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The *Saeima*¹ has adopted and the President has proclaimed the following law:

Law on Trademarks and Geographical Indications

Chapter I General Provisions

Section 1. Terms used in this Law

The following terms are used in this Law:

1) **trademark** - a sign used to distinguish the goods of one undertaking from those of other undertakings; unless expressly stated otherwise, the terms *trademarks* and *marks* in the text of this Law shall also comprise service marks and collective marks;

2) **service mark** - a sign used to distinguish the services of one undertaking from those of other undertakings;

3) **collective mark** - a trademark or a service mark used by associations of manufacturing, trade or service undertakings, or similar organisations to designate their goods or services;

4) **Paris Convention** - The 20 March 1883 Paris Convention on the Protection of Industrial Property (as revised at Stockholm on 14 July 1967, and as amended on 28 September 1979);

5) **Paris Union** - the Union of the states parties to the Paris Convention;

6) **distinctive character** - the complex of characteristic features of a sign that ensures the possibility of distinguishing the goods or services of an undertaking that are marked with this sign from those of other undertakings; the evaluation of the distinctive character of a sign depends not only on the character of the sign itself, but also on the perception of consumers and the characteristics of the respective goods or services;

7) **international registration of trademarks (international registration)** - registration of trademarks effected pursuant to the 14 April 1891 Madrid Agreement Concerning the International Registration of Marks, (as revised at Stockholm on 14 July 1967, and amended on 28 September 1979) (Madrid Agreement), or pursuant to the 27 June 1989 Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol), or pursuant to any other agreement concerning the international registration of trademarks which is in force in the Republic of Latvia;

8) **International Classification of Goods and Services (Nice Classification)** - the classification established by the 15 June 1957 Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;

9) **International Bureau** - the International Bureau of the World Intellectual Property

¹ The Parliament of the Republic of Latvia

Organisation that performs the international registration of trademarks and maintains the International Register of Marks; and

10) **geographical indication** - a geographic name or other indication or sign used to indicate, directly or indirectly, the geographical origin of goods or services, including indications of the characteristics or features thereof, which are attributable to this origin.

Section 2. Purpose of the Law

(1) This Law regulates legal relations as to trademark registration, as well as the use of and the protection of trademarks and geographical indications.

(2) Special provisions concerning collective marks are referred to in Chapter VII of this Law; in all other cases, unless stated otherwise, the provisions pertaining to trademarks or service marks shall apply to collective marks.

(3) Use and protection of trademarks and geographical indications are also regulated by other regulatory enactments, insofar as they are not contrary to this Law.

(4) Natural persons and legal persons of Latvia are entitled to register, use and protect trademarks, geographical indications, as well as other signs used in commercial activities in other countries in accordance with the laws of the respective countries and international agreements.

(5) If international agreements approved by the *Saeima* include provisions, which differ from the norms in this Law, the provisions of the international agreements shall be applied.

Chapter II Trademarks and Rights to Trademarks

Section 3. Trademarks

A trademark may consist of any sign capable of being represented graphically, and which is capable of distinguishing the goods or services of one undertaking from those of other undertakings. In particular, trademarks may be:

- 1) words - consisting of letters, words, also names, surnames, numerals;
- 2) graphic - pictures, drawings, graphic symbols, shades of colours, combinations of colours;
- 3) three-dimensional - three-dimensional shapes, the shapes of goods or of their packaging;
- 4) a combination - consisting of a combination of the aforementioned elements (labels and the like); and
- 5) specific types or special (sound or light signals and the like).

Section 4. Rights to a Trademark and the Holders of these Rights

(1) Rights to trademarks may be acquired by any natural or legal person (hereinafter “person”). Each person may own one or more trademarks.

(2) A trademark may be the joint property of two or more persons.

(3) A collective mark is the property of an association of several undertakings.

(4) In the course of fair commercial activities, unregistered trademarks may be used, insofar as they do not infringe on the rights of other persons and do not violate the provisions of laws and other regulatory enactments. In addition to the special provisions that, under certain circumstances, allow the protection of trademarks without registration or apart from registration and are referred to in Paragraph seven of this Section, as well as in Section 8 and in Section 28,

Paragraph eight of this Law, the legal relations with respect to unregistered trademarks shall also be regulated by the provisions of the Civil Law and regulatory enactments pertaining to unfair competition.

(5) Exclusive rights to a trademark may be ensured by registration of the trademark with the Patent Office of the Republic of Latvia (hereinafter "Patent Office") or by registration pursuant to the provisions of international registration of trademarks that apply to Latvia.

The particular provisions with respect to international registration of trademarks and internationally registered trademarks are referred to in Chapter VIII of this Law; in all other cases the provisions regarding trademarks registered with the Patent Office shall apply with respect to the validity, use and protection of internationally registered trademarks.

(6) The person in whose name the trademark has been registered shall have exclusive rights to prohibit other persons from using in commercial activities the following signs:

1) any sign which is identical to the trademark in relation to goods or services which are identical to those for which the trademark is registered; and

2) any sign where, because of its identity to, or similarity to, the trademark and the identity or similarity of the goods or services covered by the trademark and the sign, there exists a likelihood of confusion by consumers, which includes the likelihood of association between the sign and the trademark.

(7) Notwithstanding the provisions of Paragraph six of this Section, the owner of a trademark that is well-known in Latvia (within the meaning of Section 8) shall have the right to prohibit other persons from using, in commercial activities, any sign which confusingly represents, imitates, interprets or transliterates, a well-known trademark in relation to goods or services which are identical or similar to the goods or services covered by a well-known trademark

The owner of a trademark that is well-known in Latvia shall have the right to prohibit, in commercial activities, the use of any sign which represents, imitates, interprets or transliterates, a well-known trademark also in relation to goods or services which are not similar to the goods or services covered by a well-known trademark, but provided that the consumers may perceive the use of the referred to sign as an indication of a connection between such goods and services, and the owner of a well-known trademark, and that such use may injure the interests of the owner of a well-known trademark.

(8) In accordance with the provisions of Paragraphs six and seven of this Section the following actions may also be prohibited:

1) use (affixing, attachment) of the said signs on the goods or on the packaging thereof;

2) offering the goods for sale, or putting them on the market or stocking them for these purposes under the said signs;

3) providing services or offering them under the said signs;

4) importing or exporting the goods under the said signs; and

5) using the said signs on business documents and in advertising.

(9) In the application, *mutatis mutandis*, of the provisions of Paragraphs six, seven and eight of this Section, the owner of the trademark is also entitled to prohibit other persons from using any sign that is intended for purposes other than distinguishing goods or services (marking of goods, indication of the origin of goods or services), if it is proven that the use of such a sign in the absence of appropriate justification gives the impression of association with this trademark, or takes unfair advantage of, or is detrimental to, the distinctive character or the reputation of the trademark.

(10) If a registered and valid trademark is reproduced in a dictionary, encyclopaedia, or similar reference work, thereby giving the impression that it constitutes a generic name (general term) for the goods or services for which the trademark is registered, the publisher of the reference work shall, no later than in the next edition of the reference work, upon the request of the owner

of the trademark, ensure that the respective trademark is accompanied by an annotation that it is a registered trademark. This provision shall also apply, *mutatis mutandis*, to reference works in the form of electronic databases.

(11) The right to a trademark, derived from its registration or from the filing of an application thereof, shall confer the same legal status as personal property rights within the meaning of the Civil Law, but it shall not be regarded as property subject to claims.

(12) Exclusive rights to a registered trademark, including exclusive rights in relation to other persons, shall be effective to the full extent from the date of publication of the notice of the registration of the trademark.

Section 5. Restrictions on Exclusive Rights

(1) The owner of a trademark shall not be entitled to prohibit another person from using, in commercial activities, the following information or signs, if the use of such complies with fair industrial and commercial activity practice:

- 1) the name, surname and address of such person;
- 2) the name of the undertaking of such person, if its lawful use in commercial activities was commenced prior to the date of application for registration (priority date) of the respective trademark, and its address;
- 3) genuine indications and information concerning the kind, quality, quantity, intended purpose (functional task), value, geographical origin, the time of production of goods or of provision of services, or other characteristics of goods or services of such person; and
- 4) the trademark of the aforementioned owner if it is necessary to indicate the intended purpose (functional task) of goods or services, as well as the intended purpose of accessories or spare parts.

(2) The owner of a trademark shall not be entitled to prohibit the use of the trademark in relation to goods which have been marketed under that trademark with the consent of the owner in Latvia or in any other state with which Latvia has concluded, with respect to these goods, a bilateral or multilateral international agreement for a common market, customs union or similar agreement.

(3) The provisions of Paragraph two of this Section shall not apply if the owner has legitimate grounds to prohibit the further use of the goods for profit, especially if the quality of the goods has changed or they have been damaged after being put on the market.

(4) Exclusive rights shall not apply to those elements of the trademark which, when taken individually, pursuant to Section 6, Paragraph one of this Law, may not be registered as trademarks.

Chapter III Prerequisites for Trademark Registration

Section 6. Absolute Grounds for Refusal and Invalidation of Trademark Registration

(1) The following signs may not be registered as trademarks (if they have been registered, such registration may be declared invalid pursuant to the provisions of this Law):

- 1) those which cannot constitute a trademark, that is, signs which do not comply with the provisions of Section 3 of this Law;
- 2) those which lack any distinctive character with respect to the goods or services applied for;
- 3) those which consist solely of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose (functional task), value, geographical

origin, or the time of production of the goods or of providing the services, or other characteristics of the goods or services;

4) those which consist solely of signs or indications (general signs) which have become customary in the current language or in fair and established practices of the trade to designate the goods or services applied for;

5) those which consist solely of a shape which is directly determined by the kind of goods (the shape results directly from the nature of the goods themselves), or which is necessary to obtain a particular technical result, or which gives substantial value to the goods;

6) those which are contrary to public order or to socially accepted principles of morality;

7) those which may deceive consumers regarding the nature, quality or geographical origin, or the like, of the goods or services;

8) those which contain signs, the registration of which, would be refused or invalidated pursuant to Article 6-ter of the Paris Convention, including coats of arms and flags of the member countries of the Paris Union, their official hallmarks (assay marks), control and warranty marks, as well as the emblems, flags, and names of international organisations and the abbreviations thereof, without authorisation by the competent authorities;

9) those which, without authorisation by the competent authorities given pursuant to the procedures specified in the regulatory enactments of the Republic of Latvia, contain the official heraldry approved at the State level, national decorations, Official Service insignia, as well as signs for official hallmarks (assay marks), control, quality, warranty, and safety of utilising goods which are used with respect to identical or similar goods or services in Latvia, or any other marks of high symbolic value, as well as religious symbols; and

10) with respect to wines - those which contain or consist of a geographical indication identifying the origin of the wines, or with respect to spirits which contain or consist of a geographical indication identifying the origin of the spirits, if such is not the genuine place of origin of the wines or spirits for which the trademark registration has been applied for.

(2) A trademark also shall not be registered or, if registered, may be liable to be declared invalid pursuant to the provisions of this Law if the application for registration of the trademark was clearly made in bad faith by the applicant.

(3) A trademark registration may not be refused on the basis of the provisions of Paragraph one, Clauses 2, 3 or 4 of this Section, and shall not be declared invalid on the basis of the same provisions if, as a result of the use of the mark, it has acquired a distinctive character in the perception of the relevant consumers in Latvia with respect to the goods and services for which registration has been applied for.

Section 7. Earlier Trademarks as Grounds for Invalidation of a Registration

(1) A trademark registration may be declared invalid pursuant to the provisions of this Law in the following cases:

1) it is identical to an earlier trademark, and the goods or services in respect of which the trademark was registered are identical to the goods or services in respect of which the earlier trademark was registered; or

2) in connection with its identity or similarity to, an earlier trademark belonging to another person and the identity or similarity of the respective goods or services, there exists a likelihood of confusion of the trademarks by consumers, which includes the likelihood of association with the earlier trademark.

(2) Earlier trademarks within the meaning of Paragraph one of this Section are:

1) trademarks valid in Latvia, which have been registered under national or international registration procedures, with a date of application for registration which is earlier than the date of

application for registration of the opposed trademark, also taking into account the priorities accorded to those trademarks; and

2) applications for the registration of trademarks referred to in the previous Clause, provided that they are registered.

Section 8. Well-known Trademarks as Grounds for Refusal or Invalidation of Trademark Registration

(1) Notwithstanding and in addition to the provisions of Section 7 concerning earlier trademarks, a trademark registration may be rejected or, if registered, the registration may be invalidated under the provisions of this Law, if the trademark is identical or similar to, a trademark of another person, which, even though unregistered, was well-known, within the meaning of Article 6-bis of the Paris Convention, in the Republic of Latvia with respect to identical or similar goods or services, on the date of application of the applied for (opposed) registration of trademark (or the date of priority if priority has been granted).

(2) In addition to the provisions of Paragraph one of this Section, the registration of a trademark may be refused or invalidated also if the goods or services regarding which trademark registration has been applied for are not similar to the goods or services covered by a well-known trademark in Latvia, provided that the use of the trademark applied for (opposed) in relation to such goods or services may be perceived by consumers as an indication of a connection between such goods and services, and the owner of the well-known trademark, and that such use may injure the interests of the owner of the well-known trademark.

(3) In determining whether a trademark is well-known, the knowledge of this trademark in the relevant group of consumers, including such knowledge in Latvia that has been obtained as a result of the advertising of this mark or any other circumstances that have contributed to its fame shall be taken into account.

(4) In determining in which cases the provisions of Paragraphs one and two of this Section are to be applied to a sign regarding which registration has been applied for or to a registered trademark, the provisions of Article 6-bis of the Paris Convention regarding a well-known trademark shall be taken into account, as well as the provision which provides for the prohibition of the reproduction or the imitation of a well-known trademark in a significant part of another trademark; these provisions shall also apply, *mutatis mutandis*, to service marks.

(5) The provisions of Paragraphs one and two of this Section regarding refusal of registration during the expert-examination procedure shall not apply if the application for trademark registration has been filed with the consent of the owner of the well-known trademark.

Section 9. Other Earlier Rights as Grounds for Invalidation of Trademark Registration

(1) A trademark registration may be also declared invalid if the trademark is identical or similar to an earlier collective trademark for which the period of validity has expired within the last three years preceding the application date of the contested trademark.

(2) A trademark registration may be also declared invalid on the basis of the trademark being identical or similar to an earlier trademark which was registered for identical or similar goods or services and for which the period of validity has expired, for failure to renew, within the last two years preceding the application date of the opposed trademark, except in cases when the owner of the earlier trademark has consented to the registration of the opposed mark or has not used the trademark.

(3) A trademark registration may be also declared invalid on the basis that another person has, prior to the trademark application date (also taking into account its priority date), acquired in

Latvia other rights which allow the prohibition of the use of the trademark; registration may be contested also on the basis of the following rights:

1) personal rights, that is, rights related to the name, surname, pseudonym, portrait or facsimile of a person well-known to the general public, except in the case when such person has been deceased for 50 or more years;

2) copyright;

3) commercial rights, that is, rights related to a trade name (commercial designation, name of a mass medium, or other similar sign) that is used in an identical or similar business sector, if its fair and lawful use in commercial activities in Latvia was commenced before the date of application of the trademark, or the priority date respectively, or a trade name (commercial designation, name of a mass medium or other similar sign) of Latvia or of a foreign state that was well known in Latvia; and

4) other industrial property rights.

(4) A person who is the owner of a trademark in another member state of the Paris Union shall also be entitled to request invalidation of the trademark, if an agent or representative of the owner has registered the mark in his or her own name in Latvia without authorisation from the owner, except in cases when such agent or representative has sufficient justification for his or her action.

Chapter IV

Procedures for Trademark Registration

Section 10. Filing of an Application

(1) A person who desires to register a trademark in Latvia shall file a written application (hereinafter also – application) for trademark registration with the Patent Office.

(2) A fee shall be paid for the filing of an application and for the registration of a trademark, and for other acts specified in this Law.

The amounts of fees to be paid shall be determined by the Cabinet.

(3) The date of filing of the application (date of application) shall be determined, in accordance with the provisions of Paragraph nine of this Section, to be the date on which the Patent Office has received documents which include:

1) a petition to register a trademark;

2) information which permits the unmistakable identification of the applicant;

3) the sign which is submitted for registration (its representation); and

4) the list of goods and services for which the trademark registration is requested,

(4) The registration of only one trademark may be requested per application.

(5) Each application may contain a request for trademark registration with respect to one good or service, several or many goods or services, as well as to goods and services simultaneously, irrespective of whether they belong to one or several classes of goods or services according to the International Classification of Goods and Services (Nice Classification). The goods and services shall be grouped according to the classes of this Classification.

(6) A written application, which complies with the provisions of this Law and the provisions of international agreements binding for Latvia, shall be approved by the Patent Office.

(7) The application submission, including the list of goods and services, shall be in the Latvian language. Other application materials and documents may be submitted also in the English, French, Russian or German language.

The Patent Office is entitled to request a translation of the submitted materials and documents into the Latvian language; the translations referred to shall be submitted within the term specified by the Patent Office.

All processing and correspondence related to the application shall be in the Latvian language.

(8) In cases provided for by this Law and by the international agreements binding for Latvia, the application shall include a description of the sign applied for, its translation or other observations as to the character of the sign.

(9) The application shall include a document certifying payment of the application fee, also payment of an additional fee, if the application covers more than one class of the Nice Classification. The document regarding payment of the fee may be attached within a month from the day of submission of the application, preserving the initial date of the application. (Paragraph three of this Section.) If this term has expired, but all other documents necessary for determination of the application date have been submitted, the application date shall be deemed to be the day on which the document regarding payment of the fee, as well as the additional fees, was submitted.

(10) If the application is filed through a representative, a document certifying the authorisation of the representative must be attached to the application. Requirements with respect to representation and authorisations shall be determined by the Patent Office, the general provisions of the Civil Law pertaining to contractual authorisations, and the relevant provisions of international agreements binding on Latvia.

(11) In accordance with the provisions of the Patent Law regarding representation before the Patent Office, a foreign applicant may only file an application, maintain correspondence, and perform all further actions before the Patent Office, and, if necessary, before the Board of Appeals of the Patent Office, through a professional patent agent (trademark agent).

(12) The application shall include the materials and documents referred to in this Section and, if necessary, those referred to in Section 11, as well as other materials and documents. Formal requirements concerning application materials and documents shall be determined by the Patent Office pursuant to the provisions of this Law and the provisions of international agreements binding on Latvia. The applicant or his or her representative shall sign the application submission.

Section 11. Priority of a Trademark

(1) Any person who has duly filed an application for trademark registration in any member state of the Paris Union, or in any other state or union of states, with which Latvia has concluded an agreement that provides for recognition of the right of priority, or his or her successor in interest, shall enjoy, for the purpose of filing an application for registration of the same trademark in Latvia with respect to goods and services which are identical to or included among those regarding which the earlier application had been filed, a right of priority during a period of six months after the date of filing such application.

(2) An applicant desiring to take advantage of the priority of an earlier application (Convention priority) shall include such claim in the subsequent application submission, indicating the date of application of the earlier application and the state (regional trademark registration office) where it has been filed, as well as the application number, if it is known on the date of application of the subsequent application. A document certifying the right of priority of the applicant, that is, a copy of the earlier application certified as a true copy of the original by the authority which accepted the previous application, shall be submitted together with the subsequent application or may be added to this application within three months from the date of application of the application.

(3) An applicant who has exhibited goods or services at an official or officially recognised international exhibition in Latvia or in any member state of the Paris Union, under the trademark,

the registration of which, with respect to the same goods or services, has been applied for, is entitled to claim a right of priority, within the meaning of Paragraph seven of this Section, from the first day when such goods or services were exhibited at the referred to exhibition, if the application for the respective trademark is filed within six months from that date.

(4) An applicant desiring to take advantage of the provisions of Paragraph three of this Section (exhibition priority) shall include a claim in the application submission indicating the first day of the exhibition of the goods or services and identifying the exhibition. A document which certifies the applicant's right of priority, namely, a document proving the identity of the materials exhibited at the exhibition and the date they were first exhibited (in connection with this trademark), issued by a competent authority of the exhibition, shall be submitted together with the application for trademark registration or may be attached to the application within three months from the date of application of the application.

(5) The exhibition priority does not extend the period of priority specified in Paragraph one of this Section.

(6) In determining whether the claimed priority shall be granted to the trademark application, the Patent Office shall take into account the provisions of this Section, as well as the provisions of Sections 4 and 11 of the Paris Convention, applying these provisions, *mutatis mutandis*, also with respect to service marks.

(7) A trademark priority (right of priority) shall mean that, upon determining which person has earlier rights, the date of priority shall be taken into account in lieu of the date of the trademark registration application.

Section 12. Preliminary Examination of the Application

(1) Within three months of the receipt of the application, the Patent Office shall conduct a preliminary examination of the application, verify the compliance of the application with the requirements of Section 10 of this Law and the requirements of the Rules issued by the Patent Office on the basis of those requirements, and, in accordance with the prescribed procedures determine the date of application of the application and, if the applicant has the right to priority pursuant to the provisions of Section 11, the date of priority.

(2) If the application does not comply or only partially complies with the prescribed requirements, the Patent Office shall notify the applicant in writing, specify the non-compliance and set a term for reply (elimination of deficiencies). The term of preliminary examination shall be extended accordingly.

(3) If the application does not initially comply with the provisions of Section 10, Paragraph three, which pertain to the documents necessary for determining the date of application, but the applicant eliminates the deficiencies within the time specified by the Patent Office, the date of application shall be determined from the day when the Patent Office has received all documents referred to. If an applicant does not eliminate the deficiencies following the request of the Patent Office, the application shall be deemed not to have been filed.

(4) If the applicant has not fulfilled the prescribed requirements for obtaining a right of priority, the priority shall not be granted.

(5) If the application contains other serious deficiencies, and the applicant does not remedy them after being so requested, the application shall be rejected.

(6) If the application complies with the requirements of Section 10 of this Law and the requirements of the Rules issued by the Patent Office on the basis of those requirements, the Patent Office shall send a written notice to the applicant of the acceptance of the application for expert-examination (the acceptance of the application).

(7) If the applicant does not agree with the decision of the Patent Office concerning the results of

the preliminary examination, the applicant has the right, within three months from the date of receipt of the decision and upon payment of the required fee, to submit a substantiated appeal to the Board of Appeals of the Patent Office (hereinafter - the Board of Appeals).

Section 13. Expert-examination of a Trademark

(1) Within three months from the date the application has been accepted for expert-examination, the Patent Office shall examine the compliance of the accepted application with the requirements of Sections 3, 6 and 8 of this Law. In the course of the expert-examination, the Patent Office is entitled to request from the applicant additional materials and documents necessary for conducting the expert-examination, indicating the time for their submission.

(2) If it is determined during the expert-examination that a trademark is not registrable or is registrable only with the restrictions specified in Paragraphs five or six of this Section, the Patent Office shall inform the applicant of this finding and set a term of three months for the submission of observations (arguments against the basis for rejection or restriction of the registration).

(3) As soon as possible after receipt of the observations of applicant or the expiration of the term specified for the submission of observations, the Patent Office shall take a decision on the registrability of the trademark or on the rejection of registration.

(4) If the result of the expert-examination is favourable, the Patent Office shall take a decision to register the trademark. The applicant shall be notified of the decision in writing and invited to pay a fee for the registration and publication of the mark.

(5) If it is determined that a trademark is unregistrable only as to certain goods or services, the Patent Office shall take a decision to register the trademark as to the other goods and services listed in the application (with respect to a restricted list of goods and services).

(6) If elements referred to in Section 5, Paragraph four of this Law, which individually may not be registered as trademarks, have been incorporated in a trademark, and there exists a possibility that registration of such mark would cause doubt as to the extent of the rights conferred, the Patent Office, when registering the mark, may exclude the said elements from protection with a special annotation (disclaimer or exclusion from protection).

(7) The Patent Office's decision to reject a trademark registration or to register it with the restrictions referred to in Paragraphs five or six of this Section shall be substantiated by appropriate arguments and by citations of the provisions of law.

(8) If an applicant does not agree with the decision of the Patent Office concerning the results of the expert-examination, the applicant has the right, within three months from the date of receipt of the decision and upon payment of a fee, to submit a substantiated appeal to the Board of Appeals.

Section 14. Withdrawal, Restriction and Amendment of an Application

(1) The applicant has the right to withdraw the application as a whole, or to withdraw goods and services from the submitted list of goods and services at any time during the processing of the application; however, the fees already paid are not refundable.

(2) In addition to the amendments referred to in Paragraph one of this Section, only such amendments, clarifications or corrections may be made in a trademark application, that do not substantially alter the trademark itself and do not expand the submitted list of goods and services. The Patent Office is entitled to request amendments, clarifications and corrections at any time during the processing of the application. Except for the correction of obvious mistakes, as well as necessary amendments in the name (designation) or address of the applicant or representative, the applicant shall have a right, on his or her own initiative, to submit amendments and

clarifications only until the day upon which the Patent Office takes a decision on the acceptance of the application. The Patent Office shall only take into account permissible amendments, submitted on the initiative of the applicant, during the examination process upon payment of the prescribed fee. Mistakes committed by the Patent Office shall be corrected without a fee.

(3) Amendments received by the Patent Office after the notice of registration has been prepared for publication, shall be deemed to be amendments to the registration information, and the provisions of Section 17, Paragraph two shall apply to such amendments.

(4) If during the procedure of registration, with the exception of the cases referred to in Section 12, Paragraph three, and in Section 13, Paragraph two of this Law the applicant has failed, within the prescribed time, to reply to the request of the Patent Office, or to pay the prescribed fee, and has not applied for an extension of the term, the application shall be deemed to have been withdrawn.

Section 15. Division of an Application

(1) A trademark registration application may be divided into two or more applications, subdividing the list of goods and services between the initial application and the divisional application (or applications). The divisional application shall preserve the date of application and priority of the initial application.

(2) The applicant is entitled to file a petition for division of the application only up to the time when the Patent Office has prepared the trademark, and information regarding such, for registration and publication.

(3) When filing a petition for division of an application with the Patent Office, the applicant shall indicate which goods and services shall remain in the initial application, prepare each divisional application pursuant to all the requirements of Section 10 regarding the contents of an application, and pay all the fees as specified for a new application. The fee paid for the initial application shall not be refunded and shall not be applied to a divisional application. If the applicant fails to file the necessary documents and materials with respect to a divisional application or to pay the prescribed fee within three months from the date of receipt of the petition for division by the Patent Office, the divisional application shall be deemed to have been withdrawn.

(4) Examination of a divisional application is subject to the requirements of Sections 12 and 13 of this Law. The applicant is not entitled to withdraw a petition for division of an application.

Section 16. Registration and Publication of a Trademark and Issuance of a Certificate

(1) If the applicant has paid the prescribed fee, as soon as possible after the taking of a favourable decision regarding the results of the expert-examination, the Patent Office shall prepare the trademark and the data concerning it for registration and publication.

(2) The trademark shall be entered into the State Register of Trademarks simultaneously with its publication in the official gazette of the Patent Office, with the exception of specific cases when there is due cause for a substantial delay of trademark publication.

(3) After registration and publication of the trademark the Patent Office shall issue to the owner, on an official form, a certificate of trademark registration.

Section 17. State Register of Trademarks

(1) The Patent Office shall maintain the State Register of Trademarks (hereinafter - the Register) in which the registered trademark (its representation), information on the trademark owner and

representative, if such has been appointed, date of application (priority date), registration date of the mark, publication date, the list of goods and services to which the registration of the mark applies, as well as other information determined by the Patent Office shall be recorded.

(2) The trademark owner shall immediately notify the Patent Office of any amendments or of mistakes discovered in the information concerning the registration of the trademark, of changes in the owner's name (designation), of a change of representative, of a desire to eliminate goods or services from the list of goods and services, or of a desire to change non-essential (secondary) elements in the trademark itself. The amendments or corrections may not alter the essence of the mark, affect its distinctive character, extend the scope of rights conferred by the trademark, change the granted priority, or create the likelihood of misleading consumers. If the prescribed fee has been paid, the Patent Office shall record the permissible amendments in the Register, publish an notice of the amendments made in the official gazette and send it to the owner of the mark to be attached to the certificate of trademark registration. Mistakes committed by the Patent Office shall be corrected without a fee.

(3) Entries in the Register, to the extent contemplated by the requirements of Paragraph one of this Section, after their publication, shall be available for inspection by any person. For a prescribed fee, the Patent Office shall provide excerpts from the entries in the Register.

Section 18. Opposition to the Registration of Trademarks

(1) Within three months from the date of the publication of a trademark, interested persons may, upon payment of the applicable fee, submit an opposition to the registration of a trademark. The opposition shall be filed with the Board of Appeals in writing, substantiated by appropriate arguments and citations to provisions of law. After the expiration of the previously mentioned term, the opponent does not have the right to change (expand) the initial legal basis of the opposition, but may, up until the decision of the Board of Appeals is taken, submit additional documents and materials, that confirm (detail) the facts on which the opposition is based.

(2) Any person may file an opposition, if the registered trademark does not comply with the provisions of Section 3 of this Law, or if the registration would be invalidated pursuant to the provisions of Section 6, or if the provisions of Section 9, Paragraph three, Clause 1 are applicable.

(3) An opposition based upon the provisions of Sections 7 or 8 of this Law, or Section 9, Paragraph one, Paragraph two, Paragraph three, Clause 2, 3 or 4, or Paragraph four may be filed by persons who are the owners of earlier trademarks, well-known trademarks, or have other earlier rights (also their successors in interest) or their representatives, as specified in the applicable provisions.

(4) An opposition based upon the provisions of Section 8 or Section 9, Paragraph one, Paragraph two, Paragraph three, Clause 2, 3 or 4, of this Law in addition to the persons referred to in Paragraph three of this Section, may also be filed by professional associations and associations of manufacturers, traders and providers of services, whose articles of association provide for the protection of the economic interests of their associates (members), as well as by organisations and authorities, whose purpose, under their articles of association, is the protection of the rights of consumers.

(5) The Board of Appeals shall inform the owner of the opposed trademark of the opposition and set a term of three months for the submission of a reply.

(6) If an opposition has not been filed within the term specified by law, the registration of the trademark may be contested only in court.

Section 19. Examination of Appeals and Oppositions

(1) The appeals filed pursuant to the provisions of Section 12, Paragraph seven and Section 13, Paragraph eight of this Law and the oppositions filed pursuant to Section 18 shall be examined by the Board of Appeals, which shall act in accordance with their by-laws as approved by the Minister for Justice.

(2) Appeals shall be reviewed within three months from the date of their receipt, and oppositions shall be examined within three months from the date of receipt of the reply of the owner of the contested trademark, or, if such is not received, within three months after the date of expiration of the term specified for the submission of replies. If an opposition is filed, based on the provisions of Section 7 of this Law, and the contested trademark is opposed by an earlier trademark that has not yet been registered, the review of the opposition may be postponed, at the request of the opponent, until the opposing mark is registered and published.

(3) The appellant or his or her authorised representative (agent) shall be invited to take part in the proceedings of the Board of Appeals, in which an appeal of a decision of the Patent Office is reviewed. If an opposition to a trademark registration is being reviewed, the opponent and the owner of the contested trademark, or his or her authorised representatives (agents), shall be invited to participate. All interested parties are entitled to submit the necessary documents and materials and to provide oral arguments.

(4) Pursuant to the results of the review of an appeal, the Board of Appeals shall take a decision to grant the appeal, fully or in part, or to reject it. If the appeal has been filed against a decision of the Patent Office with respect to the results of a preliminary examination of an application (Section 12, Paragraph seven), the respective decision of the Patent Office may be cancelled, amended or allowed to remain in effect, by the decision of the Board of Appeals. If the appeal has been filed against a decision of the Patent Office with respect to the results of an expert-examination (Section 13, Paragraph eight), a trademark can be declared registrable, fully or with the restrictions referred to in Section 13, Paragraph five and six of this Law, or the decision to reject a registration may be allowed to remain in effect. If new facts are revealed in a case in connection with the appeal, the Board of Appeals may take a decision to reconsider (re-examine) the application.

(5) Pursuant to the results of the review of an opposition, the Board of Appeals shall take a decision to grant the opposition, fully or in part, or to reject it, while the opposed trademark may be, as a result of the decision of the Board of Appeals, invalidated as of its registration date, declared valid with the restrictions referred to in Section 13, Paragraph five and six of this Law, or declared valid in accordance with its registration.

(6) Where the opposition is fully or partly based on an earlier trademark (within the meaning of Section 7, Paragraph two of this Law), that has been registered no less than five years previously, the owner of the opposed mark is entitled to request that the opponent provide clear and sufficient evidence that this earlier trademark has been actually used within the meaning of Section 23 of this Law. The Board of Appeals shall disregard such grounds for opposition if the applicable evidence is not provided as requested, or if there is no such evidence pertaining to the last five years prior to the examination of the opposition. If the opposing earlier trademark has been used only with respect to part of the list of goods and services for which it has been registered, the Board of Appeals shall consider the previously mentioned grounds for opposition only with respect to the goods and services for which use has been substantiated by clear and sufficient evidence.

(7) The Board of Appeals shall take its decision *in camera*. The operative part of the decision shall be announced at the end of the hearing, whilst a substantiated decision in written form shall be sent to the interested parties within one month.

(8) Decisions of the Board of Appeals on the compliance of an application with the requirements

of Section 10 of this Law, as well as with respect to the provisions of Section 11 pertaining to the grant of the right of priority, are final. The appellant (trademark applicant) may appeal other decisions of the Board of Appeals to the Regional Court of Riga within three months from the date of receipt of the written decision. Submission of an appeal shall suspend the execution (coming into effect) of the decision of the Board of Appeals.

(9) If the owner of the opposed trademark or the opponent is not satisfied with the decision of the Board of Appeals, he or she is entitled, within three months from the date of receipt of the copy of the decision of the Board of Appeals, to appeal to the Regional Court of Riga. Submission of an appeal shall suspend the execution (coming into effect) of the decision of the Board of Appeals.

(10) Regardless of the submission of an appeal, an interested person may contest the registered trademark pursuant to the provisions of Section 31 or 32 of this Law. If the claim was submitted before the examination of the matter with respect to the appeal regarding the decision of the Board of Appeals, judicial proceedings shall be stayed until the adjudication of the claim.

Section 20. Division of a Registration

(1) A trademark registration may be divided into two or more registrations, subdividing the list of goods and services for which the mark has been registered, between the initial registration and the divisional registration (registrations). The divisional registration shall retain the date of application and the priority of the initial registration.

(2) A petition for division of a registration may be submitted only after the expiration of the term for oppositions (opposition period) specified in Section 18, Paragraph one of this Law.

(3) When submitting a petition for division to the Patent Office, the owner of the trademark shall indicate which goods and services are to remain in the initial registration and which are to be included in the divisional registration (registrations), as well as pay the prescribed fee for trademark registration and publication with respect to each of the divisional registrations.

(4) If the prescribed fee is not received by the Patent Office within three months from the date of receipt of the request for division, the petition for division of the registration shall be deemed withdrawn.

(5) If the owner of the trademark has paid the prescribed fee, the Patent Office shall, as soon as possible, enter the divisional registration and the amendments with respect to the initial registration into the Register, publish the relevant notices in its official gazette, as well as issue a certificate of registration regarding the divisional registration and supplement the certificate of the initial registration pursuant to the provisions of Section 16, Paragraph three and Section 17, Paragraph two.

(6) After the divisional registration information has been prepared for registration and publication, the applicant shall not be entitled to withdraw the request for division.

Section 21. Validity and Renewal of a Registration

(1) The registration of a trademark is valid for a period of 10 years from the date of application, if it is not cancelled at the initiative of the owner of the trademark, invalidated or revoked pursuant to the provisions of Sections 30, 31 or 32 of this Law.

(2) The registration may, every 10 years, be renewed (the trademark re-registered) for another 10-year period. The owner of the trademark shall submit a request for renewal of registration within the last year of validity of the trademark registration, paying the prescribed fee. The Patent Office shall, upon the owner's request and the payment of an additional fee, prescribe an additional six-month period after expiration of the registration for the renewal of the registration.

(3) The Patent Office shall enter the information concerning the renewal of the registration into the Register, publish a notice thereof in its official gazette and send it to the owner of the mark to be attached to the trademark certificate of registration.

Section 22. Extension of Set Terms and Renewal of an Application

(1) The terms prescribed in Section 11, Paragraphs two and four; Section 12, Paragraphs two and seven; and Section 13, Paragraphs one, two and eight, as well as in Section 18, Paragraph five and Section 19, Paragraph two of this Law, may be extended respectively by the Patent Office or the Board of Appeals for a certain period of time, but for no longer than three months, provided that the request for such extension has been received by the Patent Office before the expiration of the term in question and the fee for extension of the term has been paid.

(2) A trademark application that has been withdrawn by the applicant or that is deemed to have been withdrawn pursuant to the provisions of Section 14, Paragraph four of this Law, in exceptional cases may be renewed by the Patent Office, if a petition to that effect is received by the Patent Office no later than six months from the date the application has been withdrawn or has been deemed to be withdrawn, and the prescribed fee for renewal of the application has been paid and the sufficiency of reasons have been confirmed; furthermore, an application may be renewed only once.

An application that has been deemed not to have been filed pursuant to the provisions of Section 12, Paragraph three of this Law, can only be renewed (rescinding the decision of the Patent Office deeming the application to not have been filed) by a decision of the Board of Appeals.

Chapter V Use of Trademarks

Section 23. Use of Trademarks

(1) The use of a trademark shall be considered to be the use of a trademark on goods and their packaging, on any documentation accompanying the goods, in the advertising of the goods or services, or in relation to other economic activities in connection with the relevant goods or services.

(2) The use of a trademark shall also be considered to be the use of a trademark in a form differing in individual non-essential elements, if the changes permitted to the form of the mark do not alter the distinguishing features and distinctive character of the trademark as registered.

(3) If, within five years from the date of registration, the owner of the trademark has not commenced the actual use of the trademark in Latvia in connection with the goods and services for which it has been registered, or if such use has been discontinued during the period of validity of the trademark for five successive years, and there are not sufficient reasons for non-use, the provisions of Section 19, Paragraph six; Section 28, Paragraph three, Section 31; Paragraph two and Section 32 may be applied with respect to this trademark.

(4) The use of a trademark in commercial activities, with the purpose of gaining or maintaining a certain market position for the respective goods or services shall be recognised as actual use.

(5) The use of a trademark in Latvia on such goods or their packaging as are intended solely for export shall also be considered to be the use of a trademark.

(6) If a trademark is used with the consent of the owner, then applying the provisions of Paragraph three of this Section, with respect to the use of marks, it shall be considered that the mark is being used by its owner.

Section 24. Warnings regarding Exclusive Rights to a Trademark

- (1) The owner of a trademark is entitled to place, next to the registered trademark, a sign consisting of an encircled letter "R" or wording which warns of the registration of the mark ("Trademark registered in Latvia" and the like).
- (2) The owner of a trademark shall not mislead the public by affixing a warning sign of a registered mark to a trademark which is not registered in Latvia or elsewhere.
- (3) If the owner of a trademark has reason to believe that a person is infringing the exclusive rights of the owner by using in commercial activities any of the signs referred to in Section 4, Paragraph six, Clause 1 or 2, or Section 4, Paragraph seven, the owner of the trademark is entitled to warn such person of the alleged infringement.

Section 25. Transfer of a Trademark to Other Persons

- (1) The owner of a trademark shall have the right to transfer his or her trademark to another person in relation to one, several or all of the goods or services for which the mark is registered, together with the undertaking, or a part thereof, that has been using this mark, or separately from the said undertaking.
- (2) If an undertaking, or a part thereof, is transferred to another person, the right to the trademarks of that undertaking shall be deemed to be transferred together with the undertaking or a part thereof if it not otherwise specified by agreement between the parties, or if circumstances of the matter do not clearly dictate otherwise.
- (3) The Patent Office, after receipt of an application, a document attesting to the transfer of rights and the prescribed fee, shall enter into the Register and publish in the official gazette information concerning the change in ownership of a registered trademark, and the transfer of a trademark to another person, as well as send to the owner (owners) an notice of the entry made in the Register.
- (4) If the transfer of a trademark to another person (change in ownership) does not include all the goods and services for which the mark is registered, the Patent Office shall divide the registration by applying to it, *mutatis mutandis*, the provisions of Section 20 of this Law, and create a new registration with respect to the goods and services for which the owner has changed.
- (5) A trademark transfer agreement with respect to third persons shall take effect on the date of publication of the notice in the official gazette of the Patent Office. The successor in interest (the new owner of the trademark) may not exercise the rights arising from trademark registration prior to the date when the change in ownership is entered into the Register.
- (6) A trademark transfer agreement may be declared null and void if the change in ownership, intentionally or unintentionally, misleads or may mislead consumers with respect to the origin, nature, quality or other characteristics of the goods and services in relation to which the mark is used or is intended to be used. Any person may bring an action before the Regional Court of Riga to declare the trademark transfer agreement as null and void.
- (7) If a trademark registration application is transferred to another person before the Patent Office has taken a decision on the registration of the mark, the Patent Office shall, upon receipt of an application, a document attesting to the transfer of rights and the prescribed fee, regard the change of applicant as an amendment to the application within the meaning of the relevant provisions of Section 14 of this Law, and continue examination of that application with respect to the new applicant.
- (8) If the transfer of a trademark application to another person (change of applicant) does not apply to all the goods and services included in the application, the Patent Office shall divide the application, *mutatis mutandis* applying the provisions of Section 15 of this Law, and create a new

application concerning the goods and services as to which the applicant has been changed.

Section 26. Licensing Agreement of a Trademark

(1) The owner of a trademark is entitled to transfer, pursuant to a licensing agreement, the right to use the trademark with respect to one, several or all of the goods or services for which the mark is registered. Pursuant to the nature of the licence (an exclusive or nonexclusive licence) the person granting the right to the trademark (the licensor) and the person receiving the right (the licensee) shall both undertake certain rights and obligations.

(2) A licence shall be of an exclusive character if the licensee receives exclusive rights to use the trademark in accordance with the provisions provided for in the licensing agreement and the licensor retains the right to use the trademark insofar as this right has not been transferred to the licensee.

(3) A licence shall be of a nonexclusive character if the licensor, when granting to another person the right to use the trademark, reserves the right to use this trademark, as well as the right to grant a licence for the same trademark to third persons.

(4) The owner of a trademark is entitled to invoke the exclusive rights against a licensee who contravenes any provision of the licensing agreement with regard to:

- 1) the term of the licence;
- 2) the form in which the trademark may be used in accordance with the registration;
- 3) the list and nature of the goods and services for which the licence is granted;
- 4) the territory in which the trademark is authorised to be used; or
- 5) the quality of the goods manufactured or of the services provided by the licensee.

(5) The licence granted may not be assigned to third persons, and the licensee shall have no right to grant a sub-licence, unless otherwise provided in the licensing agreement.

(6) The Patent Office shall, after receipt of a relevant submission from the owner of the trademark and payment of the prescribed fee, enter the information concerning the licensing agreement of a registered trademark in the Register and publish it in the official gazette, notifying the owner of the trademark of the entry made in the Register. Information concerning the expiration of a licensing agreement and changes in the licence provisions shall also be entered in the Register, if the Patent Office is notified in accordance with the prescribed procedures.

(7) A licensing agreement may be declared null and void, if the use of the trademark by the licensee, intentionally or unintentionally, misleads consumers as to the origin, nature, quality or other characteristics of the goods and services in relation to which the mark is used. The licensor or any other person may bring an action in the Regional Court of Riga to declare the licensing agreement as null and void.

(8) The fact that the information about a licensing agreement, as provided for in Paragraph six of this Section, is not entered in the Register or is not published, does not constitute grounds for opposing the validity of a trademark pursuant to the provisions of Section 31 or 32 of this Law, or for applying the restrictions for non-use of a trademark as provided by Section 23, Paragraph three (in such cases Section 23, Paragraph six shall apply), or for opposing the right of a licensee to intervene in an action for trademark infringement instituted by the owner of the trademark under the provisions of Section 28, Paragraph two, or for opposing the right of a licensee to receive compensation for the damages caused by unlawful use of the licensed trademark.

(9) The validity of a trademark registration, the application of the provisions of Section 23, Paragraph six of this Law, and the rights of the licensee referred to in Paragraph eight of this Section may also not be contested on the basis of the fact that the licensee has not indicated on the goods or their packaging, with respect to the services provided or in the advertising of the

said goods and/or services that the trademark is being used pursuant to a licence, or where such indication is unclear.

(10) The transfer of a trademark within the meaning of Section 25, Paragraph one of this Law and the grant of a licence within the meaning of Paragraphs one, two and three of this Section shall not affect licences previously granted to third persons.

Section 27. Unlawful Use of a Trademark (Trademark Infringement)

(1) Unlawful use of the exclusive rights of the trademark owner shall be regarded as an infringement of a trademark, that is, the use, in commercial activities, of the signs referred to in Section 4, Paragraph six, Clause 1 or 2 of this Law, or in Section four, Paragraph seven, without the consent of the owner of the trademark, including use of such signs in the ways specified in Section 4, Paragraph eight.

(2) In determining whether the use of a specific sign shall qualify as illegal use of a trademark, simultaneously and in addition to the provisions of Paragraph one of this Section, the provisions of Section 5 of this Law on restrictions of exclusive rights, the restrictions due to non-use of a trademark as provided for in Section 23, Paragraph three, and the restrictions of rights (forfeiture of rights) as a result of acquiescence as provided for in Section 29, shall be also considered in the respective cases.

Section 28. Liability for Unlawful Use of a Trademark

(1) Liability for unlawful use of a trademark pursuant to the provisions of Section 27 of this Law shall arise, where the fact of infringement is proved. The burden of proof of the fact of infringement lies with the aggrieved party (the owner of the trademark or the licensee).

(2) The owner of a trademark (or his or he successor in interest) may bring an action in the Regional Court of Riga for unlawful use of the trademark. The licensee is entitled to bring a separate action for unlawful use of the trademark only with the consent of the owner of the trademark. The consent of the owner of the trademark is not necessary if the licensee has been granted the right independently to bring an action in a licensing agreement, or if the owner of the trademark does not bring an action even though the licensee has invited the owner to do so in writing. Any licensee of the respective trademark is entitled to intervene in the action and seek damages that have resulted from unlawful use of the licensed trademark.

(3) The person against whom an action for unlawful use of a trademark is brought may not oppose the action by alleging only that the trademark is not being used or that its operation is to be discontinued for other reasons, but he or she may, in accordance with to the provisions of Sections 31 or 32, bring a counter-claim to invalidate or revoke the trademark registration. In such cases trademark infringement may be determined to the extent that its registration is not declared invalid or revoked.

(4) If the fact of infringement is proven, depending upon the degree of fault, the aggrieved party may request the court to make a judgment including one or more of the following measures (sanctions):

- 1) cessation of the unlawful use of the trademark;
- 2) payment of damages for losses suffered as a result of the unlawful use of the trademark, including lost profits; and
- 3) recovery of court costs, including payment of the litigation expenses provided for by law, as well as the fees paid to the representative.

(5) The judgment of the court may provide for measures to prevent further infringement of the trademark, including the obligation to destroy goods with the unlawful marking, or return them at

cost to the owner of the trademark (his or her successor in interest) or the licensee if the owner so agrees, or donate them for use for charitable purposes. Pursuant to the petition of the owner of the trademark (his or her successor in interest) or the licensee, the court may, in such matters, apply also the measures provided for by law as security for an action, also in cases when the action is not of a pecuniary nature (the action has not been brought regarding damages for losses).

(6) When determining liability for unlawful use of a trademark, for the purposes of determining the degree of fault, the fact of receipt of the warning notice referred to in Section 24, Paragraph three of this Law be used as evidence.

(7) In cases when trademark infringement has been done deliberately or with intent to defraud, the responsible persons shall also be subject to administrative liability or criminal liability.

(8) Notwithstanding the provisions of Section 27 and this Section of this Law, actions for infringement of registered and unregistered trademarks, including the cases provided for in Section 4, Paragraph nine of this Law, may be based upon the provisions of laws or other regulatory enactments of Latvia pertaining to unfair competition.

(9) An action for the infringement of a trademark may be brought within three years from the date when the aggrieved party became aware, or should have become aware, of the occurrence of infringement of the trademark.

Section 29. Restrictions of Rights (Forfeiture of Rights) as a Result of Acquiescence

(1) If the owner of an earlier trademark (within the meaning of Section 7, Paragraph two of this Law) has not contested, in administrative or court proceedings, the use of a later trademark registered in Latvia for a period of five successive years, although aware of such use, he or she are no longer entitled, on the basis of his or her earlier trademark, either to request the invalidation of the later trademark, or to oppose the use of the later trademark with respect to the goods and services for which the later trademark has been used, except in the case when registration of the later trademark was applied for in bad faith.

(2) In the case referred to in Paragraph one of this Section, the owner of the later registered trademark is not entitled to contest the right of the earlier trademark, even if those rights, pursuant to the provision of Paragraph one of this Section, may no longer be invoked against the later trademark.

Chapter VI Termination of the Validity of a Trademark

Section 30. Cancellation of a Trademark Registration on the Initiative of the Owner of the Trademark (Surrender of Registration)

(1) The owner of a trademark may petition the cancellation of the registration of a trademark before the expiration of the validity of the mark. If a submission for cancellation is received by the Patent Office and the prescribed fee has been paid, the trademark registration shall be cancelled as of the date specified by the owner, but no earlier than as of the date of receipt of the submission. The Patent Office shall make a corresponding entry in the Register, publish a notice in the official gazette, and send it to the owner of the trademark.

(2) If the submission of the owner of the trademark to cancel the trademark registration does not apply to all the goods and services for which the mark is registered, it shall be considered as an amendment in the trademark registration information and examined pursuant to the provisions of Section 17, Paragraph two of this Law.

(3) The Patent Office shall not cancel a trademark registration pursuant to the provisions of this Section if, with respect to this registration, the Register contains information concerning one valid licensing agreement or several valid licensing agreements, and written consent of the relevant licensees to cancel the registration is not attached to the submission of the owner of the trademark.

Section 31. Invalidation of a Trademark Registration

(1) A trademark registration may be invalidated by the judgment of a court, if the registered trademark does not comply with the provisions of Section 3 of this Law, or if the grounds for invalidation of the trademark as specified in the provisions of Sections 6, 7, 8 or 9 of this Law exist (continue to exist at the time the matter is adjudicated).

(2) If the action is based on an earlier trademark (within the meaning of Section 7, Paragraph two), and the defendant has brought a counterclaim on the basis of non-use of the earlier trademark (within the meaning of Section 23), the trademark registration shall be invalidated to the extent that the counterclaim cannot be met.

(3) An action may be brought in the Regional Court of Riga pursuant to this Section by persons who, pursuant to the provisions of Section 18, Paragraphs two, three and four of this Law, are entitled, in relevant cases, to file oppositions to trademark registration. Such an action, if there exist sufficient grounds for it, may be brought as a counterclaim also in proceedings for unlawful use of a trademark.

(4) If the provisions referred to in Paragraph one of this Section are valid, the trademark registration shall be invalidated from the date of its registration.

(5) If there are grounds for invalidation of a trademark registration only with respect to some of the goods and services for which the trademark is registered, the registration shall be invalidated only with respect to those goods and services.

(6) A copy of the judgment of the court shall be sent to the Patent Office, which shall make a corresponding entry in the Register and publish in its official gazette a notice regarding the invalidation of the trademark registration or the relevant amendments in the registration information.

Section 32. Revocation of a Trademark Registration

(1) A trademark registration may be revoked by a judgment of the court if the trademark has not been actually used (within the meaning of Section 23 of this Law) for a period of five successive years in connection with the goods and services for which it is registered, and if there are not valid reasons for non-use.

(2) The action for revocation of a trademark registration referred to in Paragraph one of this Section may not be maintained (may not be allowed), if during the interval between the expiration of the said five-year period of non-use and the bringing of the action for revocation, actual use of the trademark has been commenced or resumed. The fact that a trademark has been used not longer than three months preceding the bringing of the action for revocation and that the preparations for the commencement or resumption of use of the trademark were commenced only after the expiration of the actual period of non-use of the trademark as specified in Section 23, shall not be considered to be commencement or resumption of use of a trademark.

(3) A trademark registration may also be revoked by a judgment of the court if, after registration of the trademark, through the action (or inaction) of the owner, it has become a generic name (established name) in the trade for a product or service with respect to which it is registered.

(4) A trademark registration may also be revoked by a judgment of the court if, as a result of the

use of a trademark, after its registration by the owner of the trademark or with the consent of the owner, in connection with the goods or services for which it is registered, the public may be misled, especially as to the nature, quality or geographical origin of those goods or services.

(5) Any interested party may bring an action in the Regional Court of Riga for revocation of a trademark pursuant to the provisions of this Section at any time during the period of validity of the trademark. Such a claim, provided there exist sufficient grounds for it, may be brought as a counterclaim, also in proceedings for unlawful use of a trademark.

(6) If grounds for revocation of the registration of a trademark exist with respect to only some of the goods and services for which the mark is registered, the registration shall be revoked only with respect to those goods and services.

(7) The court shall indicate in the judgment from which day the trademark registration shall be revoked. If it is not determined when the circumstances which are the basis for the revocation of the trademark registration had set in , it shall be revoked from the day when the application for the action was submitted to the court. A copy of the judgment of the court shall be sent to the Patent Office, which shall make the relevant entry in the Register regarding the revocation of the trademark or the relevant amendments in the registration information as of the day specified in the judgment and publish a relevant notice in its official gazette.

Section 33. Cancellation of a Trademark Registration due to Expiration of its Period of Validity (Deletion of a Trademark Registration)

(1) The Patent Office shall cancel a trademark registration if the term of trademark validity and the additional six-month period for renewal of the registration have expired but the registration has not been renewed (the mark is not re-registered) in accordance with the prescribed procedures.

(2) Registrations which have not been renewed shall be deleted from the Register as of the date following the last 10-year period of trademark validity. The Patent Office shall publish a corresponding notice in the official gazette and send it to the owner of the trademark.

Chapter VII Collective Marks

Section 34. Collective Marks and Rights to Them

(1) A collective mark may be formed by any sign that complies with the provisions of this Law concerning types of trademark (Section 3) and allows to distinguish the goods or services of the owner of the collective mark – the members (associates) of the association, from the goods and services of other undertakings. Each undertaking of such an association may at the same time also have its own trademarks.

(2) Any association, the existence of which is not contrary to the laws of its state of origin, and which has been registered in accordance with specified procedures, even if such an association does not own a manufacturing or commercial undertaking, may be the owner of a collective mark.

(3) Signs and indications which may be used, in trade, to designate the geographical origin of the goods or services, may be registered as collective marks without application to such marks the relevant restriction of Section 6, Paragraph one, Clause 3 of this Law. However, the registration of such collective marks does not entitle the owner the right to prohibit other persons from using, in commercial activities, such signs or indications, provided that such use complies with fair manufacturing and commercial activity practices; in particular, the right of third persons to use a

geographic name may not be opposed based on such a collective mark.

Section 35. Use of a Collective Mark and By-laws Governing Such Use

(1) The provisions for the use of trademarks, within the meaning of Section 23 of this Law, shall be deemed to be complied with as to a collective mark, if that mark is being used in any of the ways provided for in Section 23 and pursuant to the by-laws on the use of the collective mark, by at least one of the persons who has the right to use it.

(2) Collective marks may not be transferred to other persons. The right to use a collective mark may not be transferred to other persons under a licensing agreement, unless otherwise provided in the by-laws on the use of the collective mark.

(3) Unless otherwise provided in the by-laws on the use of the collective mark, the persons who have the right to use the collective mark, shall have the same rights and obligations in actions for infringement of a collective mark, as are provided for in Section 28, Paragraphs one and two with respect to trademark licences.

(4) In applying for registration of a collective mark, the by-laws on the use of the collective mark that have been approved by the administrative authority of the collective body (the applicant for the mark) or its authorised representative must be submitted in addition to the materials and documents specified in Section 10 of this Law. The by-laws shall contain a list of persons who have the right to use the collective mark (information to make possible unmistakable identification of such persons), conditions of use of the collective mark and information as to the monitoring of compliance with these conditions, including possible sanctions for non-compliance with these conditions. If the collective mark referred to in Section 34, Paragraph three of this Law is applied for, the by-laws must provide the opportunity for any person whose goods or services originate in the geographical area concerned, to become an member (associate) of the association which is the owner of the collective mark.

(5) After the publication of the notice of the registration of the collective mark, the by-laws on the use of the collective mark shall be available for inspection by any person.

(6) The owner of the mark shall inform the Patent Office, without delay, of any subsequent amendments to the by-laws on the use of the collective mark and pay the prescribed fee. The amendments to the by-laws on the use of the collective mark shall enter into effect with respect to third parties on the day of publication of the notice of the amendments in the official gazette of the Patent Office.

Section 36. Additional Provisions for Invalidation of a Collective Mark

(1) In addition to the grounds for opposition as provided for in Section 18 of this Law, any person may, pursuant to the prescribed procedures, file an opposition to the registration of a collective mark, if the registered mark does not comply with the requirements of Section 34, Paragraph one, or the owner of the mark does not comply with the requirements of Section 34, Paragraph two as to a owner of a collective mark, or if the by-laws on the use of the collective mark do not comply with the requirements of Section 35, Paragraph four, or the provisions of the by-laws are contrary to public policy or socially accepted principles of morality.

(2) In addition to the provisions of Section 31, the registration of a collective mark may also be invalidated by the judgment of a court as from the date of registration, if the claim is based on one of the grounds of the previous Paragraph of this Section.

(3) In addition to the provisions of Section 32 of this Law, the registration of a collective mark may also be revoked by the judgment of a court if:

1) the owner of the collective mark no longer exists;

- 2) the owner of the collective mark does not take reasonable measures to prevent infringements of the by-laws on the use of the collective mark; or
- 3) due to amendments to the by-laws on the use of the collective mark it no longer complies with the requirements of Section 35, Paragraph four, or the provisions of the by-laws are contrary to public policy or socially accepted principles of morality.
- (4) In the cases provided for in this Section, as regards the non-compliance of the by-laws on the use of the collective mark with the prescribed requirements, public policy or principles of morality, the Board of Appeals and the court shall not invalidate, or, as the case may be, revoke the collective mark, if, within the time periods set by the Board of Appeals or the court, the owner of the collective mark makes corrections to the by-laws on the use of the collective mark that eliminate the deficiencies.

Chapter VIII

International Registration of Trademarks

Section 37. Application of this Law with respect to International Registration of Trademarks

- (1) The provisions of this Law, especially, the provisions of Chapters II and III; Chapter IV, Sections 13, 18, 19 and Section 22, Paragraph one; Chapters V, VI and VII, shall also apply, *mutatis mutandis*, to the international registration of trademarks and to internationally registered trademarks, insofar as the Rules on the international registration of trademarks or the provisions of this Chapter do not provide otherwise.
- (2) On the basis of the Rules on the international registration of trademarks, and the provisions of this Law which are applicable to internationally registered trademarks and which are not contrary to the Rules on the international registration of trademarks, the Patent Office may issue special Rules prescribing in detail the actions of applicants for and owners of trademarks, as well as of the Patent Office and the Board of Appeals with respect to international registration of trademarks and the validity of such registration.
- (3) Fees shall be paid for applying for the international registration of a trademark, for the registration and for other actions related to international registration, in the amounts specified and pursuant to the prescribed procedures set out in the Rules on the international registration of trademarks and the laws and other regulatory enactments of Latvia.

Section 38. Actions of the Patent Office in Connection with Applications for International Registration (Registration)

- (1) Through the intermediary of the Patent Office, applications for the international registration may be made and the registration may be effected of such trademarks, as to which the state of origin, within the meaning of the Rules on international registration, is Latvia, as well as subsequent application of such international registration to a more extensive territory.
- (2) Also through the intermediary of the Patent Office amendments to international registration, may be made international registration may be renewed (re-registered for a new period of validity), or registration may be cancelled (surrendered) on the initiative of the owner, if the state of the owner of the trademark, within the meaning of the Rules on the international registration of trademarks, is Latvia.

Section 39. Validity of an International Registration in Latvia

- (1) An international registration of a trademark that has, pursuant to the prescribed procedure, entered into effect in Latvia, shall have the same effect as trademarks that have been entered into the Register (registered with the Patent Office pursuant to national procedures) pursuant to the procedures specified in this Law.
- (2) An international registration of a trademark shall be deemed not to have entered into effect at all or insofar as the trademark in question has been refused protection pursuant to prescribed procedures in Latvia.
- (3) The priority of an internationally registered trademark in Latvia shall be determined by the date when the mark was internationally registered with respect to Latvia, but in cases where the mark, pursuant to the international procedure of registration, has been granted right of priority from its earlier date of application, by such earlier date of application. If the international registration of a trademark has been applied to Latvia subsequent to the date of its international registration, the priority shall be determined by the date on which it was applied to Latvia. If an international registration has entered into effect in Latvia and replaces, pursuant to the request of the owner and in accordance with the Rules on the international registration of trademarks, an earlier registration of the same trademark effected at the Patent Office, the date of application and the priority date of that earlier registration, effected pursuant to the national procedure, shall be attributed to the internationally registered trademark in determining its priority.
- (4) The Patent Office shall examine internationally registered trademarks to ascertain their compliance with the requirements of Sections 6 and 8 of this Law. In the case of the registration a collective mark it shall also be ascertained whether the by-laws on the use of the collective mark have been included in the registration, in compliance with the provisions of Section 35, Paragraph four of this Law.
- (5) Opposition to the entry into effect of an international registration of a trademark in Latvia, as provided for in Section 18 of this Law, shall be filed within four months from the date of publication of an notice of trademark registration with respect to Latvia (territorial extension to the Republic of Latvia) in the official gazette of international registration of trademarks.
- (6) If, as a result of an expert-examination, it is determined that an international trademark does not comply with the requirements of Paragraph four of this Section, or if an opposition has been filed to such registration, the Patent Office shall, within the terms and pursuant to the procedures specified by the Rules on the international registration of trademarks, notify the International Bureau of the refusal of the particular international registration (initial refusal). Within three months from the date of receipt of such a refusal, the owner of the international registration is entitled to submit an appeal (a reply to the opposition) as provided for in Section 13, Paragraph eight of this Law.
- (7) Appeals and oppositions in the Board of Appeals shall be heard pursuant to the provisions of Sections 18 and 19 of this Law and, in the case of a collective mark, also pursuant to the provisions of Section 36, Paragraph one, insofar as the Rules on the international registration of trademarks do not have differing provisions.
- (8) The Patent Office shall, pursuant to the prescribed procedures, notify the International Bureau of all the decisions of the Board of Appeals and court judgments which have entered into effect, pursuant to which international registration of a trademark in Latvia has been invalidated or revoked, in full or in part, or pursuant to which the initial refusal of international registration has been cancelled (changed).

Chapter IX

Geographical Indications

Section 40. General Provisions on Geographical Indications

(1) Geographical indications, pursuant to the provisions of this Chapter, shall be protected without their registration.

(2) Pursuant to the provisions of international agreements binding on Latvia, special protective measures pertaining to specific types of geographical indications or a list of specific geographical indications may be prescribed.

(3) Geographic names and signs or indications of a geographical nature that are not perceived by consumers and trade circles to be in connection with the specific origin of the goods or services, shall not be considered to be geographical indications within the meaning of this Law, and shall not be protected; including designations, that although they comply with the definition of geographical indications, have lost their original meaning in the territory of Latvia and have become generic names for types of goods or services.

Section 41. Scope of Legal Protection of Geographical Indications

(1) False geographical indications or any other such geographical names or designations of geographical nature or similar signs may not be used in commercial activities, if their use may mislead consumers as to the geographical origin of the goods or services.

(2) If goods or services, that are usually marked by a geographical indication, and in the perception of consumers and trade circles possess a special quality or special characteristics, the use of such geographical indications in commercial activities shall be permitted only in connection with such goods or services of the said origin and only if they have such qualities or characteristics.

(3) If a geographical indication is well-known and enjoys a special reputation among consumers or in the affected trade circles, the use of such a geographical indication, or a similar sign, in commercial activities for goods or services of a different origin shall not be permitted even in the absence of a risk of misleading consumers as to the geographical origin, if such use is likely to take unfair advantage of, or be detrimental to, the reputation or the distinctive character of the geographical indication.

Section 42. Criteria for Determining the Origin of Goods and Services

(1) For the purposes of the provisions of this Chapter:

1) the origin of goods shall be determined by the place of manufacture, or by the origin of the basic raw materials, or of the main components of these goods; and

2) the origin of services shall be determined by the location, as registered in the Enterprise Registry, of the persons providing the services, or by the nationality or permanent place of residence of natural persons exercising actual control over the commercial activities, or the management of the undertaking.

(2) The criteria for evaluation shall be specified separately for each case depending on their influence on the reputation of the respective goods or services, taking into account such reputation and the perception of consumers; geographical indications of a local and regional nature may be considered genuine, if they, with respect to the origin of goods or services, are evaluated as genuine with respect to a larger region or the state as a whole.

Section 43. Enforcement of Legal Protection of Geographical Indications

(1) Use of signs, in commercial activities, contrary to the provisions of Section 41 of this Law shall be deemed a manifestation of unfair competition, and shall be subject to sanctions provided

for in regulatory enactments on unfair competition, and other regulatory enactments.

(2) An action to enjoin the unlawful use of a geographical indication may be brought in the Regional Court of Riga by any interested persons, including professional associations, and associations of manufacturers, traders or providers of services, whose articles of association provide for the protection of the economic interests of their associates (members), as well as organisations and authorities whose purpose, under their articles of association, is the protection of the rights of consumers.

Transitional Provisions

1. With the coming into force of this Law, the Law On Trademarks (*Latvijas Republikas Augstākās Padomes un Ministru Padomes Ziņotājs*, 1993, No.12/13) is repealed.

2. With respect to trademarks, the registration of which has been applied for at the Patent Office or the international registration of which was applicable to Latvia before the entry into force of this Law, such trademark registration procedures and such prerequisites for trademark registration shall apply as were in effect on the day on which the application for registration of the trademark was filed or from which the international trademark registration was applicable to Latvia.

3. The grounds for invalidation of a trademark registration referred to in Section 6, Paragraph two, and Section 9, Paragraph four, of this Law shall apply to any trademark regardless of when the application for trademark registration was filed or when the international trademark registration became applicable to Latvia.

This Law has been adopted by the *Saeima* on 16 June 1999.

President

G.Ulmanis

Riga, 1 July 1999