

Trademarks Act

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Chapter 1. General Provisions ➔

§ 1. By registration in accordance with the present Act, the exclusive right to use a trademark as a distinctive sign for goods or services of an industrial or commercial establishment may be acquired.

A trademark may consist of any sign which is capable of distinguishing the goods or services of one establishment from those of others, and which is capable of being represented graphically, such as words or combinations of words, including slogans, names, figures and pictures, letters and numerals, and the shape of the goods, their get-up and their packaging.

The subsequent provisions of this Act made in respect of goods shall also apply to services provided this is not contrary to the context.

§ 2. The exclusive right to a trademark may also be acquired without registration when the trademark is established by use.

A trademark is considered to be established by use when it is well known within the circle of trade concerned in this country as a distinctive sign for someone's goods.

§ 3. Any person has the right in the course of trade to use his name or the name of his business as a sign for his goods, provided this is not done in such a way that it is liable to be confused with a trademark or a business name which is already protected for someone else, or with a name someone already rightfully uses in the course of his trade.

§ 4. The right to a sign in accordance with sections 1 to 3 has the effect that no one other

than the holder may in the course of trade use the same sign for his goods, cf. the third period. This applies whether the sign is used on the goods or their packaging, in advertising, in business documents or in any other way, including the use thereof in the spoken word, and regardless of whether the goods are intended to be sold or offered in any other way in this country or abroad, or imported into this country. In the context of the present Act, "the same sign" shall be understood to mean a sign that is so similar to another sign, that it is liable to be confused with this sign in the ordinary course of trade, cf. section 6.

It shall also be regarded as unlawful use if anyone in selling or offering spare parts, accessories, or the like, refers to a sign which is the property of someone else in such a way as to give the wrongful impression that the goods offered originate from the holder of that sign or that he has consented to the use of that sign.

Where a sign as referred to in sections 1 to 3 has been in legitimate use for a product and the product afterwards has been substantially altered by processing, repairs, or the like by someone other than the holder of the sign, the sign must not, without the consent of the holder, be kept or used for the product if the product is subsequently imported, sold or offered in the course of trade, unless the alteration is clearly indicated or is otherwise apparent from the circumstances.

§ 5. The right to a sign does not entitle the holder to an exclusive right to such parts of the sign as mainly serve to make the goods or the packaging more suitable, or otherwise serve to fulfil some function other than that of being a sign.

The right to a trademark does not entitle the holder to prohibit others from using his name or the name of his business or his address in the course of trade in accordance with fair trade practice.

§ 6. Under this Act signs shall be deemed liable to be confused only if they relate to identical or similar goods. This is however not a necessary condition for likelihood of confusion when the sign with the earlier right is the holder's own name or business name.

Moreover, signs that are similar shall be considered liable to be confused even if they do not relate to identical or similar goods, if the sign with the earlier right is so well known and established in this country that it would imply an unreasonable exploitation of or be detrimental to its goodwill if the other sign were to be used by someone else.

§ 7. Where several independent parties claim an exclusive right to the same sign according to sections 1 to 3, the earliest claim shall have priority, provided this is not contrary to the provisions in sections 3, 8 or 9.

§ 8. Even though a registered trademark is liable to be confused with a sign which has an earlier right, it shall be allowed to co-exist validly with the latter, provided the application for registration was filed in good faith and the holder of the earlier right has knowingly tolerated the use of the later trademark in this country for five consecutive years from the date of registration

§ 9.

A later right to a sign shall also be allowed to co-exist with an earlier right provided:

(a) the later right has been established by use and the holder of the earlier right has taken no steps within a reasonable time to prevent the use of the other sign; or

(b) the rights to the signs have been established by use in different parts of the country and it is presumed that both signs may continue to be used as before, without any likelihood of confusion with regard to whom the goods originate from.

§ 10. . In order to prevent any likelihood of confusion as referred to in sections 3, 8 and 9, a court of law may, where this is found reasonable, order that one or both of the signs must in future only be used for specific goods or within a certain area or in a particular manner, such as in a certain shape or form or with a reference to a geographical location or with the addition of the name of the holder or with any other elucidating addition.

§ 11. When publishing a dictionary, manual, textbook or similar non-fictional publication, the author, chief editor and publisher are obliged, at the request of the holder of a registered trademark, to ensure that the trademark is not reproduced in the publication unless it is clearly stated that it is protected by registration.

If a request made in due time and in accordance with the preceding paragraph is not complied with, the person to whom the request was addressed may be required to defray the cost of a notice of rectification published in such a manner and as widely as is deemed reasonable.

Chapter 2. Registration of trademarks ➔

§ 12. A Register of Trademarks shall be kept for the whole country by the Patent Office (Patentstyret).

§ 13. A trademark which is to be registered must be capable of distinguishing the goods of the holder from those of others. The trademark may not exclusively, or with no more than minor alterations or additions, indicate the kind, quality, quantity, use, price or geographical origin of the goods or the date of their production. In deciding whether a trademark has a distinctive character, however, all factual circumstances shall be taken into consideration, in particular how long and how extensively the trademark has been in use.

Trademarks which consist exclusively of the shape of the goods or their packaging may not be registered if the shape or the packaging results from the nature of the goods themselves, is necessary to obtain a technical result, or imparts considerable value to the goods.

§ 14. A trademark may not be registered if:

it is contrary to law or public order or is liable to cause offence;

it is liable to deceive;

without authorisation by the competent authorities, it includes official coats of arms, flags or other official emblems or badges, including official national or foreign certification or hallmarks or stamps required for goods identical with or similar to those for which registration is applied, or coats of arms, flags or other emblems, abbreviations or designations of intergovernmental organisations, or international marks, seals or signs the unauthorised use of which is forbidden by law. Nor shall the trademark be registered if it includes anything liable to be confused with such emblems or badges, etc. as referred to in this section. Foreign emblems or badges, etc., with the exception of flags of States, shall nevertheless not prevent registration until they have been published in a notice in the

publication issued by the Patent Office;

it includes anything liable to be understood as another person's business name or as another person's name or portrait and which obviously does not refer to a person long dead;

it includes anything liable to be understood as the distinguishing title of the protected artistic, literary or musical work of another person, or infringes the copyright to such a work or the photography or design rights of another person;

it is liable to be confused with the name or business name of another person or with a trademark registered for another person in accordance with an application filed earlier, or which was established by use for another person at the time when the application for registration was filed;

it is liable to be confused with a trademark which someone else has started to use before the applicant, and the applicant was aware of this use when he filed his application for registration;

it is liable to be confused with an international registration of a trade mark, provided that this registration is effective in Norway in accordance with section 53 from an earlier date than the date of the filing of the application.

In cases as mentioned in subparagraphs 4 to 8 of the first paragraph, registration may nevertheless take place if the holder of the earlier right consents and there are no other obstacles to registration.

Trademarks which consist of or contain geographical indications with respect to wine or spirits, may not be registered for wine and spirits, unless the product has the geographical origin the indication indicates.

§ 15. The exclusive right acquired by registration of a trademark does not include such part of the trademark as would be refused separate registration.

Where the trademark includes such a part, and the Patent Office presumes that registration of the trademark may create uncertainty as to the scope of the exclusive right, it may at the time of registration be stated explicitly in a disclaimer that this part is excluded from legal protection.

If it is later shown that the part of the trademark which was excluded from legal protection is registrable, a new application for registration may be filed for that part alone or the trademark as a whole without the previous disclaimer.

§ 16. A trademark shall be registered for specified goods within specified classes of goods. Provisions with respect to the classification of goods shall be laid down by the King.

§ 17. An application for registration of a trademark shall be filed in writing with the Patent Office. The application shall state the applicant's name or business name, and include a reproduction of the trademark and a list of the goods for which registration of the trademark is sought. The application shall otherwise meet the requirements set forth in the regulations and enclose the stipulated fee.

An application shall not be deemed to have been filed until a reproduction of the mark has

been received by the Patent Office

§ 17a. The application with enclosures and all the documents pertaining to the case shall be kept so as to be available to anyone from the first working day after it was filed with the Patent Office, unless a request as referred to in the second paragraph has been filed.

If a document contains business secrets, the Patent Office may, when circumstances make it desirable, upon request, decide that the document shall not be made available to the public. When such a request has been filed, the document will not be available to the public until the request has been refused by a final decision. The reproduction of the mark and the information that registration of the mark in this country has been applied for, and the list of the goods for which registration has been sought, are not considered business secrets according to the provisions in this paragraph.

Proposals, drafts, reports and other similar working papers that the Patent Office prepares for the examination of an application are not available to the public unless the Patent Office should so decide.

§ 18. If a person files an application for registration of a trademark that he has first used for goods displayed at an international exhibition in this country, and the application is filed within six months after the opening of the exhibition, the application shall, in relation to other signs that others have applied to have registered or have started to use, be deemed to have been filed on the day the goods were first displayed at the exhibition.

The King may issue regulations with respect to the extent to which the first paragraph shall apply correspondingly in the case of international exhibitions abroad.

§ 19. If an application for registration of a trademark is not in the prescribed form, or there are otherwise obstacles that prevent registration, the Patent Office shall notify the applicant accordingly. The applicant shall be given a suitable time limit in which to respond and, where applicable, to make any necessary corrections.

Irregularities in the application shall not prevent the application from being deemed to have been filed on the date the reproduction of the mark was received by the Patent Office, provided that those irregularities are remedied within the time limit set by the Patent Office.

If the applicant does not respond or remedy the irregularity within the expiration of the time limit, the application shall be considered abandoned. The processing of the application shall be resumed if the applicant within two months from the expiration of the time limit responds or remedies the irregularity and pays the stipulated fee. Resumption can be granted only once during the processing of the application.

If the applicant has responded to the notification from the Patent Office within the set time limit, but the Patent Office still finds there to be irregularities regarding the application, the application shall be refused unless the Patent Office finds that the applicant should be given another notification with a new time limit.

§ 20. If the application is in the prescribed form, and there are otherwise no obstacles preventing registration, the mark shall be registered and a certificate of registration shall be sent to the applicant.

Notice of the registration of a trademark shall be published.

§ 21. Any person may file an opposition to the registration of a trademark. A notice of opposition shall be presented in writing, shall state the reasons for the opposition and shall be filed with the Patent Office within two months from the date of publication. In special cases, the Patent Office may upon request grant the opponent a short additional time limit in which to supply further documentation in support of the opposition.

The Patent Office shall dismiss an opposition which does not meet the requirements in the first paragraph.

The Patent Office shall notify the holder of the registration of oppositions and shall afford him an opportunity to file his observations.

If an opposition to the registration of a trademark is filed, this shall be recorded in the Trademark Register and notice thereof published.

Even if the opposition is withdrawn, the opposition proceedings may continue if special circumstances so indicate.

§ 21a. Following an opposition the Patent Office shall cancel the registration of the trademark wholly or in part if the trademark was registered in contravention of the present Act and the obstacle preventing registration still exists.

The Patent Office shall reject the opposition if there is no obstacle to upholding the registration.

When the Patent Office's decision concerning an opposition is final, notification of the decision shall be recorded in the Trademark Register and published.

§ 21b. If, after an application for registration of a trademark has been granted, another application is filed which, according to sections 18 or 30, shall be considered as filed earlier than the first mentioned application, and the Patent Office presumes that the second application would have constituted an obstacle to the registration of the first mentioned application, the Patent Office shall notify the holder thereof and afford him an opportunity to file observations within a fixed period. If the application with the better priority is granted, the Patent Office shall, after the expiration of the time limit, cancel the first registration wholly or in part if the application with the better priority wholly or in part prevents the registration from being upheld.

The first paragraph applies correspondingly if the Patent Office presumes that an earlier application which is resumed according to the third paragraph of section 19, or after reinstatement according to section 60, would be considered an obstacle to the registration of a later application which already has been granted.

The first paragraph also applies correspondingly if the Patent Office receives notification that an international registration shall be considered valid in Norway and it presumes that the international registration would have constituted an obstacle to the registration of a granted application which is deemed to have been filed at a later date than the date on which the international registration shall come into effect in this country, cf. section 53.

If the registration of a trademark is cancelled wholly or in part according to this section, the cancellation shall be recorded and notice thereof published once it is final.

§ 21c. If a trademark has clearly been registered by mistake, the first instance department

of Patent Office may ex officio within three months from the date of the registration cancel the registration wholly or in part.

If the registration of a trademark is cancelled wholly or in part according to this section, the cancellation shall be recorded and notice published thereof once it is final.

§ 22. The final first instance decision with respect to an application for registration may be appealed to the second instance department, the Board of Appeals, if the decision goes against the applicant.

The final decision of an opposition may be appealed by the holder or the opponent if the decision goes against the party concerned.

A final first instance decision regarding cancellation of a registration wholly or in part according to sections 21b or 21c, may be appealed by the holder to the Board of Appeals.

If a request for resumption according to the third paragraph of section 19, or a request for secrecy according to the second paragraph of section 17a, is refused, the decision may be appealed to the Board of Appeals by the party the refusal concerns.

§ 22a. An appeal must be filed with the Patent Office within two months from the date the notification of the refusal was sent to the party concerned. The stipulated fee must be paid within the same time limit. Failing this, the appeal will not be processed.

Even if the appeal is withdrawn, it may be examined if special circumstances so indicate.

A decision whereby the Board of Appeals refuses an application for registration of a trademark, cancels a registration or upholds a first instance decision regarding cancellation of a registration, cannot be brought before the courts of law later than two months after the notification of the decision was sent to the applicant or the holder. Information with respect to the time limit for taking legal action shall be stated in the notification.

The second and third paragraphs of section 17a apply correspondingly to documents filed with the Board of Appeals.

§ 23. The registration is effective from the date the application is deemed to have been filed with the Patent Office according to section 17, or from the date it is considered to have been filed according to sections 18 or 30. The registration is valid for ten years from the date of the registration.

§ 23a. A registration of a trademark can be renewed at the request of the holder for ten years at a time, counting from the expiration of the previous registration period.

A request for renewal shall be filed in writing with the Patent Office at the earliest one year before, or at the latest six months after the expiration of the registration period, and must enclose the stipulated fee. If the request for renewal is filed after the expiration of the registration period, an additional fee must also be paid.

Payment of the renewal fee, accompanied by the trademark's registration number, made within the time limits referred to in the first paragraph, shall be regarded as a written request for renewal.

Sections 19, 20, 21c, 22 and 22a apply correspondingly as appropriate to the processing of

requests for renewal.

§ 24. On an application from the holder and subject to payment of a stipulated fee, minor alterations, which do not affect the impression of the trademark as a whole, may be made to a registered trademark. The alteration of the mark shall be recorded in the Trademark Register and a new certificate of registration shall be sent to the holder. Notification of the alteration, with a reproduction of the trademark in the altered form, shall be published. Section 21c applies correspondingly.

Chapter 3. Cessation of Registrations etc. ➔

§ 25. If a trademark has been registered in contravention of the present Act, the registration may be invalidated by a court ruling, unless it can remain valid according to the provisions in sections 8 to 10. The registration can however not be invalidated for the reason that the mark is liable to be confused with another trademark, if the requirements set forth in section 25a for expunction of the registration of the other trademark from the Trademark Register are met.

A registration may be expunged from the Trademark Register by a court ruling if the mark after registration has obviously lost its character as a distinctive mark or it has become deceptive, contrary to public order or liable to cause offence.

§ 25a. Where the holder of a registered trademark has not used the mark in this country for the goods for which it is registered within five years from the date of the registration, or if the use has been interrupted for five consecutive years, the registration may be expunged from the Trademark Register by a court ruling, unless there are reasonable grounds for non-use. Use of the mark includes use of the mark in a form that only differs from the form in which it is registered in details that do not affect its distinctiveness, and the placing in this country of the mark on goods or their packaging for export. The use of the mark by someone else with the holder's consent is also considered as the holder's use of the mark.

The registration cannot be expunged if the trademark is put into use or the use of the mark is resumed after the expiration of the five-year period, but before an action for expunction has been brought. Use of the mark in the last three months before an action is brought shall be disregarded, if the preparations for use were only begun after the holder learned that an action might be brought.

If the trademark has been used for some of the goods for which the mark is registered, the registration shall only be expunged for the goods for which the mark has not been used.

§ 25b. An action according to sections 25 and 25a may be brought by anyone who has legal interest in the matter. An action that is based upon the provisions in section 13, subparagraphs 1 to 3 of the first paragraph of section 14, or the second paragraph of section 25, may also be brought by the Patent Office.

§ 25c. When both the holder and the person contesting his right agree, they may demand that a final decision on the question of the validity of the registration or the expunction of the registration be made by the Board of Appeals. A stipulated fee shall be paid for this.

When it finds that the requirements for trademark protection obviously have not been present or obviously no longer are present, the Board of Appeals may make a final decision that the registration is invalid or shall be expunged from the Trademark Register if the holder does not object. An objection from the holder must be filed with the Patent Office

within three months after the Patent Office has sent the holder notification of its intention to make such a final decision and has stated its reasons for so doing.

§ 26. If there is reasonable doubt whether the holder exists, anyone may subject to payment of a stipulated fee request that the registration be expunged. The same applies if the holder's address is unknown.

Before expunction pursuant to the first paragraph may be carried out, the Patent Office shall request the holder to come forward within a set time limit. Notification of the time limit shall be sent in a registered letter or by other reliable means. If the holder's address is unknown, notice of the time limit shall be published.

If the holder has not come forward within the time limit, the registration of the trademark will be expunged.

§ 27. Where the registration of a trademark has been invalidated or a final decision has been taken to cancel or expunge it, the decision shall be recorded in the Trademark Register and notice thereof published.

The same applies if the registration is not renewed or if the holder himself requests that the registration be expunged from the Trademark Register.

Chapter 4. Special Provisions with respect to Registration of Foreigners' Trademarks ➔

§ 28. If anyone who does not carry on business in this country applies for registration of a trademark, he must prove that the mark is registered by him in his home country in respect of the same goods as comprised by the application.

This does not apply, however, where the applicant's home country concedes corresponding rights with respect to trademark applications from owners of industrial or commercial establishments in Norway.

§ 29. The king may issue regulations stipulating that a trademark which is registered in a foreign State, on certain specified conditions, shall be registrable in this country, as it is validly registered in the foreign State. Where, pursuant to this provision, a mark is registered which would not otherwise have been able to obtain protection in this country, the protection shall not exceed the scope or duration of the protection in the foreign State.

§ 30. The King may issue regulations stipulating that anyone, who has filed an application for registration of a mark in a foreign State, shall within a certain time limit be able to file an application for registration of the mark in this country, with the effect that in relation to signs which others have applied to have registered or have started to use, the application shall be deemed to have been filed in this country at the same time as the application was filed in the foreign State.

The King issues provisions in respect of when claims of priority according to the first paragraph must be put forward.

§ 31. An applicant for trademark registration who does not have his residence or principal place of business in this country shall have a representative who does have his residence or principal place of business in this country, who can represent him in all matters

concerning the application.

A holder of a registered trademark who does not have his residence or principal place of business in this country shall have a representative who does have his residence or principal place of business in this country, who on his behalf can receive notifications from the Patent Office and summonses and other communications relating to legal proceedings. During the processing of oppositions the first paragraph shall apply correspondingly to the holder.

The name and address of the representative shall be recorded in the Trademark Register.

The King may in regulations exempt foreign applicants and holders from the obligation to have a Norwegian representative

Chapter 5. Transfers and licences. ➔

§ 32. The right to a trademark may be transferred together with, or independently of, the industrial or commercial establishment in which it is used.

If an establishment is transferred, the right to the trademarks attached thereto passes to the new owner, unless otherwise agreed.

§ 33. At the request of the new holder and subject to payment of a stipulated fee, the transfer of a registered trademark shall be recorded in the Trademark Register and notice thereof published. Sections 28 and 31 apply correspondingly.

The first instance department of the Patent Office may refuse to record a transfer if it was not made in connection with the transfer of the establishment to which the mark has been attached, and the first instance department of the Patent Office finds the use of the mark in the hands of the new holder to be liable to be deceptive. Such a refusal may be appealed to the Board of Appeals. Regarding the time limit for appeals etc., and the right to bring the decisions made by the Board of Appeals before the courts of law, section 22a applies correspondingly.

A legal action which concerns a registered trademark may always be brought against the person registered as the holder in the Trademark Register, and notifications from the Patent Office will be sent to that person.

§ 34. The holder of a mark may give another the right to use the trademark in the course of trade (licence). A licence may relate to some of or all of the goods for which the mark is protected, and it may relate to the use of the mark in the whole country or in part of the country. A licensee can not transfer his right further to a third party unless this is agreed or must be regarded as agreed.

The holder can invoke his right to the trademark against a licensee who contravenes any provision of the licensing agreement with regard to the duration of the licence, the form in which the mark may be used, the goods on which the mark may be used, the geographical area within which the licensee may use the mark, or with regard to the quality of the goods which the licensee produces.

Subject to payment of a stipulated fee, both the holder and the licensee may request that a licence for a registered trademark be recorded in the Trademark Register and notice

thereof published. Similarly, where subsequently the licence is shown to have expired, this will be recorded in the Trademark Register and notice thereof published. The first instance department of the Patent Office may refuse to record a licence if it finds that the licensee's use of the mark is liable to be deceptive. Such a refusal may be appealed to the Board of Appeals. Regarding time limits for appeals etc., and the right to bring decisions made by the Board of Appeals before the courts of law, section 22a applies correspondingly.

§ 35. The right to a trademark may not be subject to attachment or any other separate enforcement proceedings on the part of creditors.

Chapter 6. Prohibition of the Use of Deceptive Signs. ➡

§ 36. If a sign is put to use by a new holder or by another with the consent of the holder, and the use of the sign by the new holder is liable to be deceptive, a court decision may prohibit him from using the sign in an unaltered form, and otherwise issue the injunctions that the court finds necessary.

The same also applies in other cases where a sign is deceptive or is used in a way that is liable to be deceptive.

Legal actions pursuant to this section may be brought by the Patent Office and otherwise by anyone who has a legal interest in doing so.

Chapter 7. Provisions with respect to Legal Protection ➡

§ 37. Anyone who intentionally uses a sign in contravention of this Act, shall be punished by fines or imprisonment for up to three months. Prosecution shall take place only at the request of the injured party.

§ 38. Anyone who intentionally or negligently has used a sign in violation of this Act, will be liable to pay the injured party compensation corresponding to a fair licence fee for the use, besides damages for further losses the use may have caused. The compensation may be reduced and the damages may be lowered when there is little to hold against the infringing party.

Where such use has been made in good faith, the court of law may order the user to pay such compensation according to the provisions in the first paragraph as it finds reasonable.

§ 39. In cases concerning unlawful use of a registered trademark, section 37 shall only apply where the use has taken place after notice of the registration has been published. Section 38 shall only apply where the use has taken place after the publication or after the user in any other manner has learned that registration of the mark had been applied for.

§ 40. At the request of the injured party, anyone who has used a sign in contravention of this Act is obliged to alter or to remove the sign. Where the sign cannot be altered or removed without unreasonable costs to the person found liable, or without damaging or ruining the goods, confiscation of the articles on which the sign is found may be demanded.

The confiscated articles may, as agreed between the person held liable and the injured party, be transferred to the latter and be deducted against any claim for compensation he may have against the person liable pursuant to section 38.

In cases relating to infringement of rights to signs, the court of law may decide that also measures other than those referred to above should be taken to prevent misuse of the sign.

§ 41. A licensee who brings an action regarding infringement is obliged to notify the holder thereof.

Chapter 8. Provisions with respect of Legal Proceedings ➔

§ 42. The following actions may be brought before Oslo City Court (Oslo byrett):

actions for review of decisions whereby the Board of Appeals refuses an application for registration of a trademark, cancels a registration, or maintains a first instance decision to cancel a registration, cf. the third paragraph of section 22a;

actions regarding invalidation or expunction of a trademark registration, cf. sections 25 and 25a; and

actions for review of refusals made by the Board of Appeals in cases referred to in sections 33 and 34.

§ 43. Anyone who brings an action as referred to in subparagraph 2 of the first paragraph of section 42, shall at the same time notify the Patent Office and by registered mail notify any licensee who is recorded in the Trademark Register of the action, stating the party's address.

If the plaintiff fails to document that a notification as referred to in the first paragraph has been given, the court may grant the plaintiff a time limit in which to provide such notification. If the time limit is not observed, the case will be rejected.

§ 44. The court shall send the Patent Office transcripts of decisions in civil cases brought in accordance with the present Act.

Chapter 9. International Registration of Trademarks ➔

§ 45. An international trademark registration means the registration of a trademark effected by the International Bureau of the World Intellectual Property Organization (WIPO) under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, adopted at Madrid on June 27, 1989 (the Madrid Protocol).

The Patent Office (Patentstyret) is the national authority in matters relating to the international registration of trademarks in Norway.

§ 46. The holder of a trademark registration or an application for registration of a trademark in this country, and who either is a Norwegian national or domiciled or has a real and effective industrial or commercial establishment here in this country, may file an application for international registration of a trademark with the Patent Office.

§ 47. An application for international registration of a trademark shall be filed in writing and contain the applicant's name or business name, a reproduction of the mark and a list of the goods for which the registration of the mark is sought. The application shall otherwise meet

the requirements set forth in the regulations and enclose the stipulated fee.

§ 48. The Patent Office shall verify that the particulars in the international application correspond to the particulars in the Norwegian basic trademark registration or the basic application for registration of a trademark upon which the international registration is based.

If the particulars do not correspond, the Patent Office shall notify the applicant thereof. The applicant shall be given a time limit in which to amend the application. If there is no response to the notification from the Patent Office within the time limit, the application shall be considered abandoned. If the notification is replied to, but the particulars still do not correspond, the Patent Office shall refuse to proceed with the application to the International Bureau.

When the particulars correspond as mentioned in the first paragraph, the Patent Office shall send confirmation thereof to the International Bureau together with the international application.

§ 49. If the Patent Office is notified by the International Bureau that the holder of an international registration of a trademark not based upon a Norwegian registration or an application, cf. section 46, has requested that the international registration of the trademark be valid in Norway, the Patent Office shall check to see whether there are any obstacles to this. For such designation of Norway, the holder of the international registration shall pay the stipulated fee.

Obstacles that prevent the international registration from being valid in Norway exist if the mark fails to meet the requirements set forth in section 13, or if it is not registrable in this country owing to the provisions in section 14.

§ 50. Where such obstacles exist as referred to in the second paragraph of section 49, the Patent Office shall decide that the international registration is not valid in Norway.

The holder of the international registration may, to the extent and on the terms as set forth in regulations, request the Patent Office to review the question of the validity of the international registration in Norway.

Regarding reinstatement in the event of non-compliance with time limits, section 60 applies correspondingly.

§ 51. Where the Patent Office does not find any obstacles as referred to in the second paragraph of section 49, it shall be recorded in the Trademark Register that the international registration is valid in Norway and notice thereof shall be published.

§ 52. Anyone may within two months from the date of the publication file an opposition against the international registration's validity in Norway. Regarding the filing of oppositions, the second paragraph of section 21 applies correspondingly. If an opposition is filed, it shall be recorded in the Trademark Register and notice thereof published. Further provisions regarding the processing of oppositions shall be laid down in regulations. When a final decision regarding the opposition has been made by the Patent Office, notice thereof shall be recorded and published.

Regarding the Patent Office's right to invalidate ex officio the effects of an international registration in Norway, sections 21b and 21c apply correspondingly if this can be done within the time limits set forth in Article 5 of the Madrid Protocol.

§ 53. A recordal in the Trademark Register that an international registration of a trademark is valid in Norway, has the same effect as if the trademark were registered in this country. The recordal is effective from the date the international registration is deemed to have been made by the International Bureau according to the Madrid Protocol, or from the date of a subsequent designation of Norway, or from the date when the registration or the subsequent designation of Norway has priority according to sections 18 or 30.

§ 54. The international registration or a subsequent designation of Norway is valid for up to ten years from the date on which the international registration is deemed to have been made.

The registration may be renewed for ten years at a time as set forth in the Madrid Protocol. A stipulated fee must be paid for renewals. Renewals are recorded and notice thereof published.

§ 55. If a person has both an international registration which is effective in this country and a Norwegian trademark registration, the international registration of the mark replaces the Norwegian registration if the international registration is effective in this country from a later date than the Norwegian registration, and all the goods listed in the Norwegian registration are covered by the list relating to Norway in the international registration. The first period entails no limitations to the rights which have already been acquired on the basis of the Norwegian registration.

The lapse as referred to in the first paragraph of the effect of a Norwegian registration shall upon request and on payment of a stipulated fee be recorded in the Trademark Register and notice thereof published.

§ 56. Where an international registration which is valid in Norway ceases wholly or in part, it ceases at the same time in Norway and to the same extent. This shall be recorded in the Trademark Register and notice thereof published.

§ 57. If an international registration which is valid in Norway ceases due to lapse of the basic national registration or the national application according to the Madrid Protocol, and the holder within three months from the date of the cessation files an application for registration of the mark in this country, this application is deemed to have been filed on the date the international registration became effective in Norway, provided that the goods stated in the application are covered by the list of goods relating to Norway in the international registration.

If an international registration which is valid in Norway ceases due to denunciation of the Madrid Protocol, and the holder within two years from the time the denunciation became effective, files an application for registration of the trademark in this country, this application is deemed to have been filed on the date the international registration became effective in Norway, provided that the goods stated in the application are covered by the list of goods relating to Norway in the international registration.

§ 58. Regarding the right to appeal first instance decisions in cases concerning international registrations to the Board of Appeals and regarding the right to bring decisions made by the Board of Appeals before the courts of law, sections 22 and 22a apply correspondingly.

§ 59. The Patent Office shall notify the International Bureau in accordance with the Madrid Protocol and the regulations to the Protocol according to further provisions issued by the King.

Chapter 10. Miscellaneous Provisions ➔

§ 60. If anyone who applies for registration of a trademark, fails to observe a time limit set forth in or in accordance with chapter 2, with the effect that the application for this reason cannot be granted, the party concerned shall on request be granted reinstatement provided it is documented that the applicant himself and, as the case may be, also his representative, has taken all due care required by the circumstances. The request must be presented in writing to the Patent Office within two months after the removal of the cause of non-compliance with the time limit, and at the latest four months after the expiration of the time limit. Within the same time the omitted act shall be completed and the stipulated fee paid.

The first paragraph does not apply to time limits referred to in sections 18 and 22a.

The Director of the Patent Office shall decide who shall determine requests for reinstatement. Refusal of requests for reinstatement may be appealed to the Board of Appeals. Regarding time limits for appeal etc., and the right to bring decisions by the Board of Appeals before the courts of law, section 22a shall apply correspondingly.

§ 61. Anyone has a right to examine the Trademark Register and to obtain certified extracts therefrom, or copies of trademark applications with accompanying documents which are available to the public pursuant to section 17a.

A stipulated fee shall be paid for transcripts, copies and for records in the Trademark Register with publication of alterations concerning the name of the holder or concerning his representatives.

The request for a time limit or an extension of a time limit in which to correct defects, respond, provide further grounds or the like, shall enclose a stipulated fee, which will be refunded if the requested time limit or extension of time limit is not granted.

§ 62. The King may issue more detailed provisions regarding applications for registration of trademarks and oppositions and the procedure regarding these, the stipulation of fees, the Trademark Register, the publication issued by the Patent Office, and otherwise concerning the implementation of this Act.

§ 63. This Act shall enter into force from such date as the King shall decide. As from the same date lov 2. juli 1910 nr. 5 om varemerker og om utilb-rlige varekjendtegn og forretningsnavn (Act No. 5 of July 2, 1910 concerning Trademarks Act), as later amended, shall be repealed, with the exception of sections 26 and 27.

A trademark that is registered prior to the entry into force of this Act, may only be declared invalid if it does not meet the requirements in the earlier Act. Registration according to the second paragraph of section 25, or section 25a, may be expunged if the mark was registered before the entry into force of this Act.

1: This is a translation of the Norwegian Trademarks Act.

Should there be any differences between this translation and the authentic Norwegian text, the decision will be made on the basis of the authentic Norwegian text.

