

REPUBLIC OF LITHUANIA
LAW AMENDING THE LAW ON TRADEMARKS AND SERVICE MARKS

No..... of 1999

Vilnius

Article 1. Revised version of the Republic of Lithuania Law on Trademarks and service marks

To amend the Republic of Lithuania Law on Trademarks and Service Marks to read as follows:

REPUBLIC OF LITHUANIA
LAW ON TRADE MARKS AND SERVICE MARKS

SECTION 1
GENERAL PROVISIONS

Article 1. Objective of the law

This law regulates the legal protection, registration and use of trade marks and service marks in the Republic of Lithuania, as well as the management of the Register of Trade Marks and Service Marks of the Republic of Lithuania.

Article 2. Main definitions used in this law

1. **Trade mark and service mark (hereinafter referred to as the mark)** means any sign capable of distinguishing the goods or services of one undertaking from those of other undertakings and which is capable of being represented graphically.
2. **Geographical indication** means an indication which serves to identify that the good has originated from a certain territory or a region or locality of that region, where the quality, reputation or other characteristics of that good are essentially attributed to their geographic origin.
3. **Geographical origin** means an indication which may serve to identify a good originating in a certain country, territory, or region or locality of that territory.
4. **Application** means the whole set of documents that must be presented for the registration of a mark.
5. **Applicant** means a natural or legal person, an undertaking without the legal personality or their group who have filed an application for the registration of a mark.
6. **Patent agent** means a natural person who is registered in the Register of Patent Agents of the Republic of Lithuania in accordance with the procedure laid down in the Regulations of the Patent Agents.
7. **Representative** means a natural or legal person, as well as patent agent, having the authorisations to represent the applicant when registering the mark and when performing any other acts related to the mark, in the State Patent Bureau.

8. **Proprietor of the mark** means the holder of the mark protected in the Republic of Lithuania in accordance with the procedure established by this law.

9. **International exhibition** means an exhibition which is recognised or may be recognised as international pursuant to the Convention on International Exhibitions done in Paris on 22 November 1928, last revised on 30 November 1972.

10. **International registration of a mark** means registration of a mark in the International Register of International Bureau of the World Intellectual Property Organisation pursuant to the Protocol of the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as the Madrid Protocol), done in Madrid on 27 June 1989; ratified by the Republic of Lithuania Law No VIII-204, on the Ratification of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Official Gazette No 50-1193, 1997).

11. **International application** means an application for international registration, filed with the International Bureau through the State Patent Bureau or any other office of a contracting party pursuant to the Madrid Protocol.

12. **Paris Convention** means Paris Convention on the Protection of Industrial Property of 20 March 1883, revised in Stockholm on 14 July 1967 and supplemented on 28 September 1979; ratified on 28 May 1996 by the Republic of Lithuania Law No I-1349, on the Ratification of Paris Convention on the Protection of Industrial Property (Official Gazette No 75-1796, 1996);

13. **Nice Classification** means an international classification of goods and services, approved by the Nice Agreement on International Classification of Goods and Services for the Purposes of the Registration of Marks on 15 June 1957, revised in Stockholm on 14 July 1967, in Geneva on 13 May 1977 and amended in Geneva on 2 October 1979; ratified on 17 September 1996 by the Republic of Lithuania Law No I-1521, on the ratification of the Nice Agreement on International Classification of Goods and Services for the Purposes of the Registration of Marks (Official Gazette No 92-2147, 1996).

14. **Community trade mark** means the mark, for the registration of which the application has been filed with the EU Internal Market Harmonisation Service according to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community Trade Mark;

15. **Official Bulletin of the State Patent Bureau** is a periodical publication in which the State Patent Bureau of the Republic of Lithuania publishes official data on marks pursuant to this law and the Regulations of the Register of Trade Marks and Service Marks of the Republic of Lithuania.

16. **Bulletin of the International Marks of the International Bureau** means a periodical publication *WIPO Gazette of International Marks*, in which the International Bureau publishes data on international registrations of marks.

Article 3. Scope

1. The provisions of this law shall apply to every mark intended for the marking of goods and/or services, which is the subject of registration or of an application filed with the State Patent Bureau of the Republic of Lithuania for registration as an individual or collective mark or the subject of an international registration having effect in the Republic of Lithuania.

2. The provisions of this law shall also apply to the marks which are recognised as well known in the Republic of Lithuania.

3. If international agreements ratified by the Seimas of the Republic of Lithuania establish other requirements than those set forth in this law, the requirements of the international agreements shall apply.
4. Foreign natural and legal persons shall enjoy all rights provided in this law and other legal acts regulating the protection of marks.
5. This law shall not apply to holographic and audio and **uodžiamasis** marks having no visual symbols .

Article 4. Protection sign of the rights of the proprietor of the mark

The proprietor of the mark may notify the public about his rights by using the sign of the protection of the rights of the proprietor of the mark consisting of letter R in a circular brackets indicated in the right corner of the mark.

SECTION 2

PROTECTION OF THE MARK

Article 5. Signs capable of constituting a mark

Only the signs eligible for the legal protection provided under this law may be considered to be marks:

- 1) words, personal names, artistic pseudonyms, names, firm names, slogans;
- 2) letters and numerals;
- 3) pictures and emblems,
- 4) three-dimensional forms (the shape of products, or of their packaging and containers;
- 5) colour or combination of colours, their arrangement;
- 6) any combination of the signs specified in subparagraphs 1-5 hereof.

Article 6. Absolute requirements for a mark

1. A sign shall not be recognised as a mark and shall not be registered or if registered its registration may be declared invalid if it:
 - 1) may not constitute a mark pursuant to the requirements of Article 5;
 - 2) is devoid of any distinctive character;
 - 3) has become customary in the current language or in the bona fide and established practices of the trade;
 - 4) serves to designate exclusively the kind, quantity, quality, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services, manner of production, or other characteristics of the goods and/or services;
 - 5) may mislead the public, for instance as to the nature, quality or geographical origin of the goods and/or services;
 - 6) is contrary to morality or public order, including ethics of society and humanitarian principles;
 - 7) consists exclusively of the shape which results from the nature of the goods themselves or the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods;
 - 8) consists of the official name of the Republic of Lithuania or its customary (abbreviated) name, emblem, flag or other objects which from the point of view of heraldics constitute a replica, the guarantee and hallmarks, stamps, medals and

decorations, unless the authorisation to their registration has been given by an institution authorised by the government of the Republic of Lithuania;

- 9) consists of signs which have not been authorised by the competent authorities of other countries or international organisations and registration whereof is to be refused under Article 6 ter of the Paris Convention or the registration whereof must be declared invalid;
 - 10) is a sign of a highly symbolic value, in particular a religious symbol;
 - 11) consists of, or contains, a geographical indication intended for goods not originating in the indicated territory, if the use of such indication in the mark for such goods in the Republic of Lithuania may mislead the public as to the true origin of goods;
 - 12) consists of, or contains, a geographical indication, intended for the marking of wines or alcoholic beverages not originating from the territory, indicated in that geographical indication even if the origin of the goods is indicated correctly or if a geographical indication is provided translated into another language, or if for the description of a good, a geographical indication is used with such additional words as “kind”, “type”, “style”, “imitation” and similar words;
2. The provisions stipulated in subparagraph 11 of paragraph 1 hereof shall apply to marks containing a geographical indication which even though indicates correctly the territory, region or locality in which the goods have originated, however gives misleading information and may deceive the public that the goods have originated in another territory.
 3. A sign may be recognised as a mark and its registration may not be declared invalid under subparagraphs 2, 3, or 4 of paragraph 1 hereof, if before the date of application for registration and following the use which have been made of it, it has acquired a distinctive character.

Article 7. Miscellaneous requirements for a mark

1. The registration of trademarks and service marks may be liable to be declared invalid:
 - 1) if it is identical with the registered mark or an earlier mark for which registration is sought in respect of the identical goods or services;
 - 2) if because of its identity with, or similarity to, the earlier mark and the identical or similar goods for which a trade mark is applied for, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier mark;
 - 3) if its is identical with, or similar to, the mark which is recognised as well know in the Republic of Lithuania pursuant to Article 13 hereof, belonging to another natural or legal person, or an undertaking without legal personality;
 - 4) it is identical with, or confusingly similar to the name of the firm or the style of that firm, belonging to another natural or legal person, or an undertaking without a legal personality, which had acquired the right to the name of the firm or its style in the Republic of Lithuania prior to the date of application for registration of the trade mark or the priority date claimed in respect of the application for registration of the trade mark and on that date the firm had the right to engage in identical, or similar activity to which the goods and/ or services in respect of which the trade mark has been registered, may be attributed;
 - 5) it is identical with, or confusingly similar to, the geographical indication protected in the Republic of Lithuania, with the exception of an indication, which is included in

the mark as unprotected element, registered by a person entitled to use specific geographical indication;

6) it is identical with, or confusingly similar, to the protected industrial design or any other object of industrial property; work of literature, science or art, protected by a copyright; a name or surname of a well known person; an artistic pseudonym or a personal portrayal of another person, with the exception of cases where the proprietor of these rights or his successor has given his consent.

2. An “earlier mark” within the meaning of subparagraphs 1 and 2 of paragraph 1 hereof means:

- 1) a mark with a date of application for registration in the Republic of Lithuania which is earlier than the date of application for registration of the mark specified in paragraph 1 hereof, taking into account, where appropriate, the priority claimed or already given in respect of the application for registration;
- 2) the mark which on the date for the filing of the application for registration of the mark referred to in paragraph 1 hereof, taking into account, where appropriate, the priority is requested or already granted, is recognised as well known in Lithuania within the meaning of Article 13.
3. The marks specified in paragraph 2 hereof shall be equalled to the Community marks as well as those Community marks for which priority was requested pursuant to the Council Regulation on the Community Trade Mark, even though the registration of a subsequent mark has been revoked or invalidated.
4. The registration of the trade mark and service mark may be deemed invalid if the mark is identical with, or confusingly similar to, the earlier Community mark and is or may be registered for goods and/or services which are not similar to those for which the earlier Community mark is registered, if the earlier Community mark has a reputation in the Community, and if the use without due cause of the subsequent mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier Community mark.
5. The registration of a mark may be declared invalid if the registration was applied for in bad faith.

Article 8. Unprotected elements of the mark

1. The mark which becomes eligible for protection upon registration shall not consist of the elements which may not be registered separately (individually)
2. If the mark contains elements referred to in paragraph 1 hereof and if there are grounds to believe that the registration of the mark could give rise to doubts as to the scope of protection of the mark, such elements during the examination may be recognised as unprotected elements of the mark.
3. If the elements of the mark which have been recognised as unprotected later become eligible for registration, the application for registration may be filed in respect of such elements or the mark containing such elements without limitations referred to in paragraph 2 hereof.

Article 9. Right of Priority

1. The application may contain a request for the granting of priority in respect of one or more applications for the same mark filed in a State Party to the Paris Convention or World Trade Organisation, if the applicant or the successor of his rights files an application with the State Patent Bureau within a period of 6 months from the date of the filing of the first application or applications.

2. The application may contain a request to recognize the priority date on which the goods under the mark applied for have been displayed at an official or officially recognised international exhibition, if the application is being filed with the State Patent Bureau within a period of six months from the date of the first display of the goods and/or services under this mark at the exhibition.
3. The applicant who wishes to claim priority pursuant to paragraph 1 and 2 must file with the State Patent Bureau a certified copy of the first application or applications or the certificate issued by the administration of the exhibition at which the goods and/or services under this mark has been displayed for the first time. Such documents may be submitted together with other application documents or within a period of three months from the date of the filing of an application.
4. The State Patent Bureau, having established that the applicant does not satisfy the requirements referred to in paragraph 3 hereof, shall deem that the applications referred to in paragraphs 1 and 2 had not been filed.

SECTION 3

RIGHTS CONFERRED BY A MARK

Article 10. Scope of protection of a mark

1. The registered mark in the Republic of Lithuania shall be valid only in respect of those goods and/or services which are indicated in the registration certificate of a mark.
2. The proprietor of the mark may extend the list of goods and/or services for the marking of which the mark has been registered only by filing a new application in accordance with the procedure established by this law.

Article 11. Rights conferred by a mark

1. The registered mark shall confer on the proprietor an exclusive right to permit or prohibit all third parties not having his consent to use in the course of trade:
 - 1) any sign which is identical with the mark in relation to goods and/or services which are identical with those for which the mark is registered;
 - 2) any sign where, because of its identity with, or similarity to, the mark and the identity or similarity of the goods or services covered by the mark and the sign, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association between the sign and the mark;
 - 3) any sign which is identical with, or similar to, the mark in relation to goods and/or services, which are not similar to those for which the mark is registered, if the latter has a reputation in the Republic of Lithuania and if the unlawful use of that sign takes unfair advantage of, or is detrimental to the distinctive character or the repute of the mark.
2. The proprietor of a mark may prohibit under paragraph 1 :
 - 1) affixing such sign to the goods or to the packaging thereof;
 - 2) offering the goods or placing them on the market or stocking them for these purposes, renting, lending or dispose of them in any other manner, as well as offering or supplying services thereunder;
 - 3) importing or exporting the goods under the sign;
 - 4) using the sign on business papers and in advertising;

- 5) producing such sign or keeping the samples thereof for the purposes of performing any actions referred to in subparagraphs 1-5 of paragraph 2 hereof.
3. Detriment to a distinctive character within the meaning of subparagraph 3 of paragraph 2 hereof shall be recognised if :
 - 1) a sign is used as a firm name or a style of that firm, if such use thereof is likely to confuse the public due to its similarity to the existing registered mark and goods and /or services for which the mark is registered;
 - 2) a sign is reproduced or indications thereto are made in advertisements or other media so that it becomes the generic name of certain goods and/or services.

Article 12. Limitation of the effects of a mark

1. The provisions of Article 11 of this law shall not entitle the proprietor to prohibit a third party from using in the course of trade for marking purposes:
 - 1) his own name and/or address;
 - 2) indications as to the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of the goods or of rendering of the services, or other characteristics of the goods and/or services;
 - 3) a mark where it is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts;
 - 4) a mark in comparative advertising, if such advertising is permitted.
2. The provisions hereof may be applied only provided the proprietor uses them in accordance with honest practices in industrial or commercial matters.

Article 13. Protection of a well known mark

1. A mark recognised as well known in the Republic of Lithuania shall be protected without being registered.
2. A mark shall be recognised as well known in the Republic of Lithuania by means of the judicial procedure.
3. A mark may be recognised as well known in the Republic of Lithuania, provided it is well known by certain stratum of society in the Republic of Lithuania.
4. The proprietor of the mark which is recognised as well known in the Republic of Lithuania, in addition to the rights provided for in Article 11 of this law, shall have the right to prohibit other persons from using in commercial matters any sign, which is related with the reproduction, imitation or translation, and may be confusing in respect of the goods which are identical or similar with the goods for which a well known mark is used.
5. The proprietor of a mark which is recognised in Lithuania as well known shall have, in addition to the rights provided for in Article 11 of this Law, the right to prohibit the use, without his consent, of any sign in the course of trade, which is related with the reproduction, imitation or translation of a well known mark and is liable to be confused in relation to goods which are not identical to or similar with those for which that well known mark is used, provided that such use of the mark for those goods demonstrates the relation between those goods and/or services and the proprietor of a registered well known mark and thus the rights of a proprietor of a well known mark may be infringed.

Article 14. Exhaustion of the rights conferred by a trade mark

1. The mark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the Republic of Lithuania under that mark by the proprietor or with his consent.

2. The provisions of paragraph 1 hereof shall not apply where there exist legitimate reasons for the proprietor to oppose further commercialization of the goods, especially where the condition of the goods under that mark is changed or impaired after they have been put on the market.

Article 15. Registration of a mark in the name of a representative without the proprietor's authorisation

1. The proprietor of a mark shall have the right to contest the registration of a mark and request the revocation of registration, or request the re-registering of the mark in his favour, if his representative or any other third party has filed an application for registration without his authorisation, unless the latter justifies his action.
2. The proprietor of a mark taking into consideration the conditions referred to in paragraph 1 hereof, shall be entitled to submit a claim to court concerning the use of his mark by his representative or any other third party if they use it without his authorisation.
3. The proprietor of the mark may invoke the rights referred to in paragraph 1 hereof not later than within a period of three years from the date when he became aware or had to know about the registration of such mark.

Article 16. Reproduction of a mark in dictionaries or similar reference publications

1. At the request of the proprietor of a mark, the author, publisher or editor shall ensure that the mark in encyclopaedias, books, dictionaries and other similar reference works will be reproduced with a notice that its is a registered mark.
2. If one of the parties fails to comply with the conditions referred to in paragraph 1 hereof, it must compensate the justified expenses relative to the publishing and presentation of such information.

SECTION 4

TRANSFER OF THE RIGHT TO A MARK, LICENCING AND RIGHTS IN REM

Article 17. Transfer of the right to a mark

1. The right to a mark applied for registration or already registered may be fully or partially transferred according to the contract, together or separately from any transfer of the undertaking.
2. The right to a mark may be transferred for the marking of one, several or all classes of goods and/or services.
3. The transfer of the right to a mark shall be invalid if it has not been registered in accordance with the procedure laid down in Article 37 of this law.
4. The transfer of the right to a mark shall become effective from the date of its recording and the data relative to the transfer of the right to a registered mark shall be published in the Official Bulletin of the State Patent Bureau.

Article 18. Licensing of a mark

1. The proprietor of the mark shall be entitled to issue to a third party an exclusive or non-exclusive licence for the marking of some or all of the goods and/ or services for the whole or part of the territory of the Republic of Lithuania.

2. The licensing contract shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania at the request of one of the parties of the licensing contract, upon presenting the following documents to the State Patent Bureau:

- 1) a request for the registration of the licensing contract;
- 2) one copy of the licensing contract or an extract from the licensing contract certified by both parties;
- 3) a document evidencing the payment of the prescribed fee;
- 4) an authorisation to a representative (where appropriate).

3. The licensing contract or an extract from it shall stipulate for the following conditions:

- 1) the title or name, surname and address (registered office) of the proprietor of the mark;
- 2) the title or name, surname and address (registered office) of the licensee;
- 3) registration number of the mark for which the licence is issued;
- 4) type of licence;
- 5) an indication as to the goods and/or services in respect of which the licence is granted;
- 6) the duration of the licence;
- 7) the territory in which the licence shall be valid;
- 8) conditions under which the mark may be used;
- 9) the rights and responsibilities of the parties in the case of the infringement of the mark.

4. The State Patent Bureau shall examine the submitted documents specified in paragraph 2 of this Article within one month after the receipt of these documents and if the documents meet the requirements set forth in this Article, it shall register the data concerning the conclusion of the licensing contract in the Register of Trade Marks and Service Marks of the Republic of Lithuania.

5. The licensing contract shall be invalid if the data relative thereto is not recorded in the Register of Trade Marks and Service Marks of the Republic of Lithuania.

6. The licensing contract shall enter into force from the date of its entry into the Register of Trade Marks and Service Marks of the Republic of Lithuania and the data concerning its registering shall be published in the Official Bulletin of the State Patent Bureau.

7. The proprietor of the mark may invoke the rights conferred by that trade mark against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the trade mark may be used, the scope of the goods and services for which the licence is granted, the territory in which the trade mark may be used, or the quality of the goods manufactured and /or of the services provided by the licensee.

8. The provisions of paragraphs 1-7 of this Article shall also apply to the sublicensing contract.

Article 19. Rights in rem

1. The right to a mark may be used as security in accordance with the procedure established by the Law on the Pledge of a Movable Property of the Republic of Lithuania (No VIII-250, Official Gazette, No 117-3008, 1977; No 31-821, 1998).

2. On the request of the proprietor of a mark, its representative or other interested persons the State Patent Bureau shall enter the data concerning the rights in rem in the Register of Trade Marks and Service Marks of the Republic of Lithuania and publish the information about that in the Official Bulletin of the State Patent Bureau.

SECTION 5 VALIDITY OF A MARK

Article 20. Duration of validity of the mark

The initial duration of the registration of a mark shall be ten years from the date of the filing of application for registration.

Article 21. Renewal

1. Upon the expiry of the duration specified in Article 20 of this law, the duration of the registered mark may be renewed in respect of all or part of the goods and/ or services for further periods not longer than 10 years.
2. The duration of a registered trade mark may be renewed, if the following documents are filed with the State Patent Bureau :
 - 1) a request for the renewal of the duration of a registered mark for all or part of the goods and/or services;
 - 2) a document evidencing the payment of a prescribed fee.
3. The proprietor or his representative shall have to submit the documents specified in paragraph 1 hereof not later than within the last year of the validity of the mark. The State Patent Bureau is not obliged to remind the proprietor or his representative of the payment of a fee for the renewal of a mark.
4. The proprietor of the mark or his representative may file a request for the renewal within a period of six months from the date of the expiry of its duration, upon payment of an additional fee of 50 per cent.
5. The data concerning the renewal shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania and information concerning this shall be published in the Official Bulletin of the State Patent Bureau.
6. If the proprietor of the mark or his representative fails to pay the established fee within the time limits specified in paragraphs 3 and 4 hereof, the registration of the mark shall be removed from the Register of Trade Marks and Service Marks of the Republic of Lithuania in accordance with the procedure provided for in Article 38 of this Law.

SECTION 6

REGISTRATION OF A MARK

Article 22. Filing of an application

1. The applicant willing to register a mark shall have to file an application with the State Patent Bureau.
2. An application may also be filed in the name of the applicant by his representative. Foreign natural and legal persons having no permanent place of residence or a registered office, or real and effective industrial or commercial establishments in the Republic of Lithuania, shall file applications with the State Patent Bureau and subsequently shall perform all actions relative thereto in the State Patent Bureau through the patent agent of the Republic of Lithuania.
3. One application shall be filed for the registration of one mark only.

4. The application for registration of a mark shall contain:
 - 1) a request to issue the certificate of the trade mark and service mark;
 - 2) a representation of the mark applied for and its description;
 - 3) the names of the goods and/ or services for which registration is sought, grouped according to the Nice Classification, valid on the date of filing of the application;
 - 4) a document evidencing the payment of a prescribed fee;
 - 5) an authorisation of an applicant issued to his representative, if an application is filed by a representative;
 - 6) an indication that the mark for which application for registration is filed, is three-dimensional;
 - 7) where applicable, an indication that a colour, a combination or an arrangement of colours is claimed as a distinctive feature of the mark;
 - 8) an indication that a mark applied for is a collective mark, as well as regulations of the use of that mark, where applicable;
 - 9) a request to grant the priority, where applicable;
 - 10) an indication that the mark is registered and published in standard characters of the State Patent Bureau, where applicable;
 - 11) transliteration of the mark or certain parts thereof, as well as its translation into Lithuanian, where applicable;
 - 12) an authorisation issued by competent authorities in accordance with subparagraphs 8 and 9 of Article 6 of this Law, where applicable;
 - 13) the consent of the proprietor of the rights in accordance with subparagraph 6 of Article 7 of this Law.
5. It may be requested in the application to register the mark for one or more classes of goods and /or services . For more than one class of goods and/ or services indicated in the application an additional class fee shall be paid.

Article 23. Conditions with which applications and other documents filed with the State Patent Bureau must comply

1. The application and other documents filed with the State Patent Bureau must be in the national language. If the documents, with the exception of a request for the issue of the certificate of trade mark and/or service mark, are filed in a language other than the national language, the applicant, the proprietor of the mark, or his representative must file the translation of the document into the national language within a period of three months from the date of the filing of the document.
2. The authorisation may be executed in an ordinary written form and must comply with the conditions laid down by the State Patent Bureau. In case of failure to submit an authorisation alongside with the documents referred to in subparagraphs 1-4 of Article 22 of this law, it may be submitted within a period of three months from the date of filing of the application.
3. The documents filed with the State Patent Bureau shall not be subject to legalisation.
The specific requirements for the application and other documents shall be laid down by the rules approved by the order of the director of the State Patent Bureau.
4. The documents shall be deemed not to be filed and the action shall be deemed not to have been taken, if the applicant, the proprietor of the mark, or his representative fail to submit the documents within the time limits prescribed by this law.

Article 24. Time limits

1. The applicant or his representative, who was unable to observe time limits referred to in paragraph 1 of Article 23, paragraphs 5-6 of Article 27, paragraph 3 of Article 28, paragraph 1 of Article 29, paragraph 1 of Article 31, paragraph 4 of Article 32 may, upon a written request, have the time limits re-established for a single time, but for not longer than 2 months from the date of expiry of the first time limit, provided an additional fee is paid.
2. The request for the renewal of the time limit and the prescribed fee must be paid before the expiry date of the first time limit.
3. In case the applicant fails to observe the time limit prescribed in paragraph 1 of Article 31, the time-limit may be re-established provided the following documents are submitted:
 - 1) a justified request to re-establish the unobserved time limit;
 - 2) documents justifying the reasons of non-compliance with time limits;
 - 3) a document evidencing the payment of a prescribed fee.
4. The time limit referred to in paragraph 3 of this Article shall be re-established by the decision of the director of the State Patent Bureau.
5. The refusal to re-establish the time limit may be appealed against in court in accordance with the procedure established by laws.

Article 25. Fees

1. The filing of the application and other actions provided for in this law shall be subjected to the payment of the prescribed fees.
2. The amount of the fee, the specific actions subjected to the payment of fees, the procedure for payment of fees shall be established by this law and other legal acts of the Republic of Lithuania.

Article 26. A date of filing of the application

1. A date of filing of a trademark application shall be the date on which the State Patent Bureau receives all the documents specified in subparagraph 1-4 of paragraph 4 of Article 22.
2. In the event of failure to file at least one of the documents specified in subparagraph 1-4 of paragraph 4 of Article 22, a date of filing shall not be accorded and the application documents shall be returned to the applicant, indicating the reasons for refusal of the application.

Article 27. Examination of a trade mark application

1. The State Patent Bureau shall perform formal examination of trade mark application within one month from the receipt of the application, during which it shall check whether all documents specified in subparagraphs 1-4 of paragraph 4 of Article 22 have been submitted and whether they are duly executed.
2. The State Patent Bureau shall deem the application to be filed and accord the date of filing and the number, provided all the documents specified in subparagraphs 1-4 of paragraph 4 of Article 22 have been submitted and they are duly executed.
3. After the completion of the actions specified in paragraph 2 hereof, the State Patent Bureau shall transmit to the applicant or his representative a notification on the admittance of the application, indicating the accorded date of filing of the application and the accorded application number.
4. The examiner of the State Patent Bureau (hereinafter referred to as the examiner), upon receipt of an application shall examine whether all documents referred to in paragraph 4 of Article 22 have been submitted, whether they satisfy the requirements laid down in this law and the rules, whether the goods and /or services in respect of which a trade mark application is filed meet the requirements of the Nice Classification.
5. Upon establishing that not all the documents referred to in paragraph 4 of Article 22 have been submitted, or that they do not meet the requirements laid down by this law and the rules, the examiner shall notify the applicant of the deficiencies and necessary remedies in writing. If the indicated deficiencies are not remedied within a period of three months from the date of the sending of such notification , the examiner shall deem the application to be not filed and shall notify the applicant or his representative.
6. Upon establishing that goods and /or services are not in compliance with the Nice Classification, the examiner shall send the applicant or his representative a notification indicating the deficiencies and necessary remedies. If the indicated deficiencies are not remedied within a period of three months from the date of filing of such notification or the applicant or his representative does not agree with the examiner's decision, the examiner shall refuse the application in respect of all goods and /or services or only in respect of those goods and services with the classification whereof the applicant or his representative disagrees, and shall notify of this in writing the applicant or his representative.

Article 28. Examination of a mark

1. The examiner, having established that the application does not satisfy the requirements referred to in Article 27 of this law, shall examine the mark with regard to its compliance with the requirements laid down in Article 6 of this law.
2. If the mark does not meet the requirements laid down in Article 6 of this law, the examiner shall pass a decision to refuse the registration of the mark in respect of some or all of the goods. The decision refusing the registration of the mark, in which the grounds for refusal must be indicated, shall be transmitted to the applicant or his representative not later than within 10 days following the passing of such decision.
3. The applicant or his representative shall have the right, within a period of three months from the date of the adoption of the decision refusing the registration of the mark, to file a request with the State Patent Bureau to re-examine the mark.

4. The examiner, having received a request to re-examine the mark and having analysed the arguments of the applicant, shall re-examine the mark and adopt one of the following decisions:
 - 1) to leave the decision refusing the registration in effect;
 - 2) to deem the previous decision refusing the registration invalid in respect of some or all of the goods and or services and to adopt a new decision to register the mark in respect of all or some of the goods and /or services.
5. The examiner shall notify the applicant or his representative of this newly adopted decision not later than within 10 days of its adoption.

Article 29. Appeals

1. The applicant or his representative, who disagrees with the decision adopted following the re-examination of the mark, shall have the right, within a period of three months of the adoption of the decision appealed from, to file, with the Section of Appeals of the State Patent Bureau (hereinafter referred to as the Section of Appeals) an appeal requesting to review the findings of the examination, and a document, evidencing the payment of a prescribed fee.
2. The Section of Appeals, having examined the appeal shall adopt one of the following decisions:
 - 1) to reject the appeal and to leave in effect the examiner's decision refusing the registration of a mark;
 - 2) to satisfy an appeal in respect of some or all of the goods and/or services and adopt the decision to register the mark in respect of all or some of the goods and/or services.
3. The decision adopted by the Section of Appeals shall enter into force from the date of its adoption.
4. In the case the Section of Appeals rejects the appeal in respect of all or some of the goods, the applicant or his representative shall have the right , within 6 months from the date of the adoption of the decision of the Section of Appeals to appeal against the decision of the Section of Appeals to court as prescribed by laws.

Article 30. Registration of a mark

1. The examiner, having established that the mark meets the requirements referred to in Article 6 of this law, shall adopt the decision to register the mark and shall notify the applicant or his representative of this decision not later than within 10 days of the date of the adoption of said decision, together with the demand to pay a prescribed fee.
2. In the case the appeal is satisfied in whole or in part, the examiner shall perform further actions in accordance with the procedure prescribed by Article 1 of this law.
3. The mark shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania after the applicant or his representative submits the documents evidencing the payment of a prescribed fee. The data concerning the registration of a mark shall be published in the Official Bulletin of the State Patent Bureau.

Article 31. Withdrawal of application

1. In the case the applicant or his representative fails to pay a prescribed fee within a period of three months from the date of the adoption of the decision to register the mark, the application shall be deemed withdrawn by the decision of the examiner.

2. The examiner shall send to the applicant or his representative a notification of the decision, deeming the application withdrawn within a period of 10 days from the date of the adoption of the decision to withdraw the application.
3. The applicant or his representative may, on their own initiative, at any time during the examination, withdraw his application or restrict the list of goods and/or services contained therein.

Article 32. Opposition to the trade mark

1. Interested parties, within a period of three months following the publication of a registered mark in the Official Bulletin of the State Patent Bureau, pursuant to Articles 6 and 7 of this law, may oppose the registration of the mark by filing an opposition in writing with the Section of Appeals of the State Patent Bureau, specifying the grounds on which it is made.
2. For filing of the opposition a prescribed fee must be paid.
3. The Section of Appeals of the State Patent Bureau shall resolve the issue of admissibility of opposition not later than within 14 days after the date of the filing of the opposition. If the opposition is filed in accordance with the procedure prescribed by this law, the Section of Appeals shall admit the opposition and forward one copy thereof to the proprietor of the mark or his representative.
4. The proprietor of the mark or his representative must, within a period of three months following the filing of the opposition, submit a grounded reply to the opposition. If the grounded reply to the opposition is not filed within the prescribed period, it shall be deemed as a refusal to take part in the hearing of the opposition and shall not prevent the Section of Appeals from hearing the opposition in the absence of the proprietor of the mark opposed.
5. The Section of Appeals, having examined the opposition, shall adopt one of the following decisions:
 - 1) to reject the opposition and to leave the registered mark in effect;
 - 2) to satisfy the opposition in whole or in part and to adopt the decision to declare the registered mark invalid in respect of some or all goods and/or services.
6. The proprietor of the mark opposed or his representative, or the person who filed an opposition or his representative, who did not participate in the hearing of the opposition, shall be notified in writing of the decision within one month following the adoption of that decision.
7. The decision adopted by the Section of Appeals shall enter into force as of the date of its adoption.
8. The decisions adopted by the Section of Appeals may be appealed against before the Vilnius County Court within 6 months following their adoption in accordance with the procedure established by this law.
9. The summarised decisions adopted by the Section of Appeals shall be published in the Official Bulletin of the State Patent Bureau.

Article 33. The procedure for the examination of appeals and oppositions at the State Patent Bureau

1. For the purpose of the examination of appeals and oppositions, an Appeals Commission shall be formed, consisting of 3 persons, with the exception of the examiner who examined the application in respect of which an appeal or opposition is filed. The Appeals Commission shall be chaired by a member who is legally qualified.

2. The sittings of the Section of Appeals during which the appeals or oppositions are examined shall be public.
3. The applicant, an interested party, the proprietor of the mark opposed or their representatives shall be entitled to participate in the sittings of the Section of Appeals during which appeals and oppositions are examined.
4. The procedure for the examination of appeals and oppositions shall be established by the Rules of the Examination of Appeals and Oppositions approved by the order of the director of the State Patent Bureau.

Article 34. Registration certificate of a mark

1. The State Patent Bureau shall issue a certificate to the proprietor of the mark or his representative unless the opposition was filed in accordance with the procedure established in paragraphs 1 and 2 of Article 32, or it was rejected or satisfied in part pursuant to paragraph 6 of Article 32 of this law. If the proprietor of the mark or his representative does not collect the certificate within 1 month after the date of issue, it will be sent to him by post.
2. The form of, and the data which shall be entered in the registration certificate, shall be determined by the State Patent Bureau.
3. Registration certificate of the mark is a legal document evidencing the registration of the mark in the Register of Trade Marks and Service Marks of the Republic of Lithuania and the exclusive rights of the proprietor of the mark to the registered mark.
4. In the case the proprietor of the mark loses the registration certificate of the mark, he will be issued a duplicate.

Article 35. The Register of Trade Marks and Service Marks of the Republic of Lithuania

1. The Register of Trade Marks and Service Marks of the Republic of Lithuania is a public register managed by the State Patent Bureau.
2. The procedure for the collection of documents and data, their processing, storage and use shall be established by the Regulations of the Register of Trade Marks and Service Marks of the Republic of Lithuania, which are approved by the government.

Article 36. The data in the Register of Trade Marks and Service Marks of the Republic of Lithuania

1. The following data shall be entered and collected in the Register of Trade Marks and Service Marks of the Republic of Lithuania:
 - 1) a representation of the mark;
 - 2) names of goods and services in respect of which registration application is filed, classified according to the Nice Classification valid at the date of filing;
 - 3) the date and number of filing of the application;
 - 4) the date and number of a registration of the mark;
 - 5) the title or full name of the applicant and address (registered office);
 - 6) the title or full name of the proprietor of the mark and his address (registered office);
 - 7) the expiry date of the duration of registration;
 - 8) the date of priority, the number of an earlier application, country code, if the priority was granted pursuant to paragraph 1 of Article 9 of this law;

- 9) the title of the exhibition and its opening date, if the priority was granted pursuant to paragraph 2 of Article 9 of this law;
 - 10) the name, surname and address of a representative, where appropriate;
 - 11) an indication that a mark is collective, three-dimensional and that its distinctive feature is colour;
 - 12) other data relative to the registration, use and protection of a mark;
 - 13) grounds for alterations and their date;
2. Access to the data contained in the Register of Trade Marks and Service Marks of the Republic of Lithuania shall be given to all natural and legal persons in accordance with the procedure established by the Regulations of the Register of Trade Marks and Service Marks of the Republic of Lithuania .
 3. The State Patent Bureau shall issue an extract from the Register of Trade Marks and Service Marks of the Republic of Lithuania upon the request of any person who has paid the prescribed fee.

Article 37. Registration of amendments of the application and the register of Trade Marks and Service Marks of the Republic of Lithuania

1. The applicant, the proprietor of the mark or their representatives must notify the State Patent Bureau if :
 - 1) the title, or name, surname or address of the applicant or proprietor of the mark has changed;
 - 2) the representative of the applicant or the proprietor of the mark has changed;
 - 3) the representation of a mark in respect of which a registration is requested or the representation of a registered mark has been altered;
 - 4) the list of goods and/or services is shortened;
 - 5) the subject of the right to the mark has changed completely or to a certain extent;
 - 6) technical mistakes have to be corrected.
2. The applicant, proprietor of the mark or their representatives, requesting to enter the amendment in the application or the Register of Trade Marks and Service Marks of the Republic of Lithuania, must submit the following documents:
 - 1) a request to enter alteration in the application or the Register of Trade Marks and Service Marks of the Republic of Lithuania;
 - 2) the documents justifying the request for making amendments, if it is being requested to make amendments referred to in subparagraphs 1-2 and 5-6 of paragraph 1 hereof;
 - 3) the document evidencing that the prescribed fee has been paid.
3. Upon receipt of the documents referred to in paragraph 2 hereof, the State Patent Bureau shall, within one month of their receipt, examine the documents and if they meet the requirements laid down in this law and the rules approved by the order of the director of the State Patent Bureau, and shall enter the alteration in the application or the Register of Trade Marks and Service Marks of the Republic of Lithuania.
4. The alteration becomes effective from the date of its entry in the Register of Trade Marks and Service Marks of the Republic of Lithuania and after this alteration is published in the Official Bulletin of the State Patent Bureau.
5. Technical mistakes made by the State Patent Bureau shall be corrected free of charge.

Article 38. Removal of the mark from the Register

1. A mark shall be removed from the Register of Trade Marks and Service Marks of the Republic of Lithuania, if :

- 1) the Section of Appeals has declared the registration of the mark invalid in accordance with the procedure established in Article 32 of this law;
 - 2) the registration of the mark has been declared invalid by court decision;
 - 3) the duration of registration was not renewed in accordance with the procedure established by Article 21 of this law;
 - 4) the proprietor of the mark requests to remove the mark from the Register.
2. The State Patent Bureau shall remove the mark from the Register of Trade Marks and Service Marks of the Republic of Lithuania upon receipt of one of the following documents:
- 1) the effective court decision declaring the registration of the mark invalid or revoking it;
 - 2) a written request of the proprietor of the mark.
3. Upon the adoption of the decision by the Section of Appeals to declare the registration of a mark invalid or in the event the duration of the registration is not renewed in accordance with the procedure established by Article 21, the mark shall be removed from the Register on the initiative of the State Patent Bureau.
4. The notification of the removal of the mark from the register shall be published in the Official Bulletin of the State Patent Bureau.

SECTION 7

COLLECTIVE MARKS

Article 39. The right to a collective mark

1. An association of natural and legal persons or any other voluntary association thereof shall be entitled to file an application for the registration of a collective mark.
2. A collective mark shall be subject to all the provisions of this law, with the exception of Articles 17 and 18.

Article 40. Registration and use of a collective mark

1. A collective mark shall be registered provided the regulations governing the use of a collective mark are submitted, containing the following data:
 - 1) the name and address of the organisation or any other voluntary association in the name of which the application for registration of a collective mark is filed;
 - 2) the objectives and representation procedure of the organisation or any other association;
 - 3) conditions of membership;
 - 4) information concerning the group of persons entitled to use a collective mark;
 - 5) conditions of the use of the mark;
 - 6) rights and obligations of the parties in the event of infringement of a collective mark.
2. A collective mark may be transferred only with a prior consent of all natural or legal persons who are the members belonging to an association having a registered a collective mark.
3. Signs and indications which may serve, in trade, to designate the geographical origin of the goods and/or services, may constitute a collective mark. However a collective mark shall not entitle the proprietor to prohibit a third party who is entitled

to use a geographical name, from using in the course of trade such signs and indications, provided he uses them in accordance with honest practices in industrial or commercial matters.

4. A collective mark shall be deemed to be in genuine use, if it is being used at least by one member from the collective.

5. A person, who has authority to use a collective mark, may bring an action for infringement only with the prior consent of the proprietor of the mark, unless the regulations governing use of a collective mark provide otherwise.

6. The proprietor of a collective mark must submit to the State Patent Bureau any amendments or supplements to the regulations governing the use of a collective mark.

7. The State Patent Bureau shall refuse to register a collective mark where the regulations governing use are not in compliance with the requirements referred to in paragraph 1 hereof or they are contrary to public policy or accepted principles of morality. Regulations governing use of a collective mark may be registered in accordance with the procedure established by laws after the proprietor remedies the deficiencies.

8. The interested parties may have access to the regulations governing use of a collective mark upon filing a request and paying a prescribed fee.

SECTION 8

INTERNATIONAL REGISTRATION OF A MARK

Article 41. Validity of international registration of marks

1. The State Patent Bureau in the Republic of Lithuania is the service of a country of origin and the service of an indicated country in accordance with the Madrid Protocol.

2. For the filing of an international application, subsequent territorial extension or in any other cases established by the Madrid Agreement on International Registration of Marks and General Rules of the Madrid Protocol relative thereto (hereinafter referred to as General Rules), the applicants shall have to pay fees directly to the International Bureau.

3. Since the date of the international registration of a mark, in which the Republic of Lithuania is indicated, or the later date of extension, the international registration of a mark shall confer the same rights as the mark that would have been registered in accordance with the provisions of this law.

4. The date and number of international registration of a mark shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania.

Article 42. Filing of an application for international registration on the basis of an application or registration in the Republic of Lithuania

1. The applicant or proprietor of a mark which meets the requirements of Article 2 (1) (i) of the Madrid Protocol, shall have to file an international application through the State Patent Bureau. The documents of international application must be in English.

2. When filing an international application priority may be requested under the provisions of the Paris Convention.

3. The international application must be in the form approved by, and in compliance with, the requirements laid down in the Madrid Protocol and General Rules thereof.

4. The procedure for the examination of an international application at the State Patent Bureau shall be established in accordance with the procedure for the implementation of the Madrid Protocol, approved by the order of the director of the State Patent Bureau.

Article 43. Invalidity of the international registration of a mark

1. If international mark does not satisfy the requirements of Article 6 of this law or if opposition to registration is filed in accordance with the procedure established by this law, the State Patent Bureau shall, within the time limits prescribed by the Madrid Protocol, notify the International Bureau of the fact that the mark shall not be protected in whole or in part, in the Republic of Lithuania.

2. The international registration of a mark shall be invalid in the Republic of Lithuania from the date of declaration of its invalidity in the Republic of Lithuania.

3. If the international registration is revoked at the request of the Office of origin or if a member of the Madrid Protocol withdraws from the agreement, the proprietor of such a mark may file a registration application in the Republic of Lithuania in accordance with the procedure established by this law.

4. The application referred to in paragraph 3 hereof shall be entitled to the same protection as the international registration of a mark from the date of filing of an application for international registration or a later date of extension, provided the following conditions are satisfied:

- 1) application is filed within three months from the date of expiry of international registration of a mark on the grounds referred to in paragraph 3 hereof;
- 2) the application contains no other goods and/ or services except those indicated in the international registration of a mark;
- 3) the application satisfies the requirements laid down in this law and the applicant has paid all the prescribed fees.

Article 44. Prohibition of double protection

1. If on the initiative of the proprietor, a mark registered in the Republic of Lithuania is also the subject of international registration, the international registration of a mark may replace the registration valid in the Republic of Lithuania, provided:

- 1) the Republic of Lithuania is indicated as the initial or subsequent extension;
- 2) the goods and/or services in the national registration are identical with those indicated in their international registration;
- 3) in the international registration the Republic of Lithuania is indicated later than the application was filed with the State Patent Bureau

2. At the request of the proprietor of the mark, the State Patent Bureau shall enter the data concerning the replacement of national registration with international registration.

Article 45. Special provisions applied to international registration

1. If the proprietor of international registration of a mark does not agree with the decision of an expert to refuse protection on the ground of the non-compliance of the mark with the requirements of Article 6 of this law, he shall be entitled to request, within a period of 5 months after the refusal of protection, for a repeat examination. In the event of failure to file an application within the prescribed period, the decision of the examiner shall be deemed final.

2. The proprietor of international registration who disagrees with the decision of an examiner, adopted during the repeat examination, shall be entitled, within 5 months from the date of adoption of the decision appealed from, to apply to the Section of Appeals of the State Patent Bureau (hereinafter referred to as the Section of Appeals) in accordance with the procedure established by this law.
3. The interested parties or their representatives shall have to file an opposition to an international registration within 3 months after the publication of the data concerning the international registration of a mark in the Bulletin of International Trade Marks of the International Bureau. The opposition must comply with the requirements referred to in paragraphs 1 and 2 of Article 33 of this law.
4. The proprietor of the opposed international mark registration or his representative must submit, within 5 months from the date of filing of opposition, a grounded answer to the opposition.
5. The licence granted by the proprietor of the international registration of the mark shall be invalid if it is not registered in accordance with the procedure established by Article 18 of this law.
6. The renewal of validity of an international registration and other issues not covered by this law, relating to the international registration of a mark, shall be regulated by the Madrid Protocol and the Implementing Regulation thereof.

SECTION 9

DECLARATION OF INVALIDITY OF THE MARK REGISTRATION AND ITS REVOCATION

Article 46. Declaration of invalidity of a mark registration

1. Upon the request of any interested person, the court, on the grounds that the mark is not in compliance with the provisions of Article 6-7 of this law, may declare the registration of a mark invalid.
2. The Court, having passed the decision to declare the registration of a mark invalid, shall send a copy of the effective decision to the State Patent Bureau which shall remove the mark from the register in accordance with the procedure established by Article 38 of this law.
3. The registration of the mark may not be declared invalid on the grounds that there exists an earlier mark giving rise to a conflict, which is not in compliance with the requirements of paragraph 2 of Article 47 of this law.
4. The registration of a mark may not be declared invalid or revoked, if the proprietor of the earlier mark has acquiesced for five years in the use of a later mark, based on the application filed in good faith, with the exception of cases, where their parallel use may mislead the public or is contrary to public policy.
5. Having declared the registration of a mark invalid or having revoked it, the issued registration certificate shall also become invalid.

Article 47. Revocation of registration

1. Upon the request of any interested party the court may revoke the registration of a mark, if after the date of registration :

- 1) in consequence of acts or inactivity of the proprietor, the mark has become the common name in the trade for a product or service in respect of which it is registered or it was treated as such by others;
 - 2) in consequence of the use of it by the proprietor of the mark or with his consent in respect of the goods or services for which it is registered, the mark is liable to mislead the public as to the nature, quality or geographical origin of those goods and services.
2. The registration of the mark may be revoked, if within a period of five years after the issue of the registration certificate, a genuine use of the mark has not been started by the proprietor in the Republic of Lithuania or the proprietor has not expressed serious intention to use the mark in respect of the goods and/or services for which it is registered, or if the mark has not been put to genuine use for five successive years, with the exception of cases where the mark was not used due to serious reasons, such as, for e.g. restrictions on imports or other circumstances which occurred irrespective of the proprietor's will and interfere with the use of the mark.
3. Within the meaning of paragraph 2 hereof, the use shall also mean:
- 1) the use of the mark in such a form which differs in its elements, but if the distinctive character of the mark registered as it is, remains unchanged;
 - 2) the use of the mark for the goods or their packaging in the Republic of Lithuania solely for export purposes.
4. The mark shall be deemed to be used by its proprietor if it is used by another person with the proprietor's consent.
5. No one may request to revoke the registration of the mark on the grounds referred to in paragraph 1 hereof, if during the interval between the expiry of the five-year period and filing of the application to revoke registration to court, genuine use of the mark has been started or resumed, with the exception of the case referred to in paragraph 6.
6. In adopting the decision on the revocation of registration the following circumstances must be disregarded:
- 1) the commencement or resumption of the use of the mark within a period of three months preceding the filing of application for revocation of the registration to court, or
 - 2) the commencement of the use of the mark on the expiry of the continuous period of five years of non-use, or
 - 3) the proprietor commenced or resumed the use of the mark only after he becomes aware that the application for the revocation of registration may be or is filed with court.
7. Upon revocation of registration on the grounds referred to in this Article, the revocation of registration becomes effective from the date of the coming into effect the decision of the court.

Article 48. Refusal to register the mark, revocation of registration or declaration of invalidity only in respect of some goods and/or services

Upon refusal to register the mark in cases established by this law, upon the revocation of registration or declaration of invalidity in respect of only some of the goods and /or services for which the mark is registered, the refusal of registration, declaration of invalidity or revocation shall apply in respect of those goods and/or services only.

Article 49. The right to register the mark the duration of which has expired

If the duration of the mark has expired upon its voluntary surrender by the proprietor or being not renewed, the application for the registration of the same mark in the Republic of Lithuania may be filed in accordance with the procedure established by this law :

- 1) the former proprietor of the registered mark at any moment from the date of expiry of the duration of the registered mark, unless another person has filed a new registration application under conditions specified in paragraph 2 hereof;
- 2) another person after the lapse of two years from the expiry of the duration of the registration of the mark.

SECTION 10

INVESTIGATION OF DISPUTES. DEFENCE OF RIGHTS

Article 50. Institutions investigating disputes relating to marks

1. The Section of Appeals of State Patent Bureau shall investigate disputes specified in Article 32 of this law.
2. The Vilnius County Court shall investigate disputes concerning:
 - 1) decisions adopted by the Section of Appeals of the State Patent Bureau, passed pursuant to Article 32 of this law;
 - 2) declaration of invalidity of the registration of a mark ;
 - 3) revocation of the registration of a mark;
 - 4) defence of the rights of the proprietor of the mark;
 - 5) recognition of the mark as well known in the Republic of Lithuania.

Article 51. Defence of Rights

The proprietor of the rights in defending his infringed rights may apply to court in accordance with the procedure established by this law, which may give a judgement relating to:

- 1) recognition of the rights
- 2) prohibition to proceed with acts, which infringed or threaten to infringe the rights specified in Article 11 of this law;
- 3) reimbursement for losses or damage (including moral), caused to the proprietor of the mark by actions, infringing the rights specified in Article 11 of this law, including income not received or other incurred expenses;
- 4) payment of compensation;
- 5) re-establishment of the situation which was before to the infringement;
- 6) forfeiture and where appropriate, destruction of unlawfully used marks, devices or equipment used for their production, and goods, when it is impossible to remove the unlawful marks affixed to them, as well as of other devices and equipment used for the infringement of rights conferred by virtue of this law.

Article 52. Reimbursement for losses and material damage. Compensation

1. The procedure for the reimbursement of losses and material damage shall be regulated by the Civil Code of the Republic of Lithuania and the norms of this Law.
2. In assessing the amount of losses, the court must take into account the substance of the infringement, the amount of the inflicted damage, the income not received by the proprietor of the mark, and other costs.
3. The proprietor of the mark may elect, instead of actual reimbursement of damages, the payment of compensation, the amount of which shall be calculated on the basis of

the lawful selling price of a relevant good or service, by increasing it up to 200 per cent and in case of deliberate infringement, up to 300 percent.

Article 53. Customs procedures guaranteeing the protection of the rights of the proprietor

The rights of the proprietor or licensee of the mark when the goods are transported across the border of the Republic of Lithuania, under the mark which is deemed by the proprietor or the licensee to be infringing his rights to the mark protected in the Republic of Lithuania, shall be defended by the laws of the Republic of Lithuania, establishing customs measures relative to the protection of intellectual and industrial property.

Article 54. The responsibility of the proprietor of the mark to reimburse the losses caused by unjustified claim

1. The losses caused to the defendant by the unjustified claim of the plaintiff shall be reimbursed by the plaintiff. He shall also reimburse the costs relating to the storage of goods detained at the Customs at his request without sufficient ground.
2. If the claim is satisfied, the costs of the storage of goods under Customs control shall be reimbursed by the defendant.

Article 55. Criminal liability for the infringement of the rights of the proprietor of the mark

The criminal liability for the infringement of the rights of the proprietor of the mark shall be established by the Criminal Code of the Republic of Lithuania.

Article 56. Persons entitled to lodge claims

1. The right to lodge a claim shall be vested in the proprietor of the mark. However if he does not make use of this right, the claim may be lodged by the licensee, unless the license contract provides otherwise.
2. Any party to a license contract shall be entitled to participate in the proceedings instituted by the other party relative to the infringement of the rights to the mark and be reimbursed for incurred damage.

**SECTION 11
FINAL PROVISIONS**

Article 57. Transitional provisions

1. The marks for the registration of which applications have been filed prior to the date of entry into force of this law shall be registered in accordance with the procedure established by the Republic of Lithuania Law on Trade Marks and Service Marks No I-173 (*Official Gazette* No 21-507, 1993; No89-1722, 1994; No108-2733, 1997).
2. The provisions of paragraphs 3 and 4 of Article 7 of this law shall apply to those Community marks for the registration of which the application are filed with the EU Internal Market Harmonisation Service after the date of Lithuania's accession to the EU, taking into account, where appropriate, the requested or granted priority.
3. After Lithuania becomes a member of the EU, the market of the Republic of Lithuania, referred to paragraph 1 of Article 14 of this Law shall be replaced by the market of the European Community.

4. The rights of the proprietors of the marks registered prior to the entry into force of this law shall be defended in accordance with the provisions of this law.

Article 58. Proposals to the Government

To propose to the Government to prepare by 1 May 2000 legal acts related with the implementation of this law.

Article 59. Entry into force

1. The Republic of Lithuania Law on trade Marks and Service Marks shall enter into force as of 1 July 2000.

2. The provisions of paragraphs 3 and 4 of Article 7 of this law shall enter into force as of the date of Lithuania's accession to the European Union.

I promulgate this law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC