principle of proportionality.

## **Article 45**

### **Criminal provisions**

1. Any person who knowingly: a) uses a trade mark in violation of the provisions of points a' or b' of paragraph 3 of Article 7, or b) puts into circulation, possesses, imports or exports goods bearing a different trade mark, or offers services bearing a different trade mark, or c) commits one of the acts referred to in paragraph 4 of Article 7, shall be punished with imprisonment of at least six (6) months and a fine of at least six thousand (6,000) euros. The same penalty shall be imposed on anyone who intentionally uses a trade mark with a reputation, in breach of subparagraph c' of paragraph 3 of Article 7, to exploit or damage his reputation.

2. Imprisonment of at least two (2) years and a fine of six thousand (6,000) to thirty thousand (30,000) euros shall be imposed for infringing a trademark with a sign that is identical with the trademark and where there is also identity or similarity of goods or services: a) if the benefit sought or the damage threatened by the acts of paragraph 1 is particularly high and there is exploitation on a commercial scale, or b) if the liable person performs the acts of paragraph 1 on a professional basis.

3. Whoever intentionally uses the symbols and signs referred to in cases h`, i` and o` of paragraph 1 of Article 4 shall be punished with a fine of up to two thousand (2,000) euros.

4. In the cases referred to in paragraphs 1 and 2, the criminal prosecution shall be carried out upon complaint, while in the case referred to in paragraph 3, the criminal prosecution shall be carried out ex officio.

## **Article 46**

(Article 15 of Directive 2004/48/EC)

### **Publication of judicial decisions**

1. The civil or criminal courts in their decisions concerning an infringement of a trade mark may, at the request of the plaintiff or the civil claimant, respectively, and at the expense of the party infringing the trade mark, order appropriate measures for the dissemination of information concerning the decision, including the posting of the decision on the Internet and its full or partial publication in the media or on social media. The court shall decide on the appropriate method of publication.

2. The claim referred to in paragraph 1 shall be extinguished if the publication is not made within one year from the service of the final judgment on the plaintiff or the civil claimant.

## **Article 47**

### **Jurisdiction**

1. The Trade Marks Directorate shall have jurisdiction to accept or reject trade mark applications.
2. The Administrative Trade Marks Committee shall have jurisdiction to accept or reject applications referred to in paragraph 2 of Article 30.
3. The administrative courts shall have jurisdiction to accept or reject appeals against decisions of the Administrative Trade Marks Committee on applications under points (a), (b) and (f) of paragraph 2 of Article 30.
4. The civil courts shall have jurisdiction:
  - (a) in disputes relating to trade mark infringement,
  - (b) for oppositions under Article 583 of the CCP against decisions of the Administrative Trade Marks Committee on applications for revocation or invalidity of a trademark under points (c) and (d) of paragraph 2 of Article 30,
  - (c) counterclaims and injunction applications for revocation or invalidity of a trade mark,
  - (d) for actions for assignment of a trade mark pursuant to point (b) of paragraph 1 of Article 10,
  - (e) actions concerning the right to information referred to in paragraph 4 of Article 39.
5. The criminal courts shall have jurisdiction to impose the penalties referred to in Article 45.
6. Summaries of the decisions of the administrative courts in cases referred to in paragraph 3 shall be published on the website of the Ministry of Development and Investments. Summaries of the decisions of the civil courts in cases under b, c and d of paragraph 4 shall be published on the same website.

## **Article 48**

(Article 18 of Directive 2015/2436/EU)

### **Protection of the proprietor of a later registered trade mark in infringement proceedings**

1. In infringement proceedings, the proprietor of an earlier trade mark pursuant to paragraph 2 of Article 5 shall not be entitled to prohibit the use of a later registered trade mark, where that later registered trade mark would not be declared invalid pursuant to Articles 12 or 53 or 54. The foregoing shall also apply in the case of the

proprietor of another earlier right pursuant to paragraph 3 of Article 5, provided that the later registered trade mark would not be declared invalid pursuant to Article 12.

2. In infringement proceedings, the proprietor of an earlier trade mark shall not be entitled to prohibit the use of a later registered EU trade mark, where that later trade mark brought in an action for infringement would not be declared invalid pursuant to paragraphs 1, 3 or 4 of Article 60 or paragraphs 1 or 2 of Article 61 or paragraph 2 of Article 64 of Regulation (EU) No 2017/1001. The above shall also apply in the case of the proprietor of an earlier right, provided that the later trade mark in question would not be declared invalid pursuant to paragraphs 1, 3 or 4 of Article 60 or paragraphs 1 or 2 of Article 61 of Regulation (EU) No 2017/1001.

3. Where the proprietor of an earlier trade mark or other right is not entitled to prohibit the use of a later registered trade mark pursuant to paragraphs 1 or 2, the proprietor of the later registered trade mark shall not be entitled to prohibit the use of the earlier trade mark or other right in infringement proceedings, even though it is no longer possible to invoke that earlier right against the later trade mark.

## **CHAPTER F**

### **WAIVER OF THE RIGHT, REVOCATION, INVALIDITY**

#### **Article 49<sup>20</sup>**

##### **Waiver of the right to the trade mark**

1. The right to the trade mark shall be surrendered by a declaration of surrender by the proprietor in respect of all or part of the goods or services for which it has been registered.

2. Surrender shall be declared in writing to the Trade Marks Directorate by the proprietor of the trade mark. It shall take effect only after it has been entered in the register of trade marks.

3. In the case of a licence to use the trade mark, the surrender shall be entered in the register only if the proprietor of the trade mark proves that, he has notified the licensee of his intention to surrender the trade mark.

#### **Article 50**

(Articles 16(1), 19, 20, 21, 45 and 47 of Directive 2015/2436/EU)

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<sup>20</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

## **Revocation of the right to the trade mark<sup>21</sup>**

1. By an application against the proprietor of the trade mark submitted to the Trade Marks Directorate and examined by the Administrative Trade Marks Committee, the revocation of the right to the trade mark may be requested on the grounds referred to in paragraph 2. The decision of the Administrative Trade Marks Committee may be challenged in the civil courts by means of an opposition in accordance with Article 583 of the Civil Code for review as to law and merits. The opposition shall be heard in the regular procedure by the single-member court of first instance. The courts of Athens, where the register is kept, have local jurisdiction. The proprietor of the trade mark and the applicant for revocation have the right to oppose the decision if they have been wholly or partially successful. The statement of opposition shall be directed against the successful party before the Administrative Trade Marks Committee. The opposition shall not be directed against the Hellenic Republic and shall not be served on it. The time limit for filing an opposition shall be sixty (60) days from the date of service of the decision of the Administrative Trade Marks Committee. If the decision of the Administrative Trade Marks Committee is not served, the time limit for filing an opposition shall be two (2) years from the date of publication of the decision. If the aforementioned time limits have expired without effect, the decision of the Administrative Trade Marks Committee shall become unappealable. An opposition shall have suspensive effect. The opposing party must within thirty (30) days of the filing of the opposition submit a copy of the opposition to the Trade Marks Administration for registration in the Register, otherwise the opposition shall be declared inadmissible. At the hearing of the opposition before the single-member court of first instance, the parties must submit the pleadings and supporting material submitted to the Administrative Trade Marks Committee as well as its decision. To that end, the Trade Marks Directorate shall provide them with copies. In opposition proceedings, the parties may rely on new pleas and new evidence. However, new grounds for revocation which were not raised before the Administrative Trade Marks Committee may not be raised. The preliminary procedure of filing a revocation application with the Trade Marks Directorate is not required when a counterclaim for revocation of a trade mark is brought in an action for infringement.

2. The proprietor shall be forfeited in whole or in part if:

(a) within a period of five (5) years from the registration of the trade mark, he does not make genuine use of the trade mark for the goods or services for which it has been registered or if he ceases to use the trade mark for five (5) consecutive years,

(b) as a result of the proprietor's conduct or inactivity, the trade mark has become generic or has become a common name in the trade for the goods or services for which it is registered,

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<sup>21</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

(c) because of the use of the trade mark by the proprietor or with his consent in relation to the goods or services for which it has been registered, the public is liable to be misled, particularly as to the nature, quality or geographical origin of the goods or services.

3. If the ground for refusal relates only to part of the goods or services for which the trade mark in question is registered, the proprietor shall be deprived of his rights only in respect of those goods or services.

4. The right shall not be revoked if the proprietor of the trade mark:

(a) proves that the non-use is due to reasonable cause,

(b) in the period between the expiry of the five-year period of non-use and the filing of the application or counterclaim for revocation, the trade mark has been put to genuine use or resumed. The commencement or resumption of use within a period of three (3) months prior to the filing of the application or counterclaim for revocation, which shall not begin to run earlier than the completion of the continuous five-year period of non-use, shall not be taken into account if the preparatory actions for the commencement or resumption of use were taken after the proprietor became aware of the fact that, it is possible that an application or counterclaim for revocation may be filed.

5. In the case of a revocation application or revocation counterclaim for non-use of a trade mark, the burden of proof shall be reversed and the proprietor must prove the use of his trade mark.

6. The revocation of the right to the trade mark shall have effect against all parties and shall take effect when the decision becomes final. A registered trade mark shall be deemed to have ceased to produce the effects provided for in the present Law as from the date of filing of the application for revocation or of the counterclaim for revocation. At the request of a party, an earlier date may be fixed in the abovementioned decision, provided that one of the grounds for revocation existed on that date.

7. The final decision on the revocation of the right to the trade mark, as well as the date on which it takes effect, shall be entered in the trade marks register and the trade mark shall be deleted from it. Notification of the final decision may be made with the care of any person having a legitimate interest.

## **Article 51**

(Article 45(4) of Directive 2015/2436/EU)



## **Filing and examination of the application for revocation** <sup>22</sup>

1. The application for revocation filed with the Trade Marks Directorate shall be examined by the Administrative Trade Marks Committee. The application shall be directed only against the proprietor of the trade mark. The application may relate to some or all of the goods or services in respect of which the challenged trade mark has been registered. The Trade Marks Directorate shall immediately assign to the applicant the file number of the application filed and the date of the meeting of the Administrative Trade Marks Committee which will examine it. The second subparagraph of paragraphs 1 and 2 of Article 27 shall apply mutatis mutandis to the notification of the application for revocation to the proprietor and to the exercise of additional grounds for revocation.

2. An application for a revocation may be filed by any natural or legal person, as well as by any organisation or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, provided that such persons have the capacity to sue and be sued.

3. Grounds for revocation which have been raised by counterclaim may not be raised again by an application to the Trade Marks Directorate. Grounds for revocation which have been raised in an application to the Trade Marks Directorate may not be raised again in a counterclaim.

## **Article 52**

(Articles 7, 45 and 47 of Directive 2015/2436/EU)

## **Invalidity of a trade mark** <sup>23</sup>

1. An application against the proprietor of a trade mark submitted to the Trade Marks Directorate and examined by the Administrative Trade Marks Committee may request the invalidity of the trade mark on the grounds set out in Articles 4 and 5. The decision of the Administrative Trade Marks Committee may be challenged in the civil courts by means of an opposition under Article 583 of the CCP for review as to law and merits. The opposition shall be heard in the ordinary procedure by the single-member court of first instance. The courts of Athens, where the register is kept, have local jurisdiction. The proprietor of the trade mark and the applicant for a declaration of invalidity of the trade mark have the right to lodge an opposition under Article 583 of the CCC against the decision of the Administrative Trade Mark Committee provided that they have been wholly or partially successful. The statement of opposition shall

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<sup>22</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019

<sup>23</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019

be directed against the successful party before the Administrative Trade Marks Committee. The opposition shall not be directed against the Hellenic Republic and shall not be notified to it. The time limit for filing an opposition shall be sixty (60) days from the date of service of the decision of the Administrative Trade Marks Committee. If the decision of the Administration of Trade Marks Committee has not been served, the time limit for filing an opposition shall be two (2) years from the date of publication of the decision. If the aforementioned time limits have expired without effect, the decision of the Administrative Trade Marks Committee shall become ineffective. An opposition shall have suspensive effect. The opposing party must, within thirty (30) days of the filing of the opposition, submit a copy to the Administrative Trade Marks Committee for registration in the Register, otherwise the opposition shall be declared inadmissible. At the hearing of the opposition in the single-member court of first instance, the parties must submit the pleadings and evidence submitted to the Administrative Trade Marks Committee, as well as its decision. To that end, the Trade Marks Directorate shall provide them with copies. In opposition proceedings, the parties may rely on new pleas and new evidence. However, new grounds for invalidity which were not raised before the Administrative Trade Marks Committee may not be raised. The preliminary procedure of filing an application with the Trade Marks Directorate is not required where a counterclaim for invalidity of a trade mark is brought in the context of an action for infringement of the trade mark.

2. If the ground for invalidity refers only to part of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid only in respect of those goods or services.

3. The trade mark shall not be declared invalid if the ground for invalidity provided for in points (b), (c) and (d) of paragraph 1 of Article 4 does not exist at the time of filing the application or counterclaim for invalidity because the trade mark has acquired a distinctive character through use.

4. Any natural or legal person, as well as any organisation or body set up for the purpose of representing the interests of manufacturers, producers, service providers, traders or consumers, may apply for a trade mark to be declared invalid on the grounds referred to in Article 4.

5. Invalidity of a trade mark on the grounds referred to in Article 5 may be claimed by the proprietor of any prior right referred to in this Article.

6. An application or counterclaim for invalidity may be based on more than one prior right, provided that they all belong to the same proprietor.

7. The invalidity of the trade mark shall become final when the relevant decision becomes final. A trade mark which has been declared invalid shall be deemed never to have produced effects.

8. The final decision on the invalidity of a trade mark shall be entered in the Trade Marks Register and the trade mark shall be deleted from it. Notification of the final decision may be made with the care of any person having a legitimate interest.

9. Article 51 shall apply mutatis mutandis to the filing of an application for invalidity, its notification and its examination by the Administrative Trade Marks Committee.

10. No person shall be entitled to apply for a declaration of invalidity of a trade mark on the grounds referred to in Articles 4 and 5 having raised them during the registration procedure of the trade mark, provided that they have been adjudicated against the proprietor of the trade mark by the Administrative Trade Mark Committee or the administrative courts.

11. Grounds for invalidity raised in a counterclaim may not be raised again by an application to the Trade Marks Directorate. Grounds for invalidity which have been raised in an application to the Trade Marks Directorate may not be raised again in a counterclaim.

### **Article 53**

(Article 8 of Directive 2015/2436/EU)

#### **Lack of distinctive character or of reputation of an earlier trade mark precluding a declaration of invalidity of a registered trade mark**<sup>24</sup>

An application for a declaration of invalidity on the basis of an earlier trade mark shall not succeed at the date of application for invalidation if it would not have been successful at the filing date or on the priority date of the later trade mark for any of the following reasons:

(a) the earlier mark, which may be declared invalid pursuant to points (b), (c) or (d) of paragraph 1 of Article 4, had not yet acquired a distinctive character as referred to in paragraph 2 of Article 4,

(b) the application for a declaration of invalidity is based on point (b) of paragraph 1 of Article 5 and the earlier mark had not yet become sufficiently distinctive to support a finding of likelihood of confusion on the part of the public within the meaning of that provision,

(c) the application for a declaration of invalidity is based on point (c) of paragraph 1 of Article 5 and the earlier mark has not yet acquired a reputation within the meaning of that provision.

The above shall apply mutatis mutandis to a counterclaim for a declaration of invalidity of a trade mark.

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<sup>24</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019

## **Article 54**

(Article 8 of Directive 2015/2436/EU)

### **Lack of distinctive character or of reputation of an earlier trade mark precluding a declaration of invalidity of a registered trade mark <sup>25</sup>**

1. Upon request before the Administrative Trade Marks Committee of the proprietor of the later trade mark for which a declaration of invalidity is sought, the proprietor of an earlier trade mark who applies for invalidity on the grounds referred to in Article 5 shall prove that, within the period of five (5) years preceding the date of filing of the application for a declaration of invalidity, genuine use has been made of the earlier trade mark in respect of the goods or services for which it was registered and which he relies on to justify the application for a declaration of invalidity, or that there is reasonable cause for non-use, provided that on that date the earlier mark has been registered for at least five (5) years.

2. If, on the date of filing of the declaration or on the priority date of the later trade mark, the period of five (5) years from the registration of the earlier trade mark within which genuine use of it should have been made has expired, the proprietor of the earlier trade mark, in addition to the evidence required under paragraph 1, must prove that genuine use of his trade mark has been made during the five-year period preceding the date of filing of the declaration or the priority date of the later trade mark or that there was reasonable cause for non-use.

3. If the matters referred to in paragraphs 1 and 2 are not demonstrated, the application for a declaration of invalidity shall be rejected without examination as to its merits.

4. If the earlier mark has been used for only part of the goods or services for which it was registered, it shall, for the purposes of the examination of the application for a declaration of invalidity, be deemed to be registered only for that part of the goods or services.

5. Where the application for a declaration of invalidity is based on an earlier European Union trade mark, its genuine use shall be determined in accordance with Article 18 of Regulation (EU) 2017/1001.

6. Paragraph 2 of Article 28 shall apply mutatis mutandis.

## **Article 55**

(Article 6 of Directive 2015/2436/EU)

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<sup>25</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019

## **Establishment a posteriori of invalidity or revocation of a trade mark<sup>26</sup>**

Where the seniority of a national trade mark or an international trade mark valid in Greece which has been surrendered or allowed to lapse, is claimed in respect of a European Union trade mark, the declaration of invalidity or revocation of the rights in the trade mark providing the basis for the seniority claim may be established a posteriori, provided that the invalidity or revocation of rights could have been declared at the time the trade mark was surrendered or allowed to lapse. In such a case, seniority shall cease to produce its effects.

## **CHAPTER G**

### **CERTIFICATION MARKS AND COLLECTIVE MARKS**

#### **Article 56**

(Articles 27, 28 of Directive 2015/2436/EU)

#### **Certification marks<sup>27</sup>**

1. 'Certification marks' means marks which are described as certification marks at the time of their filing and which are capable of distinguishing the goods or services which are certified by the proprietor of the mark in respect of material, mode of manufacture of goods or provision of the services, quality, accuracy or other characteristics, with the exception of geographical origin, from goods and services which are not so certified.

2. Any natural or legal person, including organisations, authorities and bodies governed by public law, within the meaning of paragraph 6 of Article 1 of Law No. 1256/1982, may apply for certification marks provided that such person does not carry on a business involving the supply of goods or services of the kind certified.

#### **Article 57**

#### **Regulations regarding the use of the certification mark<sup>28</sup>**

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<sup>26</sup> Article 90(1) of this Law provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019

<sup>27</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>28</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

1. The declaration of filing for certification marks shall be accompanied by a regulation regarding the use, which shall be drawn up by the filer of the declaration.
2. The regulation regarding the use shall indicate the persons who are authorised to use the mark, the characteristics which the mark must certify, and the manner in which the certification body shall examine these characteristics and supervise the use of the trade mark. That regulation shall also indicate the conditions of use of the mark, including the consequences in the event of infringement of the conditions of use.
3. The regulation and any amendments thereto shall be submitted to the Trade Marks Directorate and entered in the register, provided that they comply with the conditions set out in paragraph 2 and provided that the conditions set out in Article 58(1) are also met.
4. The regulation and any amendments thereto shall take effect from the date of their entry in the register.

## **Article 58**

(Article 28(3) of Directive 2015/2436/EU)

### **Dismissal of the declaration of filing**<sup>29</sup>

1. The declaration of filing of a certification mark shall be refused:
  - (a) where one of the grounds for refusal of a declaration of a trade mark provided for in Article 4 applies; or
  - (b) where an opposition as referred to in Article 25 is lodged, when one of the grounds for refusal of a trade mark declaration provided for in Article 5 applies; or
  - (c) where the conditions laid down in Articles 56 and 57 are not fulfilled or where the regulation regarding the use is contrary to public order or morality.
2. An application for a certification mark shall also be refused if there is a risk of misleading the public as to the character or meaning of the mark, in particular if the mark may be perceived as something other than a certification mark.
3. An application for a certification mark shall not be refused if, pending a final decision rejecting the declaration, the applicant amends the regulation regarding the use in such a way that the requirements of paragraphs 1 and 2 are fulfilled.

## **Article 59**

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<sup>29</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

## **Transfer of a certification mark** <sup>3031</sup>

The certification mark shall be transferred only to a person who fulfils the requirements referred to in paragraph 2 of Article 56.

## **Article 60**

### **Persons entitled to bring an action for infringement** <sup>32</sup>

1. Only the proprietor of the certification mark shall be entitled to bring actions and remedies to pursue infringement claims in accordance with Articles 38 et seq.
2. The proprietor of a certification mark shall also be entitled to claim damages also on behalf of the persons entitled to use the mark.

## **Article 61**

(Article 28(3) of Directive 2015/2436/EU)

### **Grounds for revocation**<sup>33</sup>

In addition to the grounds for revocation referred to in Article 50, the proprietor of a certification mark shall be revoked following an application for revocation pursuant to Article 50, or following a counterclaim for revocation in an action for infringement pursuant to paragraph 12 of Article 38, where one of the following conditions is fulfilled:

- (a) the proprietor no longer meets the requirements of paragraph 2 of Article 56; or
- (b) the proprietor fails to take reasonable steps to prevent the use of the certification mark in a manner inconsistent with the terms of the regulation for use, including any modification thereof entered in the register; or
- (c) the certification mark has been used by the proprietor in a way which has had the effect of misleading the public in accordance with paragraph 2 of Article 58,
- (d) the amendment to the regulation regarding the use of the certification mark has been entered in the register in breach of paragraph 3 of Article 57, unless the

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<sup>30</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>31</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>32</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>33</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

proprietor of the certification mark, following an amendment to the regulation regarding the use, submitted to the register until the final decision on revocation has been taken, complies with the requirements of Article 58.

## **Article 62**

(Article 28(3) of Directive 2015/2436/EU)

### **Additional grounds for invalidity**<sup>34</sup>

A certification mark shall be declared invalid following an application for a declaration of invalidity pursuant to Article 52, or following a counterclaim for invalidity in an action for invalidity pursuant to Article 38(12):

- (a) if grounds for invalidity under Article 52 in conjunction with Articles 4 or 5 apply,
- (b) if it has been registered in breach of Article 58.

A certification mark shall not be declared invalid if the proprietor, following an amendment to the regulations for use submitted to the Registry until the final decision on invalidity has been taken, complies with the requirements of Article 58.

## **Article 63**

### **Other provisions**<sup>35</sup>

1. A special register shall be kept for certification marks, and the fees for filing and renewal of protection shall be set at five times the fees applicable to other trade marks at any given time.
2. The use of the certification mark shall necessarily be indicated by the words 'certification mark'.
3. The provisions of the present Law shall apply to certification marks, provided that they do not conflict with Articles 56 to 63.

## **Article 64**

(Articles 27 and 29 of Directive 2015/2436/EU)

### **Collective marks**<sup>36</sup>

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<sup>34</sup>Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>35</sup>Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>36</sup>Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.



1. "Collective marks" means trade marks which are described as collective at the time of their filing and which are capable of distinguishing the goods or services of the members of the association which is the proprietor of the mark from the goods or services of other undertakings.

2. Collective marks may be filed by cooperatives and associations of manufacturers, producers, suppliers of services or traders, which have the capacity in their own name to be subject to rights and obligations, to make contracts or accomplish other legal acts and to sue and be sued, as well as by legal persons governed by public law.

3. By way of derogation from point (c) of paragraph 1 of Article 4, collective marks may consist of signs or indications which may serve in trade to designate the geographical origin of goods or services. Such a collective mark shall not entitle its proprietor to prohibit a third party from using, in the course of trade, such signs or indications, provided that such third party uses them in accordance with honest practices in industrial and commercial matters. In particular, such a trade mark may not be invoked against a third party who is entitled to use a geographical name.

## **Article 65**

(Articles 30 and 33 of Directive 2015/2436/EU)

### **Regulation governing the use of the collective mark**<sup>37</sup>

1. The applicant for a collective mark shall draw up the regulation for the use of the mark.

2. The regulation governing the use shall indicate, in particular, the persons authorised to use the trade mark, the conditions of membership of the association, which is the proprietor, as well as the conditions of use of the trade mark, including sanction. If the collective mark consists of a geographical indication, the regulation shall provide that any natural or legal person whose goods or services come from the geographical area concerned may become a member of the association which is the proprietor of the mark, provided that he fulfils all the other conditions laid down in the regulation.

3. The regulation and amendments thereto shall be submitted to the Trade Marks Directorate and entered in the register, subject to compliance with paragraph 2 and without prejudice to paragraph 1 of Article 66.

4. The Regulation and any amendment thereto shall enter into force on the date of its entry in the Register.

## **Article 66**

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<sup>37</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

(Article 31 of Directive 2015/2436/EU)

**Additional grounds for refusal of the filing declaration<sup>38</sup>**

1. The declaration of filing for a collective mark shall be refused:

(a) if the grounds for refusal referred to in Article 4 apply, except where the collective mark consists of signs or indications which may serve, in trade, to designate the geographical origin of the goods or services; or

(b) in the event of an opposition under Article 25, if the grounds referred to in Article 5 apply; or

(c) where the collective mark does not satisfy the provisions of Articles 64 and 65 or where the regulations governing its use are contrary to public policy order or morality.

2. An application for a collective mark shall also be refused if the public is liable to be misled as regards the character or the significance of the mark, in particular where the mark is likely to be taken to be something other than a collective mark.

3. The application shall not be refused if the applicant, pending a final decision refusing the declaration, amends the regulation governing the use of the collective mark in such a way that the provisions of point (c) of paragraph 1 and paragraph 2 are fulfilled.

**Article 67**

(Article 34 of Directive 2015/2436/EU)

**Persons entitled to bring an action for infringement<sup>39</sup>**

1. The right to bring claims arising from the registration of a collective mark shall, unless otherwise provided in the statutes or the regulation governing use, belong to the proprietor.

2. Paragraphs 4 and 5 of Article 17 shall apply to any person entitled to use a collective mark.

3. The proprietor of a collective mark may, on behalf of the persons entitled to use the mark, claim compensation for the damage sustained by those persons as a result of unauthorised use of the mark.

**Article 68**

(Article 35 of Directive 2015/2436/EU)

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<sup>38</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>39</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

### **Additional grounds for revocation<sup>40</sup>**

In addition to the grounds for revocation provided for in Article 50, the proprietor of a collective mark shall be revoked following an application for revocation under Article 50 or following a counterclaim for revocation in an action for infringement under Article 38(12), if:

(a) the proprietor does not take reasonable steps to prevent the mark being used in a manner that is incompatible with the conditions of use of the collective mark as laid down in the regulation governing the use of the collective mark, including any amendments thereto entered in the register; or

(b) the manner in which the trade mark has been used by the authorised persons has caused it to become liable to mislead the public,

(c) the amendment to the regulation governing the use of the trade mark has been entered in the register in breach of paragraph 3 of Article 65, unless the proprietor of the trade mark, by further amending the regulation governing the use of the trade mark, complies with the requirements of that Article, up until the final decision on revocation.

### **Article 69**

(Article 36 of Directive 2015/2436/EU)

### **Additional grounds for invalidity<sup>41</sup>**

A collective mark shall be declared invalid if an application for a declaration of invalidity pursuant to Article 52 or a counterclaim for invalidity is filed in an action for infringement of the collective mark pursuant to Article 38(12):

(a) if the grounds for invalidity referred to in Article 52 in conjunction with Article 4 apply, except where the collective mark consists of signs or indications which may serve in trade to designate the geographical origin of the goods or services; or

(b) if the grounds for invalidity referred to in Article 52 in conjunction with Article 5 apply; or

(c) if the collective mark does not satisfy the conditions laid down in Article 66, unless the proprietor, until a final decision on invalidity has been given, amends the regulation governing its use in such a way that the conditions laid down in Article 66 are satisfied.

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<sup>40</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

<sup>41</sup> Article 90(1) of this Act provides that the provisions of Articles 2 to 6, 25 to 28, 50(2) to (7), 51(2), 52(2) to (8) and 53 to 70 shall enter into force on 14 January 2019.

## **Article 70**

(Article 32 of Directive 2015/2436/EU)

### **Other provisions**

1. A special register shall be kept for collective marks, and the fees for filing and renewal of protection shall be set at five times the fees applicable to other marks.
2. The collective mark shall be used exclusively with the indication 'collective mark'.
3. The provisions of this Law shall apply to collective marks, provided that the provisions of Articles 64 to 70 do not conflict with the provisions of this Law.

## **CHAPTER H**

### **INTERNATIONAL TRADE MARKS**

## **Article 71**

### **Applications for international registration**

Unless otherwise specified in this Chapter, this Law shall also apply to applications for international registration ('international applications') filed in accordance with the Madrid Protocol (1989), ratified by Article 1 of Law No. 2783/2000 (A' 1) and are based on a national trade mark application or a registered national trade mark or on the registration of trade marks in the International Register maintained by the International Bureau of the World Intellectual Property Organization ("International Registration" and "International Bureau" respectively), the protection of which has been extended to the Greek territory.

## **Article 72**

### **International registration on the basis of a declaration of filing of a national trade mark or of a registered national trade mark**

1. For the filing of an international application in the International Register, pursuant to Article 3 of the Madrid Protocol, based on a declaration of filing of a national trade mark or a registered national trade mark, the following conditions shall be fulfilled:
  - (a) the applicant must have a real and permanent industrial or commercial establishment or residence in Greece or be a Greek national,
  - (b) the applicant has filed a declaration of filing of a national trade mark or has a registered national trade mark in Greece.
2. The international application shall be filed with the Trade Marks Directorate.

## **Article 73**

### **Form and content of the international application**

1. The international application shall be drawn up in French or English on the basis of a form available on the website of the International Bureau and signed by the applicant or his attorney.
2. The international application must also be filed in electronic form and shall be subject to the payment of the fee provided for in point (l) of paragraph 1 of Article 87.
3. The international application shall be given a file number and a date of receipt and shall be checked by the Trade Marks Directorate for the fulfilment of the conditions referred to in paragraph 1 of Article 72.
4. If the conditions of paragraph 1 of Article 72 are fulfilled, the international application shall be forwarded to the International Bureau within a period of two (2) months from the date of its receipt. If the above time limit is complied with, the date of receipt of the international registration by the Trade Marks Directorate shall be deemed to be the date of the international registration. If the time limit is exceeded, the date of international registration shall be deemed to be the date of receipt of the application by the International Bureau.

## **Article 74**

### **Application for territorial extension subsequent to international registration**

Any application for territorial extension filed after the international registration pursuant to paragraph 2 of Article 3ter of the Madrid Protocol shall be filed directly at the International Bureau.

## **Article 75**

### **Payment of fees**

Fees due to the International Bureau under the Madrid Protocol shall be paid directly to the International Bureau.

## **Article 76**

### **Extension of the protection of an international registration in the Greek territory and its effects**

1. Any extension of protection of an international registration in the Greek territory shall, from the date of registration provided for in paragraph 4 of Article 3 of the

Madrid Protocol or from the date of extension of protection in the Greek territory pursuant to paragraph 2 of Article 3ter of the Madrid Protocol, have the same effects as a declaration of filing of a national trade mark

2. If no refusal has been notified pursuant to paragraphs 1 and 2 of Article 5 of the Madrid Protocol or if the refusal has been withdrawn, an international registration of a trade mark whose protection has been extended in the Greek territory shall, from the date provided for in paragraph 1, have the same effects as a registration of a national trade mark ("accepted international registration").

## **Article 77**

### **Use of a trade mark which is the subject of an international registration**

For the purposes of Articles 28, 40, 50 and 54, an accepted international registration shall take effect as a trade mark registration in Greece from the date on which the Trade Marks Directorate notes it in its register in accordance with paragraph 2 of Article 76 and Article 78.

## **Article 78**

### **Procedure for the protection of an international registration in the Greek territory**

1. The Trade Marks Directorate shall be competent to decide on the granting of protection in the Greek territory to an international registration. In the case of international registrations relating to certification marks or collective marks, the proprietor of the international registration shall submit directly to the Trade Marks Directorate a regulation governing the use of the trade mark in accordance with Articles 57 or 65 respectively, within two months from the date on which the International Bureau notifies the international registration.

2. The international registration shall be entered in the paper or electronic register of international trade marks maintained by the Trade Marks Directorate. The register shall record, where appropriate, the decisions of the Examiner, the Administrative Trade Marks Committee, the civil and administrative courts and the Council of State. Complete and up-to-date details of international registrations are kept exclusively in the International Register. In the event of a conflict between the International Register and the Register of International Trade Marks of the Trade Marks Directorate, the International Register shall prevail. The decisions accepting or rejecting the international registration in the Greek territory, as well as the decisions on its validity, are posted on the website of the Ministry of Development and Investments.

3. If the above application for international registration is accepted by the Examiner and no opposition has been filed against it, the Trade Marks Directorate shall notify the International Bureau, before the expiry of the eighteen (18) month period

provided for in subparagraph b' of paragraph 2 of Article 5 of the Madrid Protocol of the details of the decision accepting the application.

4. If, on the date of the decision accepting the international registration, the period of eighteen (18) months provided for in paragraph 3 is about to expire without the expiry of the opposition period provided for in paragraph 1 of Article 25 hereof, the Trade Marks Directorate shall communicate to the International Bureau the particulars of the decision accepting the application, at the same time informing it of the commencement and expiry of the opposition period in accordance with point (c) of paragraph 2 of Article 5 of the Madrid Protocol. If an opposition is finally filed after the expiry of the eighteen (18) month period, the Administration of Trade Marks shall notify the International Bureau of the elements of the opposition as a provisional refusal within thirty (30) days of the filing of the above-mentioned opposition.

5. If the time limit for filing an opposition pursuant to paragraph 1 of Article 25 expires within the aforesaid period of eighteen (18) months and an opposition to the decision of the Examiner accepting the international registration is filed in due time, the Trade Mark Directorate shall notify the International Bureau of the details of the opposition as a provisional refusal before the expiry of the aforesaid time limit, pursuant to point (b) of paragraph 2 of Article 5 of the Madrid Protocol.

6. If the international registration cannot be accepted in the Greek territory for one or more of the reasons referred to in Article 4, paragraph 3 of Article 24 shall apply and the Trade Marks Directorate shall notify the International Bureau, within the above-mentioned period of eighteen (18) months of a provisional refusal. In this case, the period provided for in paragraph 3 of Article 24 shall be set at three (3) months and shall commence on the day following the notification of the provisional refusal to the International Bureau.

7. Any other notification to the International Bureau may be made after the expiry of the eighteen (18) month period.

## **Article 79**

### **Appeal - opposition - notifications**

1. In appeal and opposition proceedings before the Administrative Trademark Committee, the proprietor of an international registration shall appoint an attorney and procedural representative residing in the Greek territory, to whom all notifications shall be made. The same shall apply if the examiner invites the applicant to submit observations in accordance with paragraph 3 of Article 24 and paragraph 6 of Article 78. Where an opposition is filed, the notification of the opposition shall be made with the care of the Trade Marks Directorate in accordance with paragraphs 4 or 5, as the case may be, of Article 78.

2. If the proprietor of the international registration is not represented in the proceedings referred to in paragraph 1 by an attorney, the opposition or appeal shall not be deemed to be admitted and the case shall be dealt with as if he were present.

3. An appeal against the examiner's refusal shall be brought before the Administrative Trade Marks Committee within a period of ninety (90) days commencing on the day following the notification by the Trade Marks Directorate to the International Bureau of the final refusal. An appeal against the above decision of the Administrative Trade Marks Committee shall be brought before the administrative courts by the proprietor of the international registration within a period of ninety (90) days from the day following the notification of the decision to him.

4. An appeal against the decision on an opposition rejecting the international registration shall be filed within ninety (90) days. If the holder of the international registration has appointed an attorney and procedural representative in Greece, this period shall commence on the day following the notification of the decision by the Trade Marks Directorate by any appropriate means, in particular by electronic mail or fax. If the proprietor of the international registration has not appointed an attorney and procedural representative in Greece, the time limit shall commence on the day following the notification of the decision to the International Bureau.

## **Article 80**

### **Replacement of a national trade mark by an international registration**

Where a national trade mark is replaced by an international registration valid in Greece, the substantive rights deriving therefrom shall revert to the time of registration of the national trade mark.

## **Article 81**

### **Procedure for cancellation of an international registration**

1. The right conferred by the international registration granted shall be revoked by final decision on the grounds provided for in Articles 50 and 52. When the decision has become final, the Trade Marks Directorate shall inform the International Bureau by means of a notification indicating the name of the proprietor, the number of the approved international registration, the judicial authority and the procedure for the loss of the right, the finality of the decision, its entry into force and the goods or services covered.

2. When an application for revocation or invalidity against an approved international registration is filed with the Trade Marks Directorate, a copy of the application translated by the Ministry of Foreign Affairs or by an attorney in English or French shall be communicated with the care of the applicant to the international registrant or its representative, as shown in the International Register, by any appropriate means,



including facsimile and e-mail, sixty (60) days prior to the hearing. If an attorney or procedural representative has been appointed in Greece, notification shall be made only to such attorney or procedural representative by bailiff, without the need for translation. The same shall apply to the notification of a summons to appear before a magistrate, notary or consul in accordance with paragraph 11 of Article 30. If no attorney or procedural representative has been appointed, the summons shall be served by any appropriate means accompanied by a translation into English or French within the same time limit. Additional grounds shall be communicated forty-five (45) days before the hearing in the same way as an application for revocation or invalidity against an international registration. The above provisions shall also apply where the application for revocation or invalidity of an approved international registration is brought by way of counterclaim before a civil court.

## **Article 82**

### **Procedure for conversion of an international registration to a national trade mark**

1. If either the basic application or the basic registration on which an international registration with extended protection in Greece is based ceases to be valid in the country of origin within five years from the date of the international registration, the proprietor of the international registration shall be entitled to request its conversion into a national trade mark in Greece, within a period of three (3) months from the date on which its ceasing to be valid is recorded in the International Register.
2. Paragraph 1 shall also apply if the cessation of validity occurs after the expiry of the aforementioned five-year period, provided that the remedy has been filed in the country of origin within the aforementioned five-year period.
3. In the case of conversion of an international registration into a national trade mark in Greece, the applicant shall submit a declaration of conversion to the Trade Marks Directorate accompanied by the supporting documents referred to in paragraph 1 of Articles 21 and 22, as well as a certificate from the International Bureau indicating the date of its removal from the International Register. This declaration shall be entered in the relevant trade mark register in accordance with Articles 21 and 22, which shall apply *mutatis mutandis*. The form and content of the declaration of conversion shall be determined by a decision of the Minister of Development and Investments.
4. A trade mark upon conversion shall be registered without prior examination, provided that the time limit referred to in points (b) and (c) of paragraph 2 of Article 5 of the Madrid Protocol has expired and no remedy has been filed. If that time limit has not expired or if a provisional refusal has already been notified, the declaration of conversion shall be examined by the Trade Marks Directorate, paragraphs 1 and 3 of Article 21, paragraphs 1 and 2 of Article 22 and Article 24 applying *mutatis mutandis*. The remaining provisions of the present Law relating to national trade marks shall also apply to international registrations resulting from conversion. If the application for initial or subsequent extension of protection of the international registration in

Greece is pending before the Trade Marks Directorate or the Administrative Trade Marks Committee, the relevant proceedings shall be terminated by their decision.

5. After the submission of the application for conversion, the international registration shall be deleted from the register of international marks by an act of the Trade Marks Directorate.

6. The protection of a national trade mark resulting from a conversion of an international registration shall last for a period of ten years, beginning either from the date of the international registration or, in the case of a subsequent extension of an international registration in Greece, from the date of registration in the International Register of the application for extension of protection of the international registration in Greece. For the renewal of the protection of the above trade mark every ten (10) years, the date of filing of the application for conversion with the Trade Marks Directorate is decisive.

## **CHAPTER I**

### **EUROPEAN UNION TRADE MARK**

#### **Article 83**

##### **Protection**

1. The protection conferred on the trade mark of the European Union shall not be inferior to that conferred on the national trade mark.

2. If the seniority of a European Union trade mark has been based on an earlier registered national trade mark and the proprietor of the European Union trade mark surrenders that earlier right or allows it to lapse, he shall be deemed to continue to enjoy the same rights as he would have had if the earlier national trade mark had continued to be registered.

#### **Article 84**

##### **Conversion of a European Union trade mark to a national trade mark**

1. In the case of conversion of a European Union trade mark application or a European Union trade mark into a declaration of filing of a national trade mark, the applicant shall submit to the Trade Marks Directorate a declaration of conversion accompanied by the supporting documents referred to in paragraph 1 of Article 21 and paragraphs 1 and 3 of Article 22, as well as a translation of the conversion application to the European Union Intellectual Property Office (EUIPO) in Greek by a person or authority entitled to translate it in accordance with the applicable legislation.

2. The deadline for submission of the above documents is two (2) months and begins from the notification of the applicant or the proprietor of the European Union trade mark or his attorney in Greece mentioned in the conversion application, by the Trade Marks Directorate by means of a document upon receipt. In this notification, the Trade Marks Directorate informs that it has received the request for conversion from the European Union Intellectual Property Office (EUIPO).

3. The form and content of the conversion declaration shall be determined by decision of the Minister of Development and Investments. The declaration shall be entered in the relevant trade mark register, applying Articles 21 and 22 *mutatis mutandis*, and shall be examined by the Trade Marks Directorate, applying *mutatis mutandis* the provisions on national trade marks.

4. The protection of a trade mark resulting from the conversion of a European Union trade mark application or from the conversion of a European Union trade mark into a declaration of filing of a national trade mark shall be based on the date of filing of the European Union trade mark or on the priority date of the trade mark application or of the European Union trade mark, and on the date of seniority of a national trade mark which may have been claimed.

5. For the renewal of the protection of the above mentioned trademark every ten (10) years, the date of filing of the conversion application at the Intellectual Property Office of the European Union (EUIPO) is decisive.

## **CHAPTER J**

### **TRADE MARKS OF FOREIGN APPLICANTS**

#### **Article 85**

##### **Protection**

1. The proprietors of trade marks who have their professional establishment outside Greece shall be protected in accordance with the provisions hereof.

2. If priority is claimed, in accordance with the International Convention of Paris (1883), ratified by the first article of Law No. 213/1975 (A' 258), a copy of the trade mark declaration in the foreign country on which the claim of priority is based shall be filed within three months from the date of filing of the trade mark declaration in the national territory.

3. For protection in Greece, an additional filing shall be required in accordance with the provisions hereof.

4. The time limit for foreign trademark applicants or proprietors to appeal against the decisions of the Trade Marks Directorate or the Administrative Trade Marks Committee shall be extended by thirty (30) days. This extension shall also apply to the

time limits imposed on them pursuant to paragraph 3 of Article 21, paragraph 2 of Article 22, paragraph 7 of Article 23, paragraph 3 of Article 24, paragraph 2 of Article 28, paragraph 1 of Article 50, paragraph 1 of Article 52 and paragraph 6 of Article 54.

5. Foreign language documents submitted when filing a trade mark must be accompanied by a Greek translation made by a person or authority authorised to translate in accordance with the legislation in force.

## **CHAPTER K**

### **SPECIFIC, TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 86**

##### **Publications** <sup>42 43</sup>

The publications provided for herein shall be made on the website of the Hellenic Industrial Property Organisation.

#### **Article 87**

##### **(Article 42 of Directive 2015/2436/EU)**

##### **Fees** <sup>4445</sup>

1. The following fees shall be intended for the operation of the trade mark register and other registers for industrial property rights kept by the Hellenic Industrial

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<sup>42</sup> Article 86 was replaced as above by article 43 of Law 4796/2021, Government Gazette A 63/17.4.2021.

<sup>43</sup> Effective, pursuant to Article 48 of the same law, from the adoption of a joint decision of the Ministers of (a) Development and Investments and (b) Finance, upon the recommendation of the Board of Directors of the Hellenic Industrial Property Organisation.

See No. 48793/13.05.2022 Joint Decision of the Ministers of Finance and Development and Investments on "Entry into force of Chapter C of Part B of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Hellenic Industrial Property Organisation of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022)

<sup>44</sup> Article 87 was replaced as above by article 44 of Law 4796/2021, Government Gazette A 63/17.4.2021 and paragraph 2 of Article 87 was further amended as above by article 59 of Law 4982/2022, Government Gazette A 195/15.10.2022

<sup>45</sup> Effective, in accordance with Article 48 of this Law, from the adoption of a joint decision of the Ministers of (a) Development and Investments and (b) Finance, upon the relevant recommendation of the Board of Directors of the Industrial Property Agency.

See Joint Decision No. 48793/13.05.2022 of the Ministers of Finance and Development and Investments on "Entry into force of Chapter C of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Hellenic Industrial Property Organisation of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022)

Property Agency, as well as for the general operation of the Organisation and shall be collected by it. The fees shall be fixed as follows:

- a. filing of a trade mark, submitted in paper form, one hundred and twenty (120) euros,
- b. filing of a trade mark, submitted electronically, EUR 100 (100),
- c. for each additional class, twenty (20) euros,
- d. filing of a trade mark from a conversion of a European Union trade mark or an international registration or from a division of a trade mark declaration into several parts, one hundred and fifty (150) euros,
- e. each additional class, twenty (20) euros,
- f. renewal of trade mark protection, filed in paper form, one hundred and ten (110) euros,
- g. renewal of trade mark protection, filed electronically, EUR 90,
- h. each additional class, twenty (20) euros,
- i. transfer of a trade mark, ninety (90) euros,
- j. grant of a license for use, EUR 90,
- k. registration of rights in rem, EUR 40 (forty),
- l. examination and forwarding of an international application, EUR 15 (fifteen),
- m. replacement of a national trade mark by an international registration, one hundred and ten (110) euros,
- n. filing of appeals, oppositions, interventions and applications before the Administrative Trade Marks Committee, seventy (70) euros,
- o. a fee for hearing oppositions, appeals, interventions and applications before the Administrative Trade Mark Committee, EUR 40,
- f. restitutio in integrum, one hundred and ten (110) euros,
- g. issue of a copy of the trade mark, one (1) euro.

2. By joint decision of the Ministers of Finance and Development and Investments, the fees payable to the Industrial Property Agency may be increased or decreased by thirty percent (30%).

## **Article 88**

## **Authorizing provisions<sup>4647</sup>**

1. By decision of the Board of Directors of the Hellenic Industrial Property Organisation, the following shall be determined:

- (a) the number of divisions of the Administrative Trade Marks Committee,
- b) the appointment of the members of the divisions of the Administrative Trade Marks Committee, as well as their deputies, in accordance with paragraph 1.
- (c) the selection criteria and qualifications of the employees of the Hellenic Industrial Property Organisation who act as Auditors, Researchers, Examiners and Registrars, or who are appointed members or deputy members of the Administrative Trade Marks Committee,
- (d) the conditions for maintaining the electronic trade mark register, which, once completed, is intended to replace the paper trade mark register,
- (e) the manner of filing the new forms of trade marks, as well as any other relevant matter.

## **Article 89**

### **Repealed and transitional provisions**

1. Articles 121 to 182 of Law No. 4072/2012 (A' 86), except for paragraph 2 of Article 145 and the first subparagraph of paragraph 4 of Article 145 of Law No. 4072/2012, as amended by Article 23 of Law No. 4155/2013, which shall be repealed one (1) year after the entry into force of this Act.

2. Declarations of trade mark filings that have not been finally accepted at the entry into force of the present Law shall be judged as to the conditions of admissibility in accordance with the provisions in force at the time of their filing, unless they were filed from 14.01.2019 onwards, in which case they shall be judged in accordance with the provisions of the present Law.

3. Appeals under Article 25 and applications for revocation or invalidity that have not been finally accepted at the time of the entry into force of this Act shall be judged in accordance with the provisions in force at the time they were filed, unless they were

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<sup>46</sup> Effective, in accordance with Article 48 of this Law, from the adoption of a joint decision of the Ministers of Development and Investment and Finance, following a recommendation of the Board of Directors of the Hellenic Industrial Property Organisation.

See Joint Decision No. 48793/13.05.2022 of the Ministers of Finance and Development and Investment on "Entry into force of Chapter C of Part B of Law No. 4796/2021 "Arrangements for the Transfer to the Hellenic Industrial Property Organisation of the Responsibilities for Trademarks - Transfer of the Trademark Registry and Archive" (Government Gazette B 2416/16.05.2022)

<sup>47</sup> Article 88 was replaced as above by article 59 of Law 4982/2022, Government Gazette A 195/15.10.2022

filed from 14.01.2019 onwards, in which case they shall be judged in accordance with the provisions of this Act.

4. In all other respects, cases pending before the Trade Marks Directorate, the Administrative Trade Marks Committee, and the administrative and civil courts at the time of the entry into force of this Law shall be governed by the provisions of the previous law.

5. As regards the commencement and duration of deadlines, the provisions that were in force at the time of the event that triggered them shall apply.

6. The Minister of Development and Investments shall determine the date of commencement of operation of the electronic register of trade marks and the date of abolition of the paper register.

## **Article 90**

### **Entry into force<sup>48</sup>**

1. The provisions of Articles 2 to 6, 25 to 28, paragraphs 2 to 7 , 51 paragraph 2, 52 paragraphs 2 to 8 and 53 to 70 shall enter into force on January 14, 2019.

2. In all other respects, this Act shall enter into force upon its publication in the Official Gazette, except for paragraph 3 of Article 30 and the first and last subparagraphs of paragraph 8 of Article 30, which shall enter into force one (1) year after the entry into force of the present Law.

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<sup>48</sup> According to article 235 of Law 4782/2021, Government Gazette A` 36/09.03.2021 'The effect of par. 3, as well as the first and last sections of par. 8 of Article 30 of Law No. 4679/2020 (A' 71) shall enter into force on 20 March 2022. Until the date of the first subparagraph, the provisions of par. 2 of Article 145 and the first subparagraph of paragraph 4 of Article 145 shall continue to apply'