

Trademark Regulations

- 1) Trademarks consist of shapes and forms, which are used for industrial, commercial and agricultural products that may appear as drawings, pictures, letters of a signature, margins and surroundings of textile, for the purpose of identification and distinguishing products.
- 2) Each of the trademarks specified in the above Article can be used to identify, and to make a distinction between commercial goods and between industrial and agricultural products as well as the products of a particular region.
- 3) It is optional to use trademarks except for those cases where the Government has made it mandatory.
- 4) Individuals have the right of exclusive use of a given which has been registered in a relevant commercial court.
- 5) The owners of commercial, industrial and agricultural organizations in Afghanistan, whether domestic or foreign, shall enjoy the benefits of these laws if their respective trademarks have been registered per the Articles of these laws.
- 6) Those whose commercial, industrial or agricultural organizations are located outside of Afghanistan can use these laws if they have registered their respective trademarks in Afghanistan as long as the respective country abides by these laws or has signed treaties with Afghanistan with respect to trademarks or based on their respective internal trademark regulations.
- 7) The following signs, in whole or in part shall not be used as trademarks:
 1. National and Royal flags of Afghanistan, as well as all flags which use is forbidden per the order of the Government.
 2. Adytum and pulpit.

3. The picture of the King.

4. Words and phrases that could be confused with the officials of Afghanistan, such as "Shahi = Kingdom", "Saltanati = Royal", "Dolati = Government", "Hokoomati = Government or state", and those similar words and phrases.

5. Signs of official organizations such as: (serh miasht), the Red Crescent, the Red Cross, etc.

6. Signs that mean modesty of ethic and public disciplines.

8) Real individuals or legal entities that need to request the registration of a trademark shall contact the relevant center for registration of commercial court either personally or through their respective legal representatives and register their application. Immediately upon submission of the application to the registration center, its contents shall be entered into the registration book and a receipts shall be issued and forwarded to the applicant.

9) The person in charge of the registration center shall either accept or reject the application within 15 days from the day of the receipt of the application. In case of rejection, the reasons shall be clearly stated so that the applicant could, within 10 days from the date of rejection contact the main (central) commercial office.

10) If the application is accepted, or upon the applicant final approval issued by the court, the registration office shall be obligated to register the trademark and issue the official registration document to the applicant within 10 days from the date of the final approval by the court.

11) In two cases the registration office may reject an application for trademark:

A) If the trademarks are against Article 7 of these laws.

B) If the trademark has been previously been registered under someone else's name, or the similarity with another trademark is so much as it could be mistaken with.

12) The following are required (mandatory) for registration of any trademark:

- A) The written (not numeric) date of registration (day, month and year).
- B) The name, occupation, residence address and the citizenship of the owner of the trademark, and the same information if the trademark has been applied for through a legal representative or an attorney.
- C) Name and description of products for which the trademark shall be used.
- D) Definition of the signs and words used in the trademark, as well as its components, if any.
- E) Registration fees.

13) Any changes made to the trademark, or to the products for which it has been registered shall be registered separately based on the Articles of these laws; otherwise these laws shall not protect the registered trademark.

14) Trademarks are transferable and the transfer shall be valid if registered separately per Articles of these laws.

15) Registration of trademarks and any changes that are registered based on the Articles of these laws shall be published and announced in one of the official newspapers within 15 days from the date of the registration by the applicant. The applicant may also publish the same through other media.

16) The trademarks shall be protected from the date of the submission of the application to the relevant registration center.

17) A trademark is valid for 10 years and the owner of the trademark may apply for an additional 10 years for the exclusive use of the trademark upon expiration of the initial 10 years.

18) The ownership of trademarks belongs to the person that used it for first time, unless proven otherwise by a court.

19) In the following cases, the right to the ownership of the trademark shall be withdrawn:

1. Cessation of trade, industry and agriculture, which is related to the ownership of specific trademarks.
2. Sale of the right of ownership to another.
3. Failure to apply for extension of upon expiration of the registration (the subject of Article 17 of these laws).
4. The ruling of the court to cancel the right of ownership (of the trademark).

20) The fees of registration of trademark are as follows:

A) For registration of declaration: 100 Afghani.

B) For registration without classification (categorization) of products: 1000 Afghani.

C) If the trademarks consists of classifications (category), 200 Afghani for each registration in addition to the registration fee indicated in Section B if this Article.

21) The following individuals shall file an objection against a given application for a trademark that has been submitted, or has been submitted and approved:

1. Those who claim the ownership of the trademark.

2. Those whose trademark is so similar that could created confusion among the users.

In both such cases, the person who has filed an objection, provided that he has not previously registered his trademark, should during the course of the processing the objection apply for the trademark in question and pay for the fees.

22) If the objection is filed prior to the registration of the defendant, it is required that the defendant be notified within 15 days. If he did not withdraw his application, the person who filed the objection shall, within 60 days contact the central commercial court. During this time, the registration process shall be suspended and if the person who filed the objection did not contact the court, or did not follow up on his complaint thereafter, the trademark shall be registered on the name of the defendant and the person who filed the objection shall not be entitled to a refund of the fees.

23) When there is an objection, the defendant shall contact the relevant commercial court and prove the validity of his case.

24) The procedure for processing trademark complaints shall be based on the commercial trials.

Note:

The details of the court's final ruling shall be published in one of the official newspapers and the defendant may require payment of damages from the losing party's command.

25) If person who has filed the objection proves that the trademark in question has been continuously and repeatedly used by him, the court shall rule that the trademark be registered under his name and if the trademark has already been registered under the defendant's name, it shall be cancelled and the trademark shall be registered under the name of the person filing the objection.

27) The statute of limitation for a hearing of any claim against the registration of commercial trademarks shall be three years. The claim of those who do not file an objection within three years from the date of registration of the trademark shall be invalid.

28) In case of trademarks claims, claims for damages may also be filed.

29) The individuals who intentionally and with bad intentions use a trademark belonging to someone else shall be punished by fine and imprisonment in addition to payment of damages (the subject of Article 28).

30) These regulations shall be valid after the date of publication.

31) The ministry of Commerce shall be responsible for the execution of these regulations. These regulations are accepted among the Government's other regulations.

Date: 9/20/1960

