

**LAW No. 04/L-026
ON TRADEMARKS**

Assembly of Republic of Kosovo;

Based on article 65 (1) of Constitution of the Republic of Kosovo,

Approves

LAW ON TRADEMARKS

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

This Law determines requirements and procedures for the registration of trademarks, the rights derived through the registration and implementation of such rights.

**Article 2
Scope**

This Law is applicable to persons subject of the registration procedure for acquiring the trademark at Industrial Property Office of the Republic of Kosovo, established within the Ministry of Trade and Industry (hereinafter Office), including community trademarks and international trademark registrations valid in the Republic of Kosovo.

**Article 3
Definitions**

1. The terms used in this Law shall have the following meaning:

1.1. **Ministry** – the Ministry of Trade and Industry;

1.2. **Minister** – the Minister of Trade and Industry;

1.3. **Office** – the independent Industrial Property Office of the Republic of Kosovo established within the Ministry of Trade and Industry;

1.4. **Paris Convention** - the Convention for the Protection of Industrial Property of March 20, 1883, reviewed and amended;

1.5. **Known trademark** – trademark according to article 6 *bis* of the Paris Convention;

1.6. **Nice Classification** – International Classification of Goods and Services approved by Nice Agreement in regard to International Classification of Goods and Services for intended use of the trademark registration dated on June 15, 1957, reviewed and amended;

1.7. **Madrid Agreement** – the Madrid Agreement regarding the International Registration of trademarks, signed on April 14, 1891, as reviewed and amended;

1.8. **Madrid Protocol** – the Protocol for Madrid Agreement regarding the International Registration of trademark, signed on June 27, 1989 in Madrid;

1.9. **Common Regulations** – common regulations according to Madrid Agreement regarding international registration of trademarks and the Protocol related to mentioned agreement;

1.10. **WIPO** - the World Intellectual Property Organization established by WIPO Convention;

1.11. **International Bureau** - the WIPO Secretariat;

1.12. **WIPO gazette** - the official gazette of international registrations published by the International Bureau;

1.13. **Regulation for Community trademarks** – the Council Regulation (EC) No.207/2009 on trademarks, dated on 26 February 2009;

1.14. **Community trademark** – trademark as per defined in paragraph 1 of Article 1 of the Council Regulation (EC) No.207/2009 on community trademarks dated on 26 February 2009;

1.15. **Application for Community trademark** – application for registration of community trademark;

1.16. **National trademark** –trade mark acquired through procedure at the Office, pursuant to provisions of this Law;

1.17. **National application for trademark** – application for a trademark submitted in the Office, pursuant to provisions of this Law;

1.18. **Subject** – natural person or legal person.

1.19. **Exclusive licence**- the licence when given by the trademark holder and by which the trademark exclusive rights are transferred.

1.20. **Non-exclusive licence** - the licence when given by the trademark holder and there are transferred only the rights determined by the trademark holder.

Article 4 **Acquisition of trademark right**

1. A trademark right shall be acquired through registration of trademark in the trademark register, maintained by Industrial Property Office.

2. Local and foreign person may be trademark holders in the Republic of Kosovo.

3. Person who is not national of Republic of Kosovo or does not have of registered business representative office shall represent to the Office through authorized representatives only.

Article 5 **Signs which may be protected as trademarks**

A trademark may be every sign which could be represented graphically, particularly words, including personal names, designs, letters, numbers, the shape of goods or their packaging, colors as well as combination of all above under a condition that goods or services of one enterprise can be distinguished from the other enterprises.

Article 6

Refusal for absolute grounds

1. As trademark cannot be registered or if registered must be declared invalid:

1.1. signs which are not in accordance with Article 5 of this Law;

1.2. trademarks which do not contain any distinctive feature;

1.3. trademarks which do consist exclusively of signs or indications that may be used in trading for determining type, quality, quantity, intention, value, geographical origin, time of production of goods or conducting services or showing other features of goods and services;

1.4. trademarks which consist exclusively of signs or indications that have become common in everyday language or are used confidently and have become common trading practices.

1.5. signs which consist exclusively of:

1.5.1. the shape which results from goods nature;

1.5.2. the shape of goods which is necessary to obtain a technical result,

1.5.3. the shape which gives substantial value to the goods;

1.6. trademarks which are contrary to moral principles and public order;

1.7. trademarks which may cheat public, for instance regarding the nature, quality or geographical origin of goods or services;

1.8. trademarks which have not been authorized by the competent authorities, pursuant to Article 6 of the Paris Convention.;

1.9. trademarks the use of which may be prohibited by provisions of any other Law;

1.10. trademarks which contain symbols, emblems and state blazons which have not been determined in Article 6 of the Paris Convention and which are of general interest of the Republic of Kosovo, except cases when their registration have been permitted by competent body;

1.11. trademarks for wines or alcohol drinks containing or consisted of a geographical indication which identifies such wines or alcohol drinks not having that origin;

1.12. trademarks containing or consisted of a denomination of origin or a geographical indication with effect in the territory of the Republic of Kosovo, if application for registration of the trademark has been submitted after application for registration of a denomination of origin or a geographical indication and it is in application request for registration of geographical indication, determined by respective legislation, basis of such denominations are registered for types of similar goods;.

2. Paragraphs 1.2, 1.3 and 1.4 of this Article shall not applicable if in the process of registration, prior to application date for registration, the trademark acquired distinctive feature in regard to goods or services for which registration is being requested.

Article 7

Relative grounds for refusal

1. Upon opposition submitted by the holder of an earlier trademark, the trademark submitted shall not be registered if:

1.1. it is identical with an earlier trademark and goods or services for which the trademark has been submitted are identical with the goods or services protected by the earlier trademark;

1.2 it is identity or similar to earlier trademark and goods or services which have been submitted are similar to goods and services protected by earlier trademark and when due to similarity there is possibility causing confusion to public, including the possibility of association to earlier trademark.

2. "Earlier trade mark" in the meaning of paragraph 1 of this Article, means:

2.1. registered trademark with the application date or earlier priority date;

2.2. application for registration of trademark, with application date or earlier priority date, in registration process;

2.3 trademark which on application date for registration or on priority date, is well known in the Republic of Kosovo;

2.4 community trademark or application for registration of community trademark, as determined by paragraph 1 of Article 83 of this Law.

2.5 registered trademarks according to international agreements which have effect in the Republic of Kosovo;

3. Upon opposition submitted by the holder of earlier trade mark, according to paragraph 2 of this Article, trademark shall not be registered when it is identical or similar to earlier trademark, which is protected for goods and services which are similar to goods and services for which the earlier trade mark has been registered, if earlier trademark has a reputation in the Republic of Kosovo and through the use of mentioned trademark, without reasonable cause, the unfair profit is realized or the distinctive feature of earlier trademark is harmed.

4. Upon opposition submitted by the holder of earlier trademark, trademark shall not be registered if the representative of trademark holder without holder's authorization applies for registration of the trademark on his name, except cases when the representative justifies his actions.

CHAPTER II

EFFECTS OF A TRADE MARK

Article 8

Rights acquired by a trademark

1. The registered trademark shall be exclusive right of its holder. The holder of trademark shall be entitled to prevent third parties to use without his permission:

1.1. any sign which is identical with the trade mark in relation to goods or services which are identical with those for which the trade mark is registered;

1.2. any sign where, because of its identity with, or similarity to the trade mark and the identity or similarity of the goods or services covered by the trade mark and the sign, there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association between the sign and the trade mark;

1.3. any sign which is identical with, or similar to, the trade mark in relation to goods or services which are not similar to those for which the trade mark is registered, where the latter has a reputation in the Republic of Kosovo and where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.

2. According to paragraph 1 of this Article the holder of the trademark may prohibit the following actions also:

2.1. affixing the sign to the goods or to the packaging thereof;

2.2. offering the goods, or putting them on the market or stocking them for these purposes under that sign, or offering or supplying services thereunder;

2.3. importing or exporting the goods under the sign;

2.4. using the sign on business papers and in advertising.

3. The rights conferred by a registered trade mark shall prevail against third parties from the date of publication of registration of the trade mark. Reasonable compensation may, however, be claimed in respect of acts occurring after the date of publication of a trade mark application, which acts would, after publication of the registration of the trade mark, be prohibited by virtue of that publication. The court judging the case may not decide upon the merits of the case until the registration has been published.

Article 9

Citation of trademark in dictionaries

If trademark has been cited in dictionary, encyclopedia or similar material which is used as reference and it gives impression that constitutes the generic name of the goods or services for which the trademark is registered, and including those in electronic form, the publisher, upon the request of trademark holder, in next edition with a reference shall indicate that trademark is registered trademark.

Article 10

Trademark registered on name of business representative

When trademark is registered on name of business representative without trademark holder's authorization, the holder has the right to oppose the use of such trademark if he has not authorized such action, except cases when the representative justifies his actions.

Article 11

Limitation of trademark effects

1. The trademark holder shall not have the right to prohibit to third party using, in his business activity:

1.1. his personal name or address;

1.2. data regarding type, quality, quantity, intended use, value, geographical origin, the time of production of products or time of provided service, or other features of products or services;

1.3. the trademark when it is necessary to indicate the intended use of product or services, in particular cases when there are accessory items or spare parts, under condition to be used in accordance with fair industrial or business practices;

Article 12

Exhaustion of the rights acquired by a trade mark

1. Exhaustion of the right for prohibition of the use of trade mark for the goods and services shall begin when the trade mark have been put in the market of the Republic of Kosovo by the holder or after the membership of the Republic of Kosovo into the European Union, in the territory of any of the States of the European Union, or States Parties to the Agreement Creating the European Economic Area, under that trade mark.

2. Paragraph 1 of this Article shall not apply where there exist legitimate reasons for the holder to oppose further commercialization of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market.

Article 13

Limitation of effects as a consequence of acquiescence

1. Where, the holder of an earlier trademark has acquiesced, for a period of five (5) successive years, in the use of a later trade mark registered in the Republic of Kosovo while being aware of such use, he shall no longer be entitled on the basis of the earlier trade mark either to apply for a declaration that the later trade mark is invalid or to oppose the use of the later trade mark in respect of the goods or services for which the later trade mark has been used, unless registration of the later trade mark was applied for in bad faith.

2. Paragraph 1 of this Article shall also apply to the holders of an earlier trade mark referred to in paragraph 3 Article 7 of this Law or any other earlier right referred to in sub-paragraphs 1.5 or 1.6 of Article 52 this Law.

3. In the cases referred to in paragraphs 1 and 2 of this Article, the holder of a later registered trade mark shall not be entitled to oppose the use of the earlier right, even though that right may no longer be invoked against the later trademark.

4. Holder of later registered trademark shall not have the right to oppose the use of earlier trade mark even though the holder of earlier trade mark may no longer be invoke that right against the later trademark.

CHAPTER III

THE USE OF TRADEMARK

Article 14

Use of a trademark

1. The holder of the trademark shall have the right to use the trademark for goods and services as such it has been registered.

2. The use of trademark, according to paragraph 1 of this Article, shall also mean:

- 2.1. use of the trade mark in a form does not harm the distinctive character of the mark in the form in which it was registered;
 - 2.2. affixing of the trade mark to goods or to the packaging thereof in the Republic of Kosovo concerned solely for export purposes.
 - 2.3. setting the mark on goods or their packaging in the Republic of Kosovo only for export purposes.
3. Use of the trade mark with the consent of the holder or by any person who has authority to use a collective mark or a certification mark shall be deemed to constitute use by the holder.
 4. If, within a period of five (5) years following the date of the completion of the registration procedure, the holder has not put the trade mark to genuine use in the Republic of Kosovo in connection with the goods or services in respect of which it is registered, or if such use has been suspended during an uninterrupted period of five (5) years, the trade mark shall be subject to the sanctions provided for in this Law, unless there are proper reasons for non-use.

CHAPTER IV TRADE MARK AS AN OBJECT OF PROPERTY

Article 15 Transfer of the right

1. The trademark may be transferred separately of any transfer of enterprise in regard of some or all of the goods and services for which it has been registered.
2. In case of a trade mark transfer in respect of some of the products and/or services only, for which the trade mark is registered, such registration shall be divided in accordance with the provisions of Articles 39 and 44 of this Law.
3. On request of one of the parties a transfer shall be entered in the Trade Mark Register provided that sufficient evidence is offered for the transfer such as a certified copy of the transfer contract, the certified part of that contract, the original certificate of the transfer made in writing and signed by both parties or the judgement to that effect, are submitted to the Office and provided that the fee prescribed for the entry of the transfer in the Trade Mark Register is paid.
4. The transfer of the trade mark shall be published in the official gazette of the Office.
5. The request for the entry of the transfer in the register must be filed under the conditions and in the manner as foreseen by sub-legal acts under this Law.
6. As long as the transfer has not been entered in the register, the successor in title may not invoke the rights arising from the registration of the trade mark.
7. Documents required for notification of trademark holder shall be sent to the person registered as successor.

Article 16 Transfer of trademark registered in the name of representative

When a trade mark is registered in the name of the agent or representative of a person who is the holder of that trade mark, without the holder's authorization, the latter shall be entitled to demand the assignment in his favor of the said registration, unless such agent or representative justifies his action.

Article 17

Licensing

1. A trade mark may be licensed for some or all of the goods or services for which it is registered and for the whole or part of the territory of the Republic of Kosovo. A license may be exclusive or non-exclusive.
2. The trade mark holder 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 covered by the registration in which the trade mark may be used, the scope of the goods or services for which the license is granted, the territory in which the trade mark may be affixed, or the quality of the goods manufactured or of the services provided by the licensee.
3. On request of one of the parties the license in respect of a trade mark shall be entered in the trade mark register provided sufficient evidence of the license such as a certified copy of the license agreement, the certified part of that agreement or the original certificate granting the license made in writing and signed by both parties, are submitted to the Office and provided that the fee prescribed for the entry of the license in the trade mark register is paid.
4. The license of the trade mark shall be published in the official bulletin of the Office.
5. The license registration request shall be submitted under the requirements and order defined by sub-legal acts, approved by the Minister.

Article 18

The rights of pledge

1. A trade mark may, independently of the undertaking, be given as security or be the subject of pledge.
2. The pledge shall be registered in the trademark register on the request of one of the parties and shall be published on Office official bulletin.
3. The pledge registration request shall be submitted under the requirements and order defined by sub legal acts, approved by the Minister.

Article 19

Trademark as subject of execution

1. Trademark may be subject of execution.
2. The court undertaking execution actions, according to official duty shall inform the Office for execution actions undertaken or imposed against trade mark with purpose of registering the execution procedure in the trademark register.
3. Undertaken execution action upon a registered trademark in the Trademark register shall be published in Office official Bulletin.
4. The registration of execution action at trade mark register shall be submitted under the requirements and order defined by sub legal act.

Article 20 Bankruptcy

1. When trademark holder is involved in bankruptcy or like proceedings, on request of the competent authority shall be registered in trademark register and published in the Office official bulletin.
2. The request for the bankruptcy registration or like proceedings shall be submitted under the requirements and order defined by sub- legal act.

Article 21 Effects in relation to third parties

1. Legal acts referred to in Articles 15, 17 and 18 of this Law concerning a trade mark shall only have effects in relation to third parties after entry in the trade mark register. Nevertheless, such an act, before it is so entered, shall have effect in relation to third parties who have acquired rights in the trade mark after the date of that act but who knew of the act at the date on which the rights were acquired.
2. Paragraph 1 of this Article shall not apply in the case of a person who acquires the trade mark or a right concerning the trade mark by way of transfer of the whole of the undertaking or by any other universal succession.

Article 22 Application for registration of trade mark as an object of property

Articles 15 to 21 of this Law shall apply in the same way as in the procedure for application for registration of trademarks.

CHAPTER V TRADEMARK APPLICATION

Article 23 Filing of the trade mark application

1. The procedure for registration of a trade mark shall be initiated by filing an application for the registration of a trade mark with the Office.
2. The application for registration may concern only one sign for which the trade mark protection is sought.

Article 24 Trademark application requirements

1. An application for the registration of trademark shall contain:
 - 1.1. trademark registration request;
 - 1.2. applicant personal identification information;
 - 1.3. s list of the goods or services requested to be registered;
 - 1.4. trademark design.

2. The application for registration of a trade mark shall be subject to the payment of the application fee in accordance defined by sub-legal act.
3. Application for trademark registration shall meet requirements defined by paragraph 1 of this Article and other requirements defined by sub legal act.

Article 25 **Date of filing the application**

The filing date of application for trademark registration shall be the date when application has been receiving by the Office. If in some documents there are various filing dates, the filing date shall be considered the date of last document received by the office, in order to meet requirements according to paragraph 1 of Article 24 of this Law.

Article 26 **Classification**

Goods and services listed in the trademark registration application shall be classified according to Nice Classification classes.

Article 27 **Priority right acquired by filing an application**

1. The applicant shall from the date of filing of an application for registration of a trade mark have precedence over any other applicant filing later an application for registration of an identical or similar trade mark for the identical or similar goods or service.
2. Every application filed under an international agreement to which the Republic of Kosovo is a party shall also give rise to the priority of such an application according to the provisions of the relevant international agreement.
3. Priority right, has effect in cases when priority right is recognized as filing date of application for trademark registration.

Article 28 **Right of priority**

1. If the applicant for the registration of a trade mark or his successors in title has duly filed an application for a trade mark in or for any State party to the Paris Convention or to the Agreement establishing the World Trade Organization, he may, for the purpose of filing the application for registration of a trade mark in the Republic of Kosovo for the same trade mark in respect of goods or services which are identical with or contained within those for which the application has been filed, invoke the right of priority of the first filing, provided he files the application in the Republic of Kosovo during a period of six (6) months from the date of filing of the first application.
2. The applicant invoking the right of priority shall indicate in the application for registration of a trade mark he is filing with the Office, the relevant data on the first application (State, date and application number) and shall, not later than three (3) months from the date of filing the application to the Office, submit a true copy of the first application.
3. If applicant fails meeting requirements from paragraph 2 of this Article, invoked priority right is lost.
4. Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral agreements shall be recognized as giving rise to a right of priority.

5. By a regular national filing is meant any filing that is sufficient to establish the date on which the application was filed, whatever may be the outcome of the application.

Article 29

Exhibition Priority Right

1. If the applicant for the registration of a trade mark or his successors in title has displayed goods or services under the mark applied for, at an official or officially recognized international exhibition in the Republic of Kosovo or any State member of the Paris Union or party to the Agreement establishing the World Trade Organization, he may, for the purpose of filing the application for registration of a trade mark in the Republic of Kosovo for the same mark under which the goods or service were displayed, invoke the right of priority of the date of the first display of the goods or service under the mark applied for, provided he files the application in the Republic of Kosovo during a period of six (6) months from the date of the first display.

2. The applicant invoking the exhibition priority right shall indicate in the application for registration of a trade mark he is filing with the Office the relevant data of the first display of the goods or service under the mark applied for (date, State and the name of the exhibition) and shall, not later than three (3) months from the date of filing the application to the Office, submit evidence of the display of goods or services under the mark applied for and a certificate issued by the competent authority on the type, venue, opening and the closing dates of the exhibition and on the first day of exhibiting the goods or services cited in the application together with a translation of such certificate.

3. If the applicant does not submit all requirements set out in paragraph 2 of this Article, shall lose the exhibition priority right.

4. An exhibition priority granted in a third country does not extend the period of priority as mentioned in Article 28 of this Law.

CHAPTER VI

REGISTRATION PROCEDURE

Article 30

Formal examination of the application

1. The Office shall examine whether:

1.1. the application for registration of a trade mark satisfies the requirements for the accordance of a date of filing in accordance with paragraph 1 of Article 24 of this Law;

1.2. the application for registration meets requirements of Article 5 and Article 23 paragraph 2 of this Law and other requirements defined by sub-legal acts pursuant to this Law;

1.3. the fee for the application of registration of a trademark in accordance with sub legal acts for trademark registrations has been paid.

2. If trademark registration application does not meet requirements mentioned in paragraph 1 of this Article, the Office invites the applicant to add missing information in the application within sixty (60) days from the date of receiving invitation from the Office.

3. Upon request of the applicant the time period mentioned in paragraph 2 of this Article may be extended in maximum of thirty (30) days, counting the date from the date of expire.

4. If the deficiencies or the default on payment established pursuant to sub-paragraph 1.1 and 1.3 of paragraph 1 of this Article are not remedied according to the request of the Office or if they are not remedied within the time limit set, the application shall not be considered as an application for registration of a trade mark. If the applicant complies with the Office's request, the Office shall accord as the date of filing of the application the date on which the deficiencies or the default on payment established are remedied.

5. If the deficiencies established pursuant to sub-paragraph 1.2 or 1.3 of paragraph 1 of this Article are not remedied according to the request of the Office or if they are not remedied within the time limit set, the Office shall reject the application.

6. The office shall examine application for trademark registration in a chronological form, except in cases when there is required the premature examination of application, by the party.

7. Form, procedures and conditions for premature examination shall be regulated by sub-legal act.

Article 31

Examination regarding the absolute grounds for refusal

1. Where, under Article 6 of this Law a trade mark is ineligible for registration in respect of some or all of the goods or services covered by the application for registration of a trade mark, the application shall be refused as regards those goods or services.

2. Where the trade mark contains an element which is not distinctive, and where the inclusion of said element in the trade mark could give rise to doubts as to the scope of protection of the trade mark, the Office may request, as a condition for registration of said trade mark, that the applicant state that he disclaims any exclusive right to such element. Any disclaimer shall be published together with the application or the registration of the trade mark, as the case may be.

3. The applicant shall have the right, within sixty (60) days from the date of receiving the written notification regarding reasons of rejection of some or all goods or services mentioned in the application, to submit remarks and request correct application and or submit new possible facts that may influence in Office final decision regarding trademark application rejection.

4. Upon request of the applicant, which has to be made within the time limit referred to in paragraph 3 of this Article, the time limit may be extended for a maximum of sixty (60) days counted from the date of the expiration of that time limit.

Article 32

Publication of the application

1. If the application for trademark meet requirements and after review has not been rejected shall be published in Office bulletin.

2. The data from trademark registration application which may be published shall be defined by sub legal act.

3. Where, after publication, the application is refused under Articles 30 or 31 of this Law, the decision that it has been refused shall be published in the Office bulletin.

Article 33

Third parties observations

1. Any entity, any group or body representing manufacturers, suppliers of services, traders or consumers may submit, within a period of three (3) months following the publication of application

for trademark registration, the written observations to the Office, explaining on which grounds under Article 6 of this Law, in particular, the trade mark should not be registered. They shall not be parties to the proceedings before the Office.

2. The observations referred to in paragraph 1 of this Article shall be communicated to the applicant who may comment on them within thirty (30) days as from the date of the receipt of the copy of the observations.

Article 34 Opposition

1. Opposition notice in regard to published trademark shall be submitted at the Office, within time limit of three (3) months from the date of publication and if the respective fee for trademark registration has been paid. Within a period of three (3) months from the date of publication of application for trademark registration on opposition of trademark registration supported by facts, according to Article 7 paragraphs 1, 2 and 3 of this Law, opposed trademark may be not registered. Such opposition may be filed by:

1.1. earlier trademarks holders, according to Article 7 paragraph 2 and 4 of this Law, as well as individuals licensed by trademark holders, according to Article 7 paragraph 1 of this Law;

1.2. earlier trademark holders, according to Article 7 paragraph 3 of this Law;

1.3. earlier trademark holders, according to Article 7 paragraph 4 of this Law.

2. Opposition of trademark registration may be filed according to defined requirements under paragraph 1 of this Article, in cases of publication of an amended application according to Article 38 paragraph 2 of this Law;

3. Opposition must be expressed in written by specifying grounds. The manner of filing opposition and referred fee shall be defined by sub-legal act.

4. If on the date of publication of an application, the earlier trade mark, on which the opposition is based, is subject to a pending revocation procedure or a pending procedure for a declaration that the earlier trade mark is invalid, the Office shall suspend the opposition procedure until the decision from the earlier initiated revocation procedure or the procedure for a declaration that the trade mark is invalid, has become final.

Article 35 Examination procedure of opposition

1. The Office shall examine whether the opposition is filed within defined time limit, if the defined fee has been paid and if defined requirements according to sub legal act, have been met.

2. If the requirements set out in paragraph 1 of this Article are not complied with, the Office shall reject the opposition.

3. If the requirements set out in paragraph 1 of this Article are met, the Office shall send a copy of the opposition as filed to the applicant and invite him to submit his observations on the opposition filed within sixty (60) days from the date of the receipt of the invitation.

4. The time limit referred to in paragraph 3 of this Article shall not be extended nor shall it be possible to submit, after the expiry of this time limit, additions to the observations, including additional evidence and documentation on the opposition.

5. If the applicant does not submit his observation on the opposition within the prescribed time limit, the application for registration of a trade mark shall be refused within the limits of the opposition as filed.

6. The Office, in the procedure of opposition, may appoint a session for discussion, if the observations of applicant are convincing.

Article 36

Proof of use of the earlier trade mark

1. If the applicant so requests, the holder of an earlier trade mark who has given notice of opposition shall have to furnish proof that, during the period of five (5) years preceding the date of publication of the application for registration of a trade mark, the earlier trade mark has been put to genuine use in the Republic of Kosovo in connection with the goods or services in respect of which it is registered and which he cites as justification for his opposition, or that there are proper reasons for non-use, provided the earlier trade mark has at that date been registered for not less than five (5) years.

2. In the absence of proof that the earlier trade mark is used the opposition shall be rejected.

3. If the earlier trade mark has been used in relation to only a part of the goods or services for which it is registered it shall, for the purposes of the examination of the opposition, be deemed to be registered in respect only of that part of the goods or services.

Article 37

Examination of the Opposition

1. If the applicant for the registration of a trade mark submits his observation on the opposition within the prescribed time limit, the Office shall examine the justification of the grounds specified in the opposition.

2. If examination of the opposition reveals that the opposition is unjustified, the Office shall decide to refuse the opposition. The decision refusing the opposition shall be sent to both the opponent and to the applicant and after becoming final, the procedure for registration of the trade mark applied for shall be continued.

3. If examination of the opposition reveals that the trade mark may not be registered in respect of some or all of the goods or services for which the application for registration of a trade mark has been made, the application shall be refused in respect of those goods or services. The decision refusing the application shall be sent to both the opponent and to the applicant.

Article 38

Withdrawal, restriction and amendment of the application

1. The applicant may at any time withdraw his application for registration of a trade mark or restrict the list of goods or services contained therein. Where the application has already been published, the withdrawal or restriction shall also be published.

2. In other respects, an application for registration of a trade mark may be amended, upon request of the applicant or ex officio, only by correcting the name and address of the applicant, errors of wording or of copying, or obvious mistakes, provided that such correction does not substantially change the trade mark or extend the list of goods or services.

3. Amendments mentioned in paragraph 2 of this Article after publication of the application and payment of respective fee shall be published as per amended.

4. Withdrawal, restriction and amendment procedures shall be defined by sub-legal act.

Article 39

Division of application

1. Any application of a trade mark may be, on request of the applicant or the trade mark holder and provided the fee prescribed for the division of application has been paid, divided into several applications in respect of the list of the goods and services covered by the application.

2. The divisional applications shall maintain the priority right from the first application.

3. The application for division shall be filed according to requirements defined by sub-legal act.

Article 40

Registration

1. Where an application meets the requirements of this Law, in particular where the grounds referred to in Article 6 paragraph 1 of this Law do not constitute the barrier to the registration and where no opposition has been filed within the period referred to in Article 34 paragraph 1 of this Law or, if filed, the opposition has been rejected or refused by a definitive decision, the Office shall invite the applicant to pay the registration fee for the maintenance of the trade mark for the first ten (10) year period within sixty (60) days from the date of the receipt of the invitation.

2. If the registration fee for the maintenance of the trade mark for the first ten (10) year period is not paid within the period prescribed in paragraph 1 of this Article the application for registration of a trade mark shall be rejected.

3. If the registration fee for the maintenance of the trade mark for the first ten (10) year period is paid within the period prescribed in paragraph 1 of this Article the trade mark shall be registered and entered into the trade mark register.

4. After the trademark is registered and entered into trademark register, the data of registered trademark shall be published in the Office official bulletin. The data to be published shall be defined by sub-legal act.

Article 41

Trade mark certificate

1. On a request of trademark holder together with payment fee for issuance of certificate, the Office issues the certificate for the registered trademark after publication.

2. The data from the trade mark registration to be printed on certificate and the certificate issuance procedure shall be defined by sub-legal act.

Article 42

Alteration of a registered trade mark

1. Registered trademark shall not be altered in trademark register, except cases to correct errors of words including holders name and address.

2. The publication of the registration alteration shall contain the alteration required by the party itself.

3. Third parties whose rights may be affected by the alteration may challenge the registration thereof within a period of three (3) months following publication.

4. The application for alteration of registered trademark shall be filed according to requirements defined by sub legal act.

Article 43
Registering the changes in the register

1. Upon a request of the applicant for the registration of a trade mark or the trade mark holder, the Office shall enter in the trade mark register all changes occurred after the date of filing of the application for registration of a trade mark or after the registration of a trade mark which do not effect the representation of the registered trade mark, provided adequate proof that those changes correspond to the real situation was submitted and that the fee prescribed for the entry of changes in the trade mark register are paid.

2. The changes entered in trade mark register shall be published in the official bulletin of the Office.

3. Alterations registration shall be filed according to requirements defined by sub legal act.

Article 44
Division of registration

1. Any registration of a trade mark may be, on request of the applicant or the trade mark holder and provided the fee prescribed for the division of registration has been paid, divided into two or several registrations in respect of the list of the goods and services covered by the registration.

2. The divisional registrations shall maintain the priority right from the first registration.

3. The application for division shall be filed according to requirements defined by sub legal acts.

CHAPTER VII
VALIDITY AND RENEWAL OF THE TRADEMARK REGISTRATION

Article 45
Validity of registration

Trade marks shall be registered for a period of ten (10) years from the date of filing of the application. The registration may be renewed for further periods of ten (10) years.

Article 46
Renewal

1. The registration of the trade mark shall be renewed at the request of the holder of the trade mark provided that the fees have been paid.

2. The request for renewal shall be submitted at the office within six (6) months before the end of registration. If within this term the request for the renewal of trademark has not been submitted, the term may be extended for other six (6) months, in this case the double fee shall be paid.

3. Where the request is submitted in respect of only some of the goods or services for which the trade mark is registered, registration shall be renewed for those goods or services only. Restriction of the list for goods and services shall be made after respective fee is paid.

4. Renewal shall take effect from the day following the date on which the existing registration expires. The renewal shall be entered in the trade mark register and shall be published in the official bulletin of the Office.

5. If the registration is not renewed, the trade mark shall cease to have effect.
6. Registration renewal request, fees, requirements and filing procedure shall be defined by sub-legal act.

CHAPTER VIII CEASING EFFECTS OF A TRADEMARK

Article 47 Surrender

1. A trade mark may be surrendered in respect of some or all of the goods or services for which it is registered.
2. The surrender shall be declared to the Office in writing by the trade mark holder and shall be entered in the trade mark register and shall be published in the official bulletin of the office.
3. The surrender shall be registered only with the consent of holder's right registered for trade mark. If a license has been registered, surrender shall only be entered in the trade mark register if the trade mark holder proves that he has informed the licensee of his intention to surrender the trade mark.
4. The trade mark shall cease to have effect from the date of receipt of the declaration of surrender by the Office.
5. Surrender procedure shall be defined by sub-legal act.

Article 48 Grounds for revocation

1. The trade mark shall be revoked upon a request to the Office, if:
 - 1.1. within a continuous period of five (5) years, the trade mark has not been put to genuine use in the Republic of Kosovo in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use; however, no person may claim that the holder's rights in a trade mark should be revoked where, during the interval between expiry of the five-year period and filing of the application or counterclaim, genuine use of the trade mark has been started or resumed;
 - 1.2. initiation or continuation of use within a period of three (3) months preceding the filing of the application or counterclaim which began at the earliest on expiry of the continuous period of five (5) years of non-use shall, however, be disregarded where preparations for the commencement or resumption occur only after the holder becomes aware that the application or counterclaim may be filed.
 - 1.3. as consequence of acts or inactivity of the holder, the trade mark has become the common name in the trade for a product or service in respect of which it is registered;
 - 1.4. as consequence of the use made of it by the trade mark holder or with his consent in respect of the goods or services for which it is registered, the trade mark is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

2. Where the grounds for revocation of rights exist in respect of only some of the goods or services for which the trade mark is registered, the rights of the holder shall be declared to be revoked in respect of those goods or services only.

3. When a trade mark is revoked it shall be deemed that its effects ceased on the date of the filing of the request for revocation.

Article 49

Request for revocation

1. A request for revocation may be submitted to the Office by any natural or legal person and any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders or consumers, which under the terms of the law governing it has the capacity in its own name to sue and be sued.

2. The revocation request shall be submitted in written and must specify the grounds on which it is made and by paying respective revocation fee. Procedure for filing revocation request shall be defined by sub legal act. The request shall be submitted according to requirements and procedure defined by sub-legal act.

Article 50

Revocation procedure

1. The Office shall examine whether the request for revocation is filed in accordance to paragraph 2 of Article 49 of this Law, if the revocation request fee has been paid and if the revocation request is submitted according to sub legal acts.

2. If the requirements set out in sub-paragraph 1.1 paragraph 1 of Article 48 of this Law are not complied with or if the request for revocation is filed before the expiry of the period of five (5) years from the registration of the trade mark the revocation of which is requested, the Office shall reject the request for revocation.

3. If the requirements set out in paragraph 1 of this Article are met, the Office shall send a copy of the request for revocation as filed to the trade mark holder and invite him to submit his observations on the request for revocation filed within sixty (60) days from the date of the receipt of the invitation.

4. Upon request of the trademark holder, which shall be made within the time limit as defined in paragraph 3 of this Article, the time limit mentioned in paragraph 3 of this Article may be extended maximum of sixty (60) days from the expiration of such time limit.

5. If the trade mark holder does not submit his observation on the request for revocation within the prescribed time limit, the registration of a trade mark shall be revoked within the limits of the request for revocation as filed.

6. If the Office considers it necessary, it may provide for oral hearings to be held in the revocation procedure.

Article 51

Examination of the request for revocation

1. If the trade mark holder submits his observations on the request for revocation within the prescribed time limit, the Office shall examine the justification of the grounds specified in the request for revocation.

2. If examination of the request for revocation reveals that the request for revocation is unjustified, the Office shall decide to refuse the request for revocation. The decision refusing the request for revocation shall be sent to both parties.

3. If examination of the request for revocation reveals that the trade mark may not be registered in respect of some or all of the goods or services for which the trade mark has been registered, the trade mark shall be revoked in respect of those goods or services. The decision revoking the trade mark registration shall be sent to both parties.

4. The decision revoking the trade mark shall be entered in the trade mark register and published in the official bulletin of the Office upon becoming final.

Article 52

Grounds for declaration of invalidity of a trade mark

1. A trade mark shall be declared invalid upon a request to the Office:

1.1. when the trade mark has been registered in conflict of the provisions of Article 5 or Article 6 of this Law;

1.2. when applicant was acting in bad faith when he filed the application for the trade mark;

1.3. When there is an earlier trade mark as referred to in Article 7 paragraph 2 of this Law and the conditions set out in paragraph 1 or paragraph 3 of Article 7 of this Law are fulfilled;

1.4. when there is a trade mark as referred to in Article 7 paragraph 4 of this Law and the conditions set out in that paragraph are fulfilled;

1.5. when the use of such trade mark may be prohibited by virtue of an earlier right in particular:

1.5.1. right on a name;

1.5.2. right of personal portrait;

1.5.3. copyright;

1.5.4. industrial property right.

1.6. when the use of the trade mark would infringe rights to a sign used in the course of trade in the Republic of Kosovo were it was earlier acquired and that sign confers on its holder the right to prohibit the use of a subsequent trade mark.

2. When the trade mark has been registered in breach of the provisions of Article 6 sub-paragraphs 1.2., 1.3. and 1.4. of this Law, it may nevertheless not be declared invalid if, in consequence of the use which has been made of it, it has after registration acquired a distinctive character in relation to the goods or services for which it is registered.

3. A trade mark may not be declared invalid on the grounds of an earlier trade mark with reputation or an earlier well-known trade mark if the earlier trade mark has not become well-known within the meaning of sub-paragraph 2.3 of paragraph 2 of Article 7 of this Law or has not acquired the reputation within the meaning of Article 7 paragraph 3 of this Law up to the date of priority of the later trade mark.

4. Where the holder of one of the rights referred to in sub-paragraphs 1.3., 1.4. 1.5. and 1.6 of paragraph 1 of this Article has previously requested a declaration that a trade mark is invalid, he may not submit a new request for a declaration of invalidity on the basis of another of the said rights which he could have invoked in support of his first request.

5 Where the ground for invalidity exists in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

6. When a trade mark is declared invalid for all or some of the goods or services it shall be deemed that with the declaration of invalidity of the trade mark all the effects that it had had from its registration shall cease.

Article 53

Request for declaration of the invalidity

1. A request for declaration of invalidity may be submitted to the Office,

1.1. by any natural or legal person according to Article 52 sub-paragraph 1.1 of this Law;

1.2. by interested party according to Article 52 sub-paragraph 1.2 of this Law;

1.3. by parties mentioned in Article 36 paragraph 1 of this Law, according to Article 52 sub-paragraph 1.3 and 1.4 of this Law;

1.4. by holders of earlier rights according to Article 52 sub-paragraphs 1.5 and 1.6 of this Law.

2. A request for declaration of invalidity must be expressed in writing and must specify the grounds based on which it is required the invalidity of trade mark and respective fee to be paid. The filing procedure of invalidity shall be defined by sub-legal act.

Article 54

Procedure for declaration of invalidity

1. The Office shall examine whether the request for declaration of invalidity is filed in accordance with Article 53 of this Law, if the fee prescribed for the request for declaration of invalidity is paid and whether the request for declaration of invalidity is filed according to sub-legal acts.

2. If the requirements set out in paragraph 1 of this Article are not complied with, the Office shall reject the request for declaration of invalidity with a decision.

3. If the requirements set out in paragraph 1 of this Article are met, the Office shall send a copy of the request for declaration of invalidity to the trade mark holder and invite him to submit his observations on the request for declaration of invalidity filed within sixty (60) days from the date of the receipt of the invitation.

4. Upon request of the trade mark holder, the time limit referred to in paragraph 3 of this Article, may be extended for a maximum of sixty (60) days counted from the date of the expiration of that time limit and by paying the fees prescribes in the relevant sub legal acts.

5. If the trade mark holder does not submit his observations on the request for declaration of invalidity within the prescribed time limit, the registration of a trade mark shall be declared invalid within the limits of the request for declaration of invalidity as filed.

6. If the Office considers it necessary, it may provide for oral hearings to be held in the procedure for declaration of invalidity.

Article 55
Proof of use of the earlier trade mark

1. Upon the request of the trade mark holder, the holder of an earlier trade mark being a party to the invalidity proceedings shall have to furnish proof that, during the period of five years preceding the date of the request for a declaration of invalidity, the earlier trade mark has been put to genuine use in the Republic of Kosovo in connection with the goods or services in respect of which it is registered and which he cites as justification for his opposition, or that there are proper reasons for non-use, provided the earlier trade mark has at that date been registered for not less than five (5) years.
2. If, at the date on which the trade mark application was published, the earlier trade mark had been registered for not less than five (5) years, the holder of the earlier trade mark shall furnish additional proof that the conditions contained in Article 36 of this Law were satisfied at that date.
3. In the absence of proof that the earlier trade mark is used within the meaning of paragraph 1 of this Article, the request for declaration of invalidity shall be rejected.
4. If the earlier trade mark has been used in relation to only a part of the goods or services for which it is registered it shall, for the purposes of the examination of the request for declaration of invalidity, be deemed to be registered in respect only of that part of the goods or services.

Article 56
Examination of the observations request for declaration of invalidity

1. If the trade mark holder submits his observations on the request for declaration of invalidity within the prescribed time limit, the Office based on request shall examine the justification for the declaration of invalidity.
2. The Office may invite the parties to submit additional evidence, documents and observations within sixty (60) days of the receipt for the invitation. If the parties do not respond to the invitation of the Office in the prescribed time limit, the Office shall make a decision on the basis of the facts contained in the request for declaration of invalidity and in the observation on such request.
3. If the Office during the examination of the request reveals that the request for declaration of invalidity is unjustified, the Office with a decision shall decide to refuse the request for declaration of invalidity. The decision refusing the request for declaration of invalidity shall be sent to both parties.
4. If the Office, during the examination of the request, reveals that the trade mark may not be registered in respect of some or all of the goods or services for which was registered, then the trade mark shall be declared invalid in respect of those goods or services. The decision declaring the trade mark invalid shall be sent to both parties.
5. The decision declaring the trade mark invalid for all or some of the goods or services shall be entered in the Trade Mark Register and published in the official gazette of the Office upon becoming final.

CHAPTER IX COLLECTIVE AND CERTIFICATION TRADEMARKS

Article 57 Collective mark

1. Any sign within the meaning of Article 5 of this Law which is indicated as such in the application for registration of a trade mark and which is capable of distinguishing the goods or services of the members of the association as a legal subject, which is the holder of the mark from those of other undertakings and which is intended for identifying the goods or services put on the market by the members of the association which is the holder of the mark may be protected as a collective mark.

2. Associations of manufacturers, producers, suppliers of services, or traders may apply for registration of collective mark according to legislation in force and have the right in their own name to sign contracts and undertake legal acts and to sue and be sued as any other legal person.

Article 58 Certification mark

1. Any sign within the meaning of Article 5 of this Law, which is intended to designate the quality, origin, manner of production, or other common characteristics of the goods or services may be protected as a certification mark.

2. The holder of a certification mark is not entitled to use a certification mark by himself, but, he shall be entitled to authorize and supervise the use of the trade mark by subjects who have the authorization to use a certification mark pursuant to the regulations governing the use of the certification mark.

Article 59 Special provisions on collective and certification mark

1. The provisions of this Law shall apply to collective and certification marks, unless Articles 59 to 67 provide otherwise.

2. In derogation from Article 6 sub-paragraph 1.3 of this Law, signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may be registered as a collective or certification marks.

3. A collective or certification mark shall not entitle the holder to prohibit a third party from using in the course of trade such signs or indications, provided he uses them in accordance with honest practices in industrial or commercial matters; in particular, such a mark may not be invoked against a third party who is entitled to use a geographical name.

Article 60 Contract for the use of collective and certification mark

1. An applicant for a collective mark or certification mark must with the application for registration of a collective or certification mark submit the contract specifying its use.

2. The contract specifying the use of a collective mark shall specify the persons authorized to use the mark, the conditions of membership of the association and, where they exist, the conditions of use of the mark including sanctions in case of misuse of the collective mark or the breach of the provisions of regulations.

3. The contract defining the use of a certification mark shall specify the persons authorized to use the mark, the characteristics to be certified by the mark, how the certifying body is to test those characteristics and to supervise the use of the mark, any fees to be paid in connection with the use and procedures for resolving disputes.

4. The regulations governing use of a mark referred to in Article 59 paragraph 2 of this Law must authorize any person whose goods or services originate in the geographical area concerned to become a member of the association which is the holder of the mark.

Article 61

Refusal of the application

1. In addition to the grounds for refusal of an application for registration of a trade mark provided for in Articles 30 and 31 of this Law, an application for registration of a collective or certification mark shall be refused where the provisions of Article 57, 58 or 60 of this Law are not satisfied, or where the regulations governing use are contrary to public policy or to accepted principles of morality.

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

3. An application shall not be refused if the applicant, as a result of amendment of the regulations governing use the use of the mark, meets the requirements of paragraphs 1 and 2 of this Law.

Article 62

Observations by third parties

Any person, group or body referred to in Article 33 of this Law may submit to the Office written observations based on the particular grounds on which the application for a collective or certification mark should be refused under the terms of Article 61 of this Law.

Article 63

Use of collective and certification marks

The right to use a collective or certification mark shall be for any person who has authority to use according to requirements of this Law.

Article 64

Amendment of the regulations governing use

1. The holder of a collective or certification mark must submit to the Office any amended of regulations governing the use of the collective or certification mark.

2. The amendment shall not be mentioned in the Trade Mark Register if the amended regulations do not satisfy the requirements of Article 60 of this Law or involve one of the grounds for refusal referred to in Article 61 of this Law.

3. Article 62 of this Law shall apply to amended regulations governing use.

4. Amendments to the regulations governing use shall take effect against third parties only from the date of entry of the mention of the amendment in the Trade Mark Register.

Article 65
Persons entitled to bring an action for infringement

1. The provisions of Article 96 of this Law concerning the rights of licensees shall apply to every person who has authority to use a collective or certification mark.
2. The holder of a collective or certification mark shall be entitled to claim compensation on behalf of persons who have authority to use the mark where they have sustained damage in consequence of unauthorized use of the mark.

Article 66
Grounds for revocation of a collective or certification mark

1. Apart from the grounds for revocation provided for in Article 48 of this Law, the rights of the holder of a collective or certification mark shall be revoked on request to the Office, if:
 - 1.1. the holder does not take reasonable steps to prevent the mark being used in a manner incompatible with the conditions of use laid down in the regulations governing use, and amendments to which have been mentioned in the Trade Mark Register;
 - 1.2. the manner in which the mark has been used by the holder has caused it to become liable to mislead the public in the manner referred to in Article 61 paragraph 2 of this Law;
 - 1.3. an amendment to the regulations governing use of the mark has been mentioned in the Trade Mark Register in breach of the provisions of Article 64 paragraph 2 of this Law, , unless the holder of the mark, by further amending the regulations governing use, complies with the requirements of those provision

Article 67
Grounds for invalidity of a collective or certification mark

Apart from the grounds for invalidity provided for in Article 52 of this Law, a collective or certification mark shall be declared invalid on application to the Office if it is registered in conflict of the provisions of Article 61 of this Law.

CHAPTER X
INTERNATIONAL REGISTRATION OF MARKS

Article 68
Application of the provisions

1. Unless this Chapter provides otherwise, the provisions of this Law and sub-legal acts under this Law shall apply to:
 - 1.1. applications for international registration of a mark Under the Madrid Agreement and Madrid Protocol, and
 - 1.2. International registration of marks designating the Republic of Kosovo.

Article 69
Application for international registration

An application for the international registration as defined by Article 68 sub-paragraph 1.1 of this Law shall be filed with the Office under the conditions and in the manner as prescribed by the sub-legal act.

Article 70
Request for recording a change in the International Register

A request for recording changes in the International Register shall be filed with the Office under the conditions and in the manner as prescribed by the sub-legal act.

Article 71
Content of the application for the international registration and the request for recording the changes in the International Register

1. An application for the international registration and a request for recording a change in the International Register shall be filed as prescribed by the Madrid Agreement, the Madrid Protocol, the Common regulations under the Madrid agreement concerning the international registration of marks and the Protocol relating to that agreement (hereinafter referred to as "the Common Regulations") and this Law and sub-legal acts under this Law.

2. The filing of an application for the international registration and a request for recording a change in the International Register shall be subject to payment to the Office of a fee in accordance with sub-legal acts.

Article 72
Examination of the application for international registration and the request for the recording of changes in the International Register

1. When the application for international registration or the request for recording of changes in the International Register does not meet the requirements referred to in Article 71 of this Law, the Office shall request the applicant to remedy the deficiencies or the default on payment within thirty (30) days as from the date of the receipt of such request.

2. Upon request of the applicant, which has to be made within the time limit referred to in paragraph 1 of this Article, the time limit may be extended for a maximum of thirty (30) days counted from the date of the expiration of that time limit.

3. If the deficiencies established pursuant to paragraph 1 of this Article are not remedied according to the request of the Office or if they are not remedied within the time limit set, the Office shall reject the application for the international registration or the request for recording a change in the International Register, respectively.

4. Where the application for international registration or the request for recording the change in the International Register is in accordance with the requirements referred to in Article 71 of this Law and if the prescribed fee is paid, the Office shall transmit the application for international registration or the request for recording a change in the International Register to the International Bureau as soon as possible

Article 73
Fees under the Madrid Agreement and the Madrid Protocol

All the fees payable under the Madrid Agreement and the Madrid Protocol shall be paid directly to the International Bureau.

Article 74
The Registration of trademarks in the International Register

1. The date and number of an international registration based on an application for registration of a trade mark shall be recorded in the files of that application. When the application results in a

trade mark registration, the date and number of the international registration shall be entered in the Trade Mark Register kept by the Office.

2. The date and number of an international registration based on a trade mark registration shall be entered in the Trade Mark Register kept by the Office.

Article 75

Refusal of the international registration

International registration designating the Republic of Kosovo shall be subject to examination as to absolute grounds for refusal in the same way as a national application for the registration of a trade mark, except that the time limit laid down in Article 31 paragraph 4 of this Law shall be replaced by the time limit of one hundred and twenty (120) days as from the date of the notification of the refusal of the international registration.

Article 76

Opposition to the international registration

1. International registration designating the Republic of Kosovo shall be subject to opposition in the same way as a published national application for the registration of a trade mark, except that the publication of the application prescribed in Article 32 of this Law shall be replaced by the publication in the official gazette of international registrations published by the International Bureau (hereinafter referred to as: the WIPO gazette) and the time limit for filing the opposition shall run from the first day of the month following the month indicated on the publication of the WIPO.

2. The provisions of paragraph 1 of this Article shall also apply in respect of the observations of third parties pursuant to Article 33 of this Law on an international registration designating the Republic of Kosovo.

Article 77

Procedure in respect of an opposition to the international registration

1. The procedure of an opposition to the international registration designating the Republic of Kosovo shall be the same with the opposition procedure to the national application for the registration of a trade mark, except that the provisions of paragraphs 2, 3, 4 and 5 of this Article shall apply instead of Article 35 paragraph 3 of this Law.

2. The Office shall in accordance with the Madrid Agreement or the Madrid Protocol send to the holder of the international registration a notification of provisional refusal following an opposition filed and shall invite him to appoint the representative who shall within one hundred and twenty (120) days from the date of such notification of provisional refusal, file with the Office an authorization.

3. After the representative has filed the authorization, the Office shall send him/her a copy of the opposition as filed.

4. The time limit for submitting observation on the opposition to the international registration is sixty (60) days from the date of receipt of the copy of the opposition by the representative.

5. The time limit referred to in paragraph 2 and 4 of this Article shall not be extended and, after the expiry of this time limit, no additional document shall be submitted.

Article 78

Procedure for revocation and declaration of invalidity of an international registration

1. Procedure in respect of a request for revocation or declaration of invalidity of an international registration designating the Republic of Kosovo shall be the same as the procedure in respect of a request for revocation or declaration of invalidity of a national trade mark registration, except that the provisions of paragraphs 2, 3, 4 and 5 of this Article shall apply instead of Article 50 paragraph 3 or Article 54 paragraph 3 of this Law, respectively.
2. Office shall in accordance with the Madrid Agreement or the Madrid Protocol notify the holder of the international registration that a request for revocation or declaration of invalidity has been filed and shall invite him to appoint the representative who shall within sixty (60) days from the date of receipt of such notification, file with the Office a authorization.
3. The time limit referred to in paragraph 2 of this Article extended. for sixty (60) days.
4. After the representative has filed the authorization, the Office shall send him/her a copy of the request for revocation or declaration of invalidity as filed.
5. The time limit for submitting observation on the request for revocation or declaration of invalidity of an international registration is sixty (60) days from the date of receipt of the copy of the request for revocation or declaration of invalidity by the representative.

Article 79

Proving the use of an international registration

1. For the purpose of proving the use of an international registration in the opposition procedure, procedure for the declaration that a trade mark is invalid or revoked, relating to an international registration of a mark, the date of the expiry of a one-year period running from the day following the date of notification communicated by the International Bureau on an international registration designating the Republic of Kosovo, shall be taken as the date of the international trade mark registration.
2. If upon the expiry of a one-year period referred to in paragraph 1 of this Article, the procedure in respect of an international registration designating the Republic of Kosovo has not yet been concluded the date on which the Office notified the International Bureau its final decision on the grant of protection, shall be taken as the date of the international registration.

Article 80

Transformation of an international registration

An international trade registration may be transformed in application for national trade mark in accordance with Article 9quinquies of the Madrid Protocol and under the conditions and in the manner as prescribed by the sub-legal act.

Article 81

Replacement of a trade mark by an international registration

The Office shall upon request enter a notice in the Trade Mark Register that a trade mark has been replaced by an international registration in accordance with Article 4bis of the Madrid Protocol.

CHAPTER XI COMMUNITY TRADE MARK

Article 82

Extension of effects of a Community trade mark

The effects of applications for a Community trade mark filed and Community Trademarks acquired before the day of the acceptance of the Republic of Kosovo into the full membership of the European Union shall extend to the territory of the Republic of Kosovo

Article 83

A Community trade mark as an earlier trade mark

1. Within the meaning of Article 7 of this Law, an application for a Community trade mark and a Community trade mark shall be earlier trademarks compared to national applications for registration of Trademarks which are filed, as well as national Trademarks which are acquired on such applications after the day of the acceptance of the Republic of Kosovo into the full membership of the European Union.

2. Within the meaning of Article 7 sub-paragraph 2.1.3. of this Law, an earlier Community trade mark having reputation in the European Union shall be taken into consideration in accordance with the provisions of Article 9, paragraph (1), point (c) of the Regulation on the Community trade mark .

3. A national trade mark may not be declared to be invalid for the reason of being in conflict with an earlier Community trade mark, if such earlier Community trade mark fails to fulfill the conditions of use provided for in Article 15 of the Regulation on the Community trade mark.

Article 84

Forwarding of an application for a Community trade mark

If an application for a Community trade mark has been filed with the Office pursuant to Article 25 of the Regulation on the Community trade mark, a fee for forwarding shall be paid and the application shall be filed under the conditions and in the manner as prescribed by the sub-legal act.

Article 85

Conversion of a Community trade mark application and a Community trade mark into a national application

1. Upon a request for conversion of a Community trade mark application, or a Community trade mark, respectively, into a national application for registration of a trade mark, filed pursuant to the provision of Article 110, paragraph (3) of the Regulation on the Community trade mark and under the conditions and in the manner as prescribed by the sub legal act, the Office shall carry out the procedure for the trade mark registration in accordance with the provisions of this Law.

2. The fee for the registration referred to in paragraph 1 of this Article shall be paid to the Office.

3. The date of filing, the date of priority and the seniority shall be determined pursuant to the provision of Article 109, paragraph 3 of the Regulation on the Community trade mark.

Article 86

Seniority of trade mark

1. The seniority of a national trade mark, within the meaning of Articles 34 and 35 of the Regulation on the Community trade mark, may be claimed for a Community trade mark:

1.1. if a national trade mark has been acquired before the day of the accession of the Republic of Kosovo into the full membership of the European Union; and

1.2. if a national trade mark has priority in relation to the Community trade mark for which the seniority is claimed.

2. The invalidity or revocation of the earlier trade mark pursuant to this Law may be established after the earlier trade mark has been surrendered or allowed to lapse, where the seniority of such an earlier trade mark is claimed for a Community trade mark.

Article 87

Prohibition of use of a Community trade mark

1. If the use of a Community trade mark referred to in Article 83 of this Law conflicts with the use of a national trade mark acquired before the day of the acceptance of the Republic of Kosovo into the full membership of the European Union, or acquired on a national application, filed before the day of the acceptance of the Republic of Kosovo into the full membership of the European Union, the holder of such national trade mark may institute a legal action, claiming prohibition of the use in the Republic of Kosovo of the Community trade mark, the effect of which is, in accordance with Article 83 of this Law, extended to the territory of the Republic of Kosovo.

2. The plaintiff shall prove that the Community trade mark conflicts with his/her national trade mark.

Article 88

Protection of a Community trade mark against infringement

In cases of infringements of a Community trade mark the provisions of Community trade mark protection shall be applied.

Article 89

The court competent for a Community trade mark

1. In all cases of infringement the Community Trade Mark is competent for the second instance decisions, within the meaning of the Regulation on the Community trade mark.

CHAPTER XII

COMMON PROVISIONS RELATING TO THE PROCEDURE BEFORE THE OFFICE

Article 90

Review of the decision made by the office

1. Against office decision is allowed to file an appeal within the time limit of fifteen (15) days from the day when the decision was received.

2. The appeal shall be addressed to the commission which is obliged to decide and inform the party.

3. Commission for review of the appeals is established by the decision of the Minister.

4. Against decisions of the commission a claim may be lodged to the competent court within the time limit of thirty (30) days.

5. Competences mandate and work of the commission shall be regulated by sub-legal acts.

Article 91 Fees

For the procedures regulated by this Law fees shall be paid in accordance with sub legal acts.

Article 92 Other provisions to be applied in the procedure before the Office

In the absence of provisions in this Law and relevant sub legal acts, the Office shall apply to specific procedural issues the provisions of the Law on Administrative Procedure, Law on Contested Procedure and other Laws in force.

Article 93 Registers

1. The Office shall keep and maintain the Trade Mark Register and the Register of Trade Mark Agents.
2. The contents and the method of keeping and maintaining the registers referred to in paragraph 1 of this Article shall be prescribed in the sub-legal acts.
3. The Trademarks Register referred to in paragraph 1 of this Article shall be public.
4. Upon a written request of an interested person the Office shall issue copies of entries in or excerpts from the registers after the payment of the prescribed fees.

Article 94 Continued processing

1. If the applicant for a trade mark registration or the holder of a trade mark has failed to comply with a time limit for an act in a procedure before the Office, and that failure has the direct consequence of causing the loss of rights conferred by the trade mark application or trade mark, he may file a request for the continued processing with respect to the trade mark application or trade mark. The Office shall allow the continued processing, provided that the applicant:

- 1.1. performs all the omitted acts within the prescribed time limit, referred to in paragraph 2 of this Article, and
- 1.2. pays the fee in accordance with sub-legal act.

2. A request for the continued processing may be filed within sixty (60) days from expiring of the time limit referred to in paragraph 1 of this Article.

3. If the requested acts have not been performed within the time limit referred to in paragraph 2 of this Article, or if the administrative fee has not been paid, a request for the continued processing shall be deemed not to be filed.

4. Paragraph 1 of this Article shall not apply for the time limit referred to in:

- 4.1. paragraph 2 of this Article;
- 4.2. Article 28 and Article 29 of this Law;
- 4.3. Article 45 of this Law;
- 4.4. for submitting the request for return to previous condition (restitution in integrum) according to provisions of the Law on General Administrative Proceedings;

4.5. for all the acts in the procedures before the Office involving several parties.

5. If the request complies with the requirement referred to in paragraph 1 of this Article, but one of the act failed to comply with a time limit, it shall be deemed that the act has not occurred, and activities initiated by the Office shall be revoked.

CHAPTER XIII CIVIL –LEGAL PROTECTION

Article 95 Persons entitled to claim the protection of rights

The protection of the rights under this Law may be claimed by a right holder, or a person authorized by her/him pursuant to the general provisions on representation, and, by the holder of the exclusive license to use a trade mark on the basis of the licensing contract.

Article 96 Claim procedures for the establishment and termination of infringement

1. The holder of a trade mark may lodge a claim against any person who has infringed a trademark by performing without authorization any of the acts referred to in Article 8, paragraphs 1 and 2 of this Law, claiming:

1.1. establishment of the Mark infringement;

1.2. termination of the infringement and prohibition of such and similar future infringements;

1.3. termination and prohibition of further infringement of the rights acquired based on Article 8 paragraph 1 and 2 of this Law and that have caused a serious threat that his trade mark might be infringed.

2. The actions referred to in paragraph 1, sub - paragraphs 1.1, 1.2 and 1.3 of this Article may also be made against a person who in the course of her/his economic activities renders services used in the acts infringing a trade mark or threatening to infringe it.

Article 97 Claim for seizure and destruction of objects

1. The holder of a trade mark may institute a legal action against any person who has infringed a trade mark by performing without authorization any of the acts referred to in Article 8, paragraphs 1 and 2 of this Law, claiming that the products infringing the trade mark be removed from the market, seized or destroyed at the expense of that person.

2. The court shall order the measures referred to in paragraph 1 of this Article against the defendant shall take due care that they are proportionate to the nature and seriousness of the infringement.

3. Measures imposition by the Court based to paragraph 1 of this Article shall be in proportion to the violation.

Article 98
Claim for compensation for damages

1. The holder of a trade mark may take a court procedure against any person who has caused him damage by performing without authorization any of the acts referred to in Article 8, paragraphs 1 and 2 of this Law, claiming damages and claiming payment of remuneration.
2. The holder of a trade mark may take a legal action against any person who has infringed a trade mark by performing without authorization any of the acts referred to in Article 8, paragraphs 1 and 2 of this Law, on the basis of a legal transaction, claiming the recovery or compensation of benefits.
3. The holder of a trade mark may initiate a Court procedure against any person who has infringed a trade mark by performing without authorization any of the acts referred to in Article 8, paragraphs 1 and 2 of this Law, so infringing someone else trade mark, claiming the recovery or compensation of benefits.
4. Requirements based to paragraph 1, 2 and 3 of this Article do not exclude each other.

Article 99
Claim for publication of the judgment

1. The holder of a trade mark may claim that the final judgment even partially upholding the claim to publish in the means of public communication at the expense of the defendant.
2. The court shall decide, within the limits of the claim, on the means of public communication in which the judgment shall be published, and whether it shall be published entirely or partially.

Article 100
Claim for provision of information

1. The holder of a trade mark who has initiated civil proceedings for the protection of the trade mark in the case of infringement may claim from the competent authority the provision of information on the origin and distribution channels of the goods infringing his trade mark.
2. The claim referred to in paragraph 1 of this Article may be made in the form of a legal action or a provisional measure against:
 - 2.1. a person who has been sued in the civil proceedings referred to in paragraph 1 of this Article;
 - 2.2. a person who is within her/his economic activities in possession of the goods suspected of infringing a trade mark;
 - 2.3. a person who provides, within her/his economic activities, services suspected of infringing a trade mark;
 - 2.4. persons who provide, within their economic activities, services used in the activities suspected of infringing a trade mark;
 - 2.5. a person who is indicated by any of the mentioned persons as being involved in the manufacture or distribution of the goods or the provision of the services suspected of infringing a trade mark;
3. The claim for information on the origin of the goods and distribution channels of the goods and services referred to in paragraph 1 of this Article may include in particular:

- 3.1. information on names and addresses of producers, distributors, suppliers and other earlier owners of products and services, wholesale and retail sellers;
- 3.2. information on quantities produced, distributed, received and ordered as well as the prices per product and services;
4. If the person in question refuses, without convincing reasons, to provide information, he shall be responsible for the caused damage in compliance with the legal provision into force.
5. Provisions of this Article shall not be applicable on the use of secret information.
6. The provisions of this Article shall be applicable to the provisions of Articles 103 and 104 of this Law regulating the taking of evidence.

Article 101

Provisional measures due to infringement of a trade mark

1. Upon the request of the holder of a trade mark who proves that her/his trade mark has been infringed or threatened to be infringed, the court may order any provisional measure comprising the termination or prevention of the infringement, and in particular:
 - 1.1. order the supposed infringer to cease or desist from, the acts infringing a trade mark; the court may also issue such order against an intermediary whose services are being used by a third party to infringe a trade mark;
 - 1.2. order the seizure or removal from the market of the goods unlawfully designated by a trade mark.
2. Upon the request of the holder of a trade mark who makes it likely that his trade mark has been infringed on a commercial scale for the purpose of acquiring commercial benefit, and that such infringement has threatened to cause him irreparable damage, the court may, in addition to the provisional measures referred to in paragraph 1 of this Article, order the seizure of the movable and immovable property of the opposing party, not directly related to the infringement, including the blocking of his bank accounts and other assets.
3. For the purpose of enforcing the provisional measure referred to in paragraph 2 of this Article, the court may order and require from the opposing party or other relevant persons disposing with it, the communication of the banking, financial and other economic information, or the access to other relevant information and documents. The court shall ensure the protection of confidentiality of such information, and prohibit any misuse thereof.
4. If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement
5. In the decision ordering a provisional measure, the court shall specify the duration of such measure, and, if the measure has been ordered before the procedure, the period, within which the applicant for measures shall institute a procedure to justify the measure, within twenty (20) working days and no longer that thirty-one (31) working days from the day of communication of the provisional measure.

Article 102

Provisional measure comprising the preservation of evidence

1. Upon the request of the holder of a trade mark who makes it likely that his trade mark has been infringed or threatened to be infringed, the court may order a provisional measure comprising the preservation of evidence.

2. By the provisional measure referred to in paragraph 1 of this Article, the court may order in particular:

2.1. preparation of a detailed description of the goods made likely to infringe a trade mark, with or without taking of samples;

2.2. seizure of the goods that are proved to infringe a trade mark;

2.3. seizure of the materials and implements used in the production and distribution of the goods that infringe a trade mark and the documentation relating thereto.

3. The provisional measure referred to in this Article may be ordered even without informing the opposing party thereof, if the applicant for measures makes it likely that there is a risk of evidence being destroyed or irreparable damage of incurring. If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

4. In the decision ordering a provisional measure the court shall specify the duration of the measure, and, if the measure has been ordered before the legal procedure, the period, within which the applicant for measures shall institute a legal procedure to justify the measure, a period which shall be within a time limit of thirty (30) days from the day of communication of the decision.

5. Where the provisional measures referred to in this Article are revoked or lapse due to any act or omission by the applicant or when it is subsequently found that there has been no trade mark infringement or threat of a trade mark infringement, the court can order the applicant upon a request of the opposing party to provide the opposing party appropriate compensation for any injury caused by those provisional measures. To secure the compensation of the damage caused by the provisional measures the applicant shall deposit sufficient means for the compensation of the damage that may be caused to the sued party by the provisional measure.

6. The provisions of the Law on Executive Procedure shall apply to matters, not regulated by this Article.

7. The provisions of this Article shall be without prejudice to the possibility of the court to order provisional measures comprising the preservation of evidence pursuant to the provisions of the Law on Contested Procedure.

Article 103

Taking of evidence in the course of the civil procedure

1. Where a party to the civil proceedings invokes evidence claiming that it lies with the other party or under its control, the court shall invite the other party to present such evidence within a specified time limit.

2. Where the holder of a trade mark as a plaintiff in a legal action claims that the infringement of a trade mark has been committed on a commercial scale for the purpose of acquiring commercial or economic benefit, and has made it likely during the proceedings, and where he invokes in the proceedings banking, financial or similar economic documents, papers or the like evidence, claiming that they lie with the other party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.

3. Where the party, which is invited to present evidence, denies that the evidence lies with it or under its control, the court may take evidence to establish such a fact.

4. The provisions of the Law on Contested Procedures in regard to the rights for refusal to provide the evidence as a witness, shall apply the *mutatis mutandis* to the party's rights to refuse their presence as a witness.

5. The court shall, taking into consideration all the circumstances of the case, decide on the importance of the fact that the party having the evidence refuses to comply with the court's decision ordering it to present evidence, or denies, contrary to the court's opinion.

6. Against the decision of the court referred to in paragraphs 1 and 2 of this Article a separate appeal shall not be allowed.

Article 104

Expeditious proceedings and application of the provisions of other Laws

1. A procedure concerning the infringement of the rights of the trade mark under this Law shall be expeditious.

2. During procedure, in relation to infringements of trademark rights, shall be applied the provisions of other laws in force.

3. The court shall, taking into consideration the circumstances of the case, decide whether it shall decide on the stay of proceedings up to the final decision on the request for the declaration of the decision on the registration of a trade mark invalid, or not. The court considering the circumstances up to the final decision, may determine to terminate the procedure.

4. The court shall, taking into consideration the circumstances of the case, decide whether it shall decide on the stay of proceedings up to the final decision.

CHAPTER XIV

REPRESENTATION

Article 105

Representation by authorized representative

1. Natural and legal persons having a dwelling place or business office in the Republic of Kosovo may realize their rights according to this law through authorized representatives that are registered in the authorized representatives register, which is maintained by the Office.

2. Foreign natural and legal persons not having a dwelling place or business office in the Republic of Kosovo may realize their rights according to this law, in all proceedings at the office, only through authorized representatives that are registered in the authorized representatives register, which is maintained by the Office.

Article 106

Authorized Representatives of trademarks

1. Representation of natural or legal persons before the Office may only be undertaken by an authorized representative entered following the decision of the Office in the Register of the authorized representative kept by the Office.

2. The Office shall enter or remove a person from the Register of the Authorized Representatives if such person fulfill or does not fulfill the conditions prescribed in the sub-legal act in compliance with this Law.

Article 107
The authorized representatives

1. A trade mark authorized representative may represent a natural or legal person before the Office on the basis of and within the scope of the authorization given to the trade mark agent by such natural or legal person.
2. The authorization may be given for one or more trademark applications or registrations, as well as for existing and future trademark applications or registrations.
3. The authorization that relates to all trademark applications and registrations of one natural or legal person shall be referred to as a general authorization.
4. The authorization may be limited to only some certain actions undertaken before the Office.
5. If a trade mark is surrendered in respect of some or all of the goods or services for which it is registered the authorization must contain clearly the requests referred by the holder of the trade mark.

Article 108
Withdrawal of the authorization

1. A natural or legal person can withdraw the authorization given to a trade mark agent at any time.
2. After being informed of the change of representation the Office shall continued to communicate with the new trade mark authorized representative or the natural or legal person directly.
3. If a natural or legal person has given two or more general powers of attorney to different trade mark representatives, the general power of attorney with the latest date shall be valid.

Article 109
Submitting of the authorization

1. A trade mark representative that claims to be authorized to represent a natural or legal person before the Office but does not supply the Office with the written authorization to support that fact, will be invited to submit a valid authorization within sixty (60) days from the date of the receipt of the invitation.
2. Upon request of the trade mark agent, the time limit may be extended for a maximum of sixty (60) days counted from the date of the expiration of that time limit referred to in paragraph 1 of this Article.
3. If the trade mark representative does not supply the Office with a valid authorization in the prescribed time limit and continues to act in his own name, the action performed by the trade mark agent shall be deemed not be done at all.

Article 110
Court competence

The competent Court shall decide the cases of trade mark infringements.

CHAPTER XV PUNITIVE PROVISIONS

Article 111 The punitive provisions

1. A legal person who, without authorization, uses a trade mark contrary to Article 8 of this Law shall be punished for the misdemeanor by a fine amounting from five thousand (5.000) € up to fifteen thousand (15.000) €.
2. A natural person who acts contrary to Article 8 of this Law shall be punished for the misdemeanor, by a fine amounting from five hundred (500) € up to one thousand and five hundred (1.500) €.
3. A responsible person in a legal person who acts contrary to Article 8 of this Law shall be punished for the misdemeanor by a fine amounting from five hundred (500) € up to one thousand and five hundred (1.500) €.
4. A natural person – a craftsman or other self-employed person, who act contrary to Article 8 of this Law, shall be punished for the misdemeanor, by a fine amounting from two thousand and five hundred (2.500) € up to seven thousand and five hundred (7.500) € where the misdemeanor has been committed in the performance of her/his activities.
5. The products intended for or used for the commitment of misdemeanors referred to in this Article upon the final decision of a competent court shall be seized and , shall be destroyed, made unrecognizable or used in any other way.
6. In all cases when the trade mark has been used in conflict to provisions of this law, depending of alleged infringement the provisions of this Law and Kosovo Penal Code shall be applied.

CHAPTER XVI TRANSITIONAL AND FINAL PROVISIONS

Article 112 Pending procedures

1. All procedures for registration of Trademarks, procedures concerning revocations or declaration of a trademark invalid, and procedures concerning the requests for entering into the Trade Mark Register Trademarks registered or applications filed for revalidation, which are pending up to the day of entering into force of this Law, shall be carried out according to the provisions of this Law.
2. The provisions of Chapter X of this Law shall enter into force on the day when the Madrid Agreement and/or Madrid Protocol are signed by the Republic of Kosovo and Chapter XI shall enter into force after the adherence of the Republic of Kosovo into the European Union.
3. For the implementation of this Law, the Minister of Trade and Industry shall issue sub legal acts within twelve (12) months, from the entry into force of this Law.

Article 113 Repealing provisions

The entry into force of this Law shall repeal the Law No 02/ L-54 “On Trademarks” and other sub-legal acts in force that are contrary to this Law.

Article 114
Entry into force

This Law shall enter into force on fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-026
29 July 2011

Promulgated by Decree No.DL-017-2011, dated 09.08.2011, President of the Republic of Kosovo Atifete Jahjaga.