

ARMENIA

LAW ON TRADEMARKS, SERVICE MARKS AND APPELLATIONS OF ORIGIN

(of March 20, 2000)

This Law shall govern relations concerning the registration, legal protection and use of trademarks, service marks and appellations of origin.

PART I TRADEMARKS AND SERVICE MARKS

CHAPTER 1 TRADEMARKS, SERVICE MARKS AND THEIR LEGAL PROTECTION

Trademarks and Service Marks

1. Trademarks and service marks (hereinafter “trademark”) represent the designation by means of which the goods and services of a particular legal entity or individual manufacturer are correspondingly distinguished from the same type of goods and services (hereinafter “goods”) of other legal entities and individual manufacturers.

Legal Protection of a Trademark

2. Legal protection for a trademark in the Republic of Armenia shall be granted on the basis of State registration (hereinafter “registration”) of the trademark, in accordance with the procedure established by this Law, or pursuant to the international agreements to which the Republic of Armenia is party.

Rights relating to trademarks shall be protected by the law.

Certificate for Registration of a Trademark

3.—(1) A trademark may be registered in the name of a legal entity or an individual entrepreneur.

(2) The owner of a registered trademark shall be granted a certificate of registration for the trademark (hereinafter “trademark certificate”).

(3) A trademark certificate shall attest to the fact that the trademark has been registered, its priority and also the exclusive right to use the trademark in relation to the goods indicated in the trademark certificate.

Exclusive Right to a Trademark

4.—(1) The exclusive right to a trademark shall be valid from the time of its registration.

(2) The owner of a trademark shall have the exclusive right to own, use and dispose of the mark, and also to prohibit its use by other persons. No person shall have the right to use a trademark protected in the Republic of Armenia, without the authorization of the owner of the trademark.

(3) The owner of a registered trademark shall have the exclusive right to prohibit third parties from producing, using, importing, selling and proposing for sale a trademark or a good designated by that mark, in the process of commercial activity, without his authorization, and also the marketing by other means or storage for the same purpose of the good designated by the mark or of the trademark, as well as the performance of the acts envisaged by Article 22(1) and (2) of this Law, if the trademark is identical or similar to the point of confusion with his trademark and is used in relation to goods

(a) registered under his trademark;

(b) of the same type as goods registered under his trademark.

(4) It shall be forbidden to use, in the process of commercial activity, a particular designation representing a reproduction, imitation or translation of a designation, similar to the point of confusion with a trademark recognized and generally known in the Republic of Armenia in relation to specific goods, and which may be used without the owner’s permission in relation to

(a) identical goods or those of the same type;

(b) goods not of the same type which, by creating a misleading impression, force a link to be assumed between these goods and the owner of a well-known trademark, provided that such use may harm the latter’s interests.

(5) These provisions shall also extend to cases where an essential part of a designation is a reproduction of such a well-known trademark or its imitation to the point of confusion.

(6) If a trademark is registered in the Republic of Armenia in the name of an agent or representative of the owner of the trademark, protected in one of the States parties to the Paris Convention for the Protection of Industrial Property (hereinafter

the “Paris Convention”), without the owner’s consent, the owner shall be entitled to prohibit the agent or representative from using the trademark without his authorization, if he is unable to provide proof justifying his actions.

Types of Trademark

5.—(1) Verbal (including words, numbers, letters and names), pictorial, three-dimensional, sound and any other form of designations, or a combination thereof, may be registered as trademarks.

(2) A trademark may be registered in any color or combination of colors.

CHAPTER 2 REGISTRATION OF A TRADEMARK

Application for Registration of a Trademark

6.—(1) An application for registration of a trademark (hereinafter “an application”) shall be filed with the Patent Office of the Republic of Armenia (hereinafter “the Office”) by a legal entity or an individual manufacturer (hereinafter—up to the end of this Part—“an applicant”), in whose name registration of the trademark is requested.

(2) An application may also be filed through a patent attorney registered with the Office.

(3) Foreign legal entities and individual manufacturers shall manage affairs relating to the registration of trademarks, through patent attorneys registered with the Office. The authority of a patent attorney shall be confirmed by a power of attorney issued by the person in whose name registration of the trademark is requested.

(4) The procedure for certifying and registering patent attorneys shall be established by the Office.

(5) The activities of patent attorneys shall be governed by the Statute approved by the Government of the Republic of Armenia.

(6) An application shall relate to one trademark only and shall contain:

(a) a request for registration of the trademark, including the applicant’s name and his place of residence or business;

(b) an image of the claimed designation and its description;

(c) a list of goods grouped in accordance with the classes of the International Classification of Goods and Services, for which registration of the mark is claimed.

(7) The application shall be accompanied by a:

(a) receipt for payment of the requisite fee for filing the application and carrying out an examination;

(b) the regulations for the collective mark, where an application is filed for such a mark;

(c) a document confirming the authority of a patent attorney (power of attorney), if an application is filed through such an attorney.

(8) The application shall be filed in Armenian. The documents attached to the application may be submitted in another language. In this case, applicants from the Republic of Armenia shall submit their translation into Armenian together with the application and foreign applicants—within two months of the application filing date.

(9) The requirements for application documents shall be established by the Office.

Priority of a Trademark

7.—(1) The priority of a trademark shall be established according to the year, month and day (hereinafter “the date”) on which an application is filed with the Office.

(2) The priority of a trademark may be established according to the date on which the first application is filed in one of the States parties to the Paris Convention (convention priority), if the application is filed with the Office within six months of the date in question.

(3) The priority of a mark displayed among the exhibits at official, or officially recognized, international exhibitions, on the territory of one of the States parties to the Paris Convention, may be established according to the date on which the exhibit began to be displayed at the exhibition (exhibition priority), if the application is filed with the Office within six months of the date in question.

(4) An applicant wishing to enjoy the right of convention or exhibition priority shall, when filing an application or within two months of the day on which the application is filed with the authorized State body, inform that body accordingly and shall attach documents attesting to the right to this requirement, or submit these documents to the Office within three months of the date on which the application is filed.

(5) The priority of a trademark may be established according to the priority date of a trademark having international registration, in accordance with the international agreements to which the Republic of Armenia is a party.

(6) If, in the course of an examination, it is established that designations submitted for registration, which are identical or similar to the point of confusion, and coincide partially or fully with a list of goods, have the same priority date, a designation (or one of the designations similar to the point of confusion) may be registered in relation to the goods coinciding, in the name of one of the applicants, in accordance with an agreement reached between the applicants.

Applications relating to goods coinciding shall, within six months of the day on which the Office receives appropriate notification, be considered to have been withdrawn, if the applicants do not reach agreement on the registration of the designation relating to the goods coinciding.

Examination of an Application

8.—(1) The examination of an application, including a preliminary examination and an examination of the claimed designation, shall be carried out by the Office.

(2) An applicant may, within two months of the day on which the application is filed until a decision is taken thereon, at his own initiative make additions, clarifications and corrections to the application materials.

(3) An applicant may, in the course of an examination until a decision is taken to register a designation, submit a request to change the applicant for the application in question.

(4) If additional materials substantially change the designation submitted for registration, or if the list of goods stated in the application includes goods that are not of the same type, those materials will not be considered and may be filed by the applicant as an independent application.

(5) During an examination the Office may request the applicant to provide additional materials without which the examination cannot be carried out. The additional materials shall be submitted within two months of the day on which the relevant request is received.

(6) The period in question may, at the applicant's request, be extended by a maximum of six months, provided the request to extend the period has been received before the end of the two months referred to above. Where the requested materials are not submitted within the prescribed period, the application shall be considered to have been withdrawn and the applicant shall be informed accordingly.

(7) An application may, at the applicant's request, be withdrawn at any stage of the examination.

Preliminary Examination

9.—(1) The preliminary examination of an application shall be conducted within one month of the day on which the application is filed. In cases where a request is submitted, in accordance with Article 8(5) of this Law, the period in question shall be interrupted until such time as a response is received.

(2) In the course of a preliminary examination, the content of the application shall be verified, as shall the submission of the requisite documents and their compliance with the established requirements. On the basis of the results of the

preliminary examination, the applicant shall be informed as to whether the application will be considered.

(3) Where an application is considered, the applicant shall be informed of the date of submission of the trademark.

Examination of a Claimed Designation

10.—(1) A claimed designation shall be examined within six months of the completion of the preliminary examination. During the examination, the priority of the trademark shall be established and it shall be verified whether the claimed designation meets at least the requirements of Article 11 and Article 12(1) of this Law.

(2) On the basis of the outcome of an examination, a decision shall be taken to register the claimed designation as a trademark or to refuse to register the designation.

(3) The applicant may, within two months of the day on which a decision to refuse to register a designation is received, submit a request for re-examination and shall provide details of the justification therefor.

(4) The period in question may, at the applicant's request, be extended by a maximum of six months, if the request to extend the period has been received before the end of the two months referred to above.

(5) An examination decision to register a designation may be reviewed by the Office as a result of the receipt of an application for a designation enjoying an earlier priority and identical or similar to the point of confusion, in relation to goods of the same type or in connection with the registration of an appellation of origin.

Absolute Grounds for Refusing to Register a Trademark

11.—(1) A trademark shall not be registered if it consists only of designations which

(a) do not have a distinguishing feature;

(b) represent State arms, flags and emblems, official names of States, full or abbreviated names of international organizations, official emblems, official control and guarantee stamps and hallmarks, seals, decorations and other distinguishing signs or designations similar to those listed to the point of confusion. Such designations may be included as unprotected elements in a trademark, with the consent of their owner or of the appropriate competent authority;

(c) are in general use as designations characterizing goods of a particular type;

(d) are generally recognized symbols and terms;

(e) indicate the form, quality, quantity, features, cost, and general purpose of the good, as well as the time and place of its manufacture and production;

(f) are exclusively part of the outward appearance of the good, which

- stems from the character of the good itself,
- is necessary to achieve some kind of technical result;
- gives the good essential value.

(2) The designations listed in paragraph (1)(a) to (f) of this article may be included as unprotected elements in a trademark, provided that they do not constitute the vast majority of the components of the trademark.

(3) Designations may not be registered as a trademark, if they constitute or contain

(a) information relating to the good or manufacturer that is false or misleading to the user;

(b) a geographical designation submitted for registration in relation to such goods which have not been produced in the place with the geographical designation in question, if the use of this geographical designation misleads the user as to the actual place of origin of the goods;

(c) a geographical designation which individualizes wines that have not been produced in the place with the geographical designation in question, or a geographical designation individualizing spirits that have not been produced in the place with the geographical designation in question, even if the actual origin of the goods, or the geographical designation, is used in translation or in combination with such expressions as “kind,” “type,” “style,” “imitation,” and other similar expressions.

(4) Designations contrary to the interests of society, the principles of humanity and morality, and rules preventing unfair competition (business practice) may not be registered as a trademark.

(5) The requirements of paragraph (1)(f) of this article in relation to the place of production (geographical designation) of the good shall not be extended to collective marks registered in accordance with Article 21 of this Law.

Other Grounds for Refusing to Register a Trademark

12.—(1) Designations identical or similar to the point of confusion may not be registered as a trademark, if they contain

(a) a trademark with earlier priority, already registered or filed for registration in the Republic of Armenia in the name of another person and in relation to identical goods or those of the same type;

(b) trademarks of other persons in relation to goods of the same form or type, protected without registration pursuant to the international agreements to which the Republic of Armenia is a party;

(c) trademarks recognized as being generally known in the Republic of Armenia in relation to goods that are identical or of the same type, as defined by the Office;

(d) the name of the place of origin of the good protected by the law of the Republic of Armenia, excluding the cases in which it is included as an unprotected element in a trademark registered in the name of persons entitled to use such a name;

(e) certified signs registered according to the established procedure.

(2) Designations may not be registered as a trademark, if they reproduce

(a) trade names (or part thereof), known in the Republic of Armenia and belonging to other persons, if they have obtained entitlement thereto prior to the filing date of the application for a trademark in relation to goods of the same type;

(b) industrial designs with earlier priority, entitlement to the enjoyment of which in the Republic of Armenia belongs to other persons;

(c) names, known in the Republic of Armenia, of works of science, literature or art, or quotations therefrom, without the consent of the authors or of their heirs;

(d) first names, family names, pseudonyms and derivatives thereof, portraits and facsimiles of famous people without the permission of such persons or their heirs, or without permission given in accordance with the procedure established by the Government of the Republic of Armenia.

(3) In order for a trademark to be recognized as known in the Republic of Armenia, in accordance with the requirement of paragraph (1)(c) of this article, consideration shall be given to the context in which it is known to the corresponding parts of society as a result of the honest use of the trademark in question in one of the States parties to the Paris Convention, or in advertising activity in the Republic of Armenia.

(4) The provisions of paragraph (1)(a) to (c) of this article shall also be extended to trademarks filed for registration in relation to goods that are not of the same type, if this may mislead the user and become the reason for the assumption of a link between these goods and the owner of the trademark registered, protected without registration or recognized as known in the Republic of Armenia, taking into account that this may harm the latter's interests.

(5) The provisions of paragraph (1) of this article shall not be extended to identical geographical designations individualizing wines, if they are combined with the corresponding distinguishing complementary indications, provided that they preserve the requirements of Article 11(3)(b) of this Law.

Appeals Against Examiners' Decisions and Renewal of Deadlines Missed by Applicants

13.—(1) Where he does not agree with the decision taken as a result of a preliminary or re-examination, an applicant may, within three months of the day on

which he receives the decision, submit an appeal to the Office Appeals Board (hereinafter “the Appeals Board”).

(2) The Appeals Board may examine an appeal in accordance with the procedure established by the Office.

(3) Where he does not agree with the decision taken as a result of a preliminary or re-examination, or a decision reached by the Appeals Board, an applicant may refer the matter to the courts in accordance with the established legal procedure.

(4) An applicant may familiarize himself with the materials indicated in an examiner’s decision. The applicant may, within one month of the day on which the decision is received, request copies of these materials.

(5) On the basis of a request filed by the applicant, the Office may renew the deadline provided for by Article 8(3) and (6) of this Law and paragraphs (1) and (3) of this article, and missed by the applicant, within three months of its expiry, provided that the prescribed fee is paid.

Registration of a Trademark

14. The Office shall, on the basis of a decision to register a trademark within one month of receiving a receipt for payment of the prescribed fee, enter a trademark in the State Register of Trademarks of the Republic of Armenia (hereinafter—up to the end of this Part—“the Register”). The Register shall contain the trademark, information on its owner, the priority date and registration of the trademark, a list of goods for which the trademark is registered, and other information approved by the Office, as well as subsequent amendments thereto.

Issue of a Trademark Certificate

15. A trademark certificate shall be issued by the Office within one month of the day on which the trademark is entered in the Register. The form of the certificate and a list of the information contained therein shall be determined by the Office.

Period of Validity of Trademark Registration

16.—(1) The registration of a trademark shall be valid for 10 years from the filing date of the application with the Office.

(2) The period of validity of trademark registration may be extended repeatedly, on each occasion for 10 years. The validity of trademark registration shall be extended at the request of its owner, filed during the final year of the current period of validity of registration.

(3) The validity of the registration may also be extended at the request of the trademark owner, filed within six months of the expiry of the period of validity of the trademark's registration, provided that an additional fee has been paid.

(4) The Office shall enter in the Register details of the extension of the period of validity of registration of a trademark and, at the owner's request, in the trademark certificate.

Entry of Amendments in the Register

17.—(1) A trademark owner shall inform the Office of any change in his title or family name, first name and patronymic, a reduction in the list of goods for which the trademark is registered, a change in the individual elements of the trademark, which do not change its substance, and other changes relating to the registration of the trademark.

(2) Amendments shall be entered in the Register and a trademark certificate shall be issued at the request of the trademark owner, provided that the prescribed fee has been paid.

Publication of Registration Information

18. The Office shall publish information relating to the registration of a trademark and provided for by Article 14 of this Law, in its official journal and within three months of the day of registration.

Registration of a Trademark Abroad

19.—(1) Legal persons and individual manufacturers in the Republic of Armenia may register a trademark abroad or register it internationally.

(2) An application for international registration of a trademark shall be filed through the Office.

CHAPTER 3 COLLECTIVE MARK

Collective Mark

20.—(1) A trademark of any economic association, intended to designate goods possessing combined qualitative or other general characteristics, and manufactured and/or produced thereby shall be regarded as a collective mark.

(2) A collective mark and the entitlement to its use shall not be assigned.

Registration of a Collective Mark

21.—(1) The regulations for a collective mark shall be attached to an application for registration of such a mark and shall contain the name of an economic association, the name of a legal person authorized to register the collective mark in their own name, a list of legal persons entitled to use this mark, the purpose of registration, the names of the goods designated by the collective mark, and their combined qualitative or other general characteristics, conditions of use of the collective mark, procedure for monitoring its use, and responsibility for infringing the regulations of the collective mark.

(2) In addition to the information provided for by Article 14 of this Law, details of the legal persons entitled to use a collective mark shall also be entered in the Register. These details, together with extracts from the regulations on the goods possessing common qualitative or other general characteristics, for which the collective mark is registered, shall be published in the Office's Official Journal.

(3) The owner of a collective mark shall inform the Office of any amendments made to the collective mark regulations.

(4) In cases where a collective mark is used on goods which do not have common qualitative or other general characteristics, the validity of registration may be terminated prematurely either in full or in part, on a court decision based on a request by any person.

(5) A collective mark or application therefor in accordance with the procedure established by the Office may correspondingly be converted into a trademark or an application for such a mark of a legal person or individual manufacturer, and vice versa.

CHAPTER 4 USE OF A TRADEMARK

Use of a Trademark and the Consequences of its Non-Use

22.—(1) A trademark shall be considered to be used when it is placed on goods for which the trademark is registered, and/or their packaging.

(2) A trademark shall also be considered to be used when it is applied in advertising, publications, and also official forms, signboards, displays of exhibits at exhibitions and fairs organized in the Republic of Armenia, only in cases where the mark cannot be displayed on goods and/or their packaging.

(3) Legal persons and individual manufacturers acting as intermediaries may, on the basis of an agreement, use their trademark in addition to that of the manufacturer of the goods or instead of it.

(4) The validity of registration of a trademark based on a request by any person may, following a court decision, be terminated prematurely in relation to all goods for which it is registered or part thereof, if it is not used by the owner of the trademark or person with such an entitlement, according to a licensing agreement and pursuant to Article 26 of this Law, continuously from the date of registration of the trademark or in the five years preceding the request.

(5) The validity of the registration of a trademark may not be terminated in relation to all goods or part thereof, if:

(a) the trademark owner or person entitled to use the trademark has cited reasons relating to the fact that the non-use of the trademark is the result of circumstances which are insurmountable, unforeseen and beyond his control;

(b) the trademark was used by its owner or by a person entitled to use it such that it differs from that registered only in relation to individual elements which do not change its distinguishing features;

(c) in the Republic of Armenia the trademark was placed on goods and/or their packaging exclusively for export purposes.

(6) Certain pharmaceutical, food and industrial goods and types thereof, and also alcoholic and non-alcoholic drinks, shall be labeled with registered trademarks. A full list of these goods shall be approved by the Government of the Republic of Armenia.

Restriction of Rights of a Trademark Owner

23.—(1) The owner of a trademark may not prohibit third persons from using, in the process of commercial activity:

(a) their title (name, pseudonym) or address;

(b) designations characterizing the form, quality, quantity, cost, purpose of creation (provision) and other features of a good, and also designations characterizing the time and place of production and manufacture (provision) of a good;

(c) a trademark, where this is required to indicate the purpose of creation (provision) of a good, in particular as auxiliary or spare parts, if they are used without harming the lawful interests of the trademark owner and of third persons, and without misleading the user.

(2) The owner of a registered trademark may not prohibit the use by other persons of a given mark in relation to goods which the mark owner introduced, or which were introduced with his consent, into the economy in any country with this designation, if the characteristics of these goods in the marketing process were not subject to change either naturally or as a result of interference.

Preventive Labeling

24. A trademark owner may place, next to the trademark, a preventive mark confirming registration of the trademark in question in the Republic of Armenia—in the form of an ® in a circle or the individual Latin letter **R**, or also in the form of the expressions “Trademark” or “Registered trademark.”

CHAPTER 5 TRANSFER OF A TRADEMARK

Assignment of a Trademark

25. A trademark may be assigned by agreement to other persons for all the goods, or a number thereof, stated in the trademark certificate. The assignment of a trademark shall not be permitted, where this might be the reason for misleading the user as regards the good itself or its manufacturer.

Permission to Use a Trademark

26.—(1) A trademark owner (licensor) may, on the basis of a licensing agreement, give another person (licensee) permission to use the trademark.

(2) The licensing agreement shall indicate that the quality of the licensee's good shall not yield to the quality of the licensor's good and that the licensor shall monitor compliance with this requirement.

(3) Permission to use a trademark shall not be given, where this may be the cause of the user being misled as regards the place where the good is produced.

***Registration of an Agreement
to Assign a Trademark and a Licensing Agreement***

27. An agreement to assign a trademark and a licensing agreement shall be registered with the Office. An unregistered agreement shall be considered invalid.

**CHAPTER 6
TERMINATION OF LEGAL PROTECTION OF A TRADEMARK**

Recognition of Trademark Registration as Invalid

28.—(1) The registration of a trademark may be recognized as invalid either fully or partially during the whole of the period of its validity, if it is produced in contravention of the requirements of Articles 3 and 11 of this Law, or used dishonestly, in particular in accordance with Article 6^{septies} of the Paris Convention, and also within five years of the day on which information on the registration of the trademark is published in the Official Journal—based on the requirements of Article 12 of this Law.

(2) Any natural or legal person may submit an appeal to the Appeals Board regarding recognition of the registration of a trademark as invalid. The Appeals Board shall examine the appeal in accordance with the procedure established by the Office.

(3) An Appeals Board decision may, within six months of the day in which it is taken, be challenged in the courts.

(4) In accordance with paragraph (1) of this article, the registration of a trademark may be recognized as invalid either fully or partially, also at the Office's instigation and according to the procedure approved thereby.

Cancellation of Registration and Re-registration of a Trademark

29.—(1) The Office shall cancel the registration of a trademark in the following cases:

(a) the period of validity of trademark registration, provided for by Article 16 of this Law, has expired;

(b) in accordance with Article 21(4) of this Law, on a court decision the registration of a collective mark is terminated prematurely as a result of the use of the collective mark on goods which do not have common qualitative or other general characteristics;

(c) in accordance with Article 22(4) of this Law, on a court decision the validity of a trademark is terminated prematurely as a result of the trademark not being used;

(d) registration of a trademark is recognized as invalid—in accordance with Article 28 of this Law;

(e) the trademark owner goes into liquidation;

(f) following a request by any person, on a court decision a trademark is recognized as having been converted into a designation and as having become generally used to designate goods of a particular type;

(g) in connection with the registration of an appellation of origin for a good identical or similar to the trademark to the point of confusion, taking into account the requirements of Article 41(7) of this Law;

(h) the owner of the trademark has rejected said mark.

(2) In cases where the registration of a trademark is canceled in accordance with paragraph (1) of this article (excluding subparagraph (d)), the trademark may not, within three years of the day on which the validity of registration is terminated, be registered in the name of other persons, excluding the previous owner or his successor in title.

PART II APPELLATION OF ORIGIN

CHAPTER 7 APPELLATION OF ORIGIN AND ITS LEGAL PROTECTION

Appellation of Origin

30.—(1) An appellation of origin (hereinafter “appellation”) shall be the name of a country, populated area, locality or other geographical location (hereinafter “geographical location”), used to designate a good, the particular features of which are exclusively or mainly defined by natural conditions and/or human factors characteristic of the geographical location in question.

(2) The appellation may be the historical name of a geographical location.

(3) A name which, although constituting or containing the name of a geographical location, has not come into general use in the Republic of Armenia as a means of expressing the designation of a particular type of good, unconnected with the place in which it is produced, shall not be recognized as an appellation.

Legal Protection of an Appellation

31.—(1) Legal protection for an appellation in the Republic of Armenia shall be granted on the basis of its registration in accordance with the procedure established by this Law, or in accordance with the international agreements to which the Republic of Armenia is party.

(2) The appellation shall be protected by law.

(3) The appellation may be filed for registration by:

(a) one or more legal persons or individual manufacturers producing the good in question in the locality indicated in the application;

(b) organizations protecting users’ rights;

(c) other competent authorities involved in the production of the good in question.

(4) A legal person or individual manufacturer filing an appellation for registration shall be entitled to use it, if the good he produces meets the requirements of Article 30(1) of this Law.

(5) The right to use this appellation, registered in accordance with the established procedure, may be granted to any legal person or individual manufacturer producing the good in the same geographical location and with the same features.

(6) Registration of the appellation shall be valid indefinitely.

(7) A name, which designates the geographical location of actual production of a good and gives the user a false impression as to how the good appears to have been produced in another geographical location of the same name, shall not be subject to legal protection as an appellation of origin.

(8) In the case of geographical designations of the same name which individualize wines, each shall be subject to legal protection, if they contain appropriate distinguishing additions, and provided that the requirements of paragraph (5) of this article and the rightful interests of producers have been satisfied.

CHAPTER 8 REGISTRATION AND PROVISION OF THE RIGHT TO USE AN APPELLATION

An Application for Registration and the Right to Use an Appellation

32.—(1) An application for registration and/or the right to use an appellation (hereinafter “an application”) shall be filed with the Office by legal persons and/or individual manufacturers (hereinafter “an applicant”), indicated in Article 31(3) of this Law.

(2) An application may be filed in accordance with the procedure established by Article 6(2) of this Law, in accordance with the requirements of paragraphs (3) to (5).

(3) An application shall relate to a single appellation and shall contain:

(a) a request for registration and/or provision of the right to use the appellation, containing details of the applicant and his place of business or residence;

(b) the claimed appellation;

(c) an indication of the good for which registration and/or provision of the right to use the appellation are requested, with an indication of the name of the place (geographical location) in which the good is produced;

(d) documents clearly identifying the borders of the geographical location, in relation to which the appellation is applied;

(e) a description of the particular features (basic physical, chemical, microbiological and/or organoleptic characteristics) of the good (where necessary—also of the raw material);

(f) where necessary—a description of the local original method by which the good is produced;

(g) details of special labeling connected with the appellation.

(4) The following shall be attached to the application:

(a) for applicants from the Republic of Armenia—a certificate from the local government authority stating that the applicant is in the geographical location in question and produces the good, the special features of which are defined by natural conditions and/or human factors characteristic of the geographical location in question (for the applicants indicated in Article 31(3)(a) of this Law);

(b) for foreign applicants—a document attesting to their right to use an appellation in the country in which the good originates;

(c) a receipt for payment of the prescribed fee for filing an application and conducting an examination;

(d) a document confirming the capacity of a patent attorney (power of attorney), if the application is filed through such an attorney.

(5) An application shall be filed in Armenian. The documents attached to the application may be filed in a different language. In this case, applicants from the Republic of Armenia shall be obliged to submit their translation into Armenian together with the application, and foreign applicants—within two months of the day on which the application is filed.

(6) The requirements for application documents shall be established by the Office.

Examination of an Application

33.—(1) An application shall be examined, including a preliminary examination and examination of the claimed appellation, by the Office.

(2) An applicant may, from the day on which the application is filed with the Office until a decision is taken on it, make amendments, clarifications and corrections to the application materials at his own initiative.

(3) If the additional materials change substantively the appellation filed for registration, these materials shall not be considered and may be established by the applicant as a separate application.

(4) During the examination, the Office may request from the applicant additional materials, without which the examination cannot be conducted. The additional materials shall be filed within two months of the day on which the request is received.

(5) At the applicant's request, the period in question may be extended by not more than six months, if the request to extend the period has been received prior to the expiry of the aforementioned two-month period. Where the requested materials are not submitted within the prescribed period, the application shall be considered to have been withdrawn.

(6) The preliminary examination of the application shall be conducted within one month of the day on which the application is filed with the Office. Where the request is dispatched in accordance with paragraph (4) of this article, the period in question shall be interrupted until such time as a response is received.

(7) During the preliminary examination the content of the application shall be verified, along with the presence of the requisite documents, and also their compliance with the established requirements. On the basis of the results of the preliminary examination, the applicant shall be informed as to whether the application will be considered.

(8) According to the application considered, an examination of the claimed appellation shall be conducted, during which its compliance with the requirements of Article 30 of this Law shall be verified.

(9) Following the examination, the Office shall take a decision to register the appellation and to provide the right to use it, or to refuse to register the appellation and not to provide the right to use the previously registered appellation.

(10) Where the applicant does not agree with an examination decision, he may, within two months of the day on which he receives the decision, file a request for a re-examination to be carried out, and shall explain the relevant grounds.

(11) The period in question may, at the applicant's request, be extended by not more than six months, if the request to extend the period has been received prior to expiry of the aforementioned two-month period.

(12) At the applicant's request, an application may be withdrawn at any stage of the examination.

Appeal Against an Examiner's Decision and Renewal of Deadlines Missed by the Applicant

34.—(1) Where he does not agree with a preliminary or re-examination decision, an applicant may, within three months of the day on which he receives the decision, submit an appeal to the Appeals Board. The Appeals Board shall examine the appeal in accordance with the procedure approved by the Office.

(2) Where he does not agree with a preliminary or re-examination decision, or a decision reached by the Appeals Board, an applicant may settle the matter in the courts in accordance with the established legal procedure.

The Office may renew the deadline provided for by Article 33(4) and (5) of this Law and paragraph (1) of this article, and missed by the applicant, within three months of its expiry, based on a request filed by the applicant and subject to payment of the prescribed fee.

Grounds for Refusing to Register an Appellation

35. A name may not be registered as an appellation of origin, which:

(a) has been filed for registration by persons lacking the requisite authorization;

(b) does not meet the requirements of Article 30 of this Law;

(c) is identical or similar to the point of confusion to an appellation already registered or filed for registration in the Republic of Armenia, for goods of the same type;

(d) is not compatible with the interests of society, principles of humanity and morality, or the customs of fair competition (business practice);

(e) is liable to infringe the rights of other third parties (copyright, industrial property right and so on);

(f) is not protected, the protection of which has been terminated, or whose use is not permitted in the country of origin;

(g) is misleading, in particular as regards the character, quality or geographical origin of the good, even if the appellation is literally authentic according to the sense

of the geographical location of origin of the good (in the case of identical appellations), but creates a false impression for the user whereby the good has been produced in a different geographical location. In the case of identical names, an appellation may be registered, if on the mark of the good some kind of distinguishing feature is clearly and visibly displayed, so as to preclude the user from being misled, for example by the name of the country or region of origin.

Registration of an Appellation and Issue of a Certificate for the Right to use the Appellation

36.—(1) The Office shall, on the basis of a decision to register an appellation and within one month of receiving a receipt for payment of the prescribed fee, enter the appellation in the State Register of Appellations of Origin of the Republic of Armenia (hereinafter “the Register”). The Register shall contain the appellation, the particulars of the holder of the certificate for the right to use the appellation (hereinafter “the certificate”), the designation of the good for which the appellation in question is registered, a description of its particular features, other information according to a list drawn up by the Office relating to the registration and provision of the right to use the appellation, and also subsequent changes to the information.

(2) The certificate shall be issued by the Office within one month of the day on which the appellation is entered in the Register.

(3) The form of the certificate and the content of the information contained therein shall be determined by the Office.

Period of Validity of a Certificate for the Right to use an Appellation

37.—(1) A certificate shall be valid for a period of 10 years from the date on which the application is filed with the Office.

(2) The period of validity of a certificate may, at the request of its holder, be extended repeatedly, on each occasion for 10 years, if certificates from the appropriate competent authorities are submitted together with the request, concerning the fact that the certificate holder is in the geographical location in question and that the good with the features indicated in the certificate is produced. A request to extend the period of validity of the certificate shall be submitted during the final year of the current period of its validity.

(3) The period of validity of a certificate may also be extended at the request of the holder, submitted within six months of the expiry of the certificate’s period of validity, provided that an additional fee has been paid.

(4) The Office shall enter details of the extension of the period of a certificate’s validity in the Register and, at the holder’s request, on the certificate.

Inclusion of Amendments in the Register

38.—(1) A certificate holder shall inform the Office of a change in his appellation or family name, first name and patronymic, as well as of changes relating to the registration of and right to use the appellation.

(2) Changes shall be entered in the Register and on a certificate at the request of the certificate holder, provided that the prescribed fee has been paid.

Publication of Information on the Registration and Provision of the Right to Use an Appellation

39. The Office shall, within three months of the day of registration, publish in its Official Journal, information concerning an appellation and entered in the Register in accordance with Article 36 of this Law (excluding information relating to special features of a good).

Registration of an Appellation Abroad

40.—(1) Legal persons and individual manufacturers in the Republic of Armenia may register an appellation abroad.

(2) An application for registration of an appellation abroad shall be filed following the registration and acquisition of the right to use the appellation in the Republic of Armenia.

CHAPTER 9 USE OF AN APPELLATION

Use of an Appellation

41.—(1) The use of an appellation shall be considered to be its application on a good and packaging, in advertising, pamphlets, invoices, forms and also other documentation linked to the introduction of the good into the economy.

(2) Any use of an appellation which, in accordance with Article 10*bis* of the Paris Convention, may be qualified as an act of unfair competition, shall not be permitted.

(3) The use of any means which makes a relevant indication or which gives the user the impression that the good in question has been produced in a different geographical location, rather than the actual location in which it was produced, shall not be permitted for the purposes of designating or displaying goods.

(4) The use of a registered appellation by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as “kind,” “type,” “imitation,” and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the user as regards the place of origin and special features of the good shall not be allowed.

(5) In the case of identical names, an appellation of origin may be used, if it is combined with some clearly and visibly displayed distinguishing feature, which precludes the user from being misled as regards, for example, the name of the country or region of origin.

(6) Any legal person or individual manufacturer may, in the process of commercial activity, use:

(a) a registered appellation for goods introduced into the economy in any country by a person in possession of a certificate for the use of the appellation, if in the marketing process the characteristics of these goods were not changed naturally or by way of interference;

(b) his name and address or the name and address of the predecessor in title's right to manufacture, where this does not mislead society as regards the geographical origin of the good.

(7) An appellation may, within three years of the day on which it is registered in the Republic of Armenia, be used by the owner of a trademark identical or similar to the point of confusion with the appellation, if it is registered no later than six months prior to the day on which the appellation was registered. During the period in question, any person may use, in the process of commercial activity, a registered appellation for goods introduced into the economy in any country by the owner of the trademark in question or with his consent, if in the marketing process the characteristics of these goods have not been changed naturally or by way of interference.

(8) The citizens of the Republic of Armenia or natural and legal persons permanently resident or residing in the country, and who have used in the Republic of Armenia geographical designations from another country, which individualize wines or alcoholic drinks and are connected with goods and services:

(a) uninterruptedly for a minimum of 10 years, prior to April 15, 1994, or

(b) in good faith before April 15, 1994

may use or continue to use in such a way in the Republic of Armenia the geographical designations in question for goods and services of the same type.

(9) Persons who lawfully or honestly use geographical designations which, on the territory of the Republic of Armenia, have received legal protection, shall be granted the right to continue to use the geographical designation in question, provided for viticultural purposes including for wines containing a geographical designation from another country, and prior to the entry into force of the World Trade Organization (WTO) Agreement, where this coincides with the habitual name of the sort of grape growing on the territory of the Republic of Armenia.

(10) The rights relating to a trademark, similar or identical to an appellation of origin, shall continue to be preserved, if the latter is honestly filed for registration or is registered

(a) prior to the date on which the provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) are applied in the Republic of Armenia, or

(b) prior to the acquisition of protection for this appellation in its country of origin.

(11) The requirements for legal persons, individual manufacturers, organizations and competent authorities, contained in Article 31(3) of this Law and relating to the use or registration of a trademark, shall be submitted within five years of the unlawful use of a protected appellation becoming widely known in the Republic of Armenia, provided that the name is honestly registered.

(12) A certificate holder may not assign the right to use an appellation to other persons.

Preventive Marking

42. A certificate holder may place a preventive marking alongside an appellation so as to authenticate the registration of a given appellation in the Republic of Armenia, in the form of the expression “Registered Appellation of Origin” in full or abbreviated.

CHAPTER 10 TERMINATION OF LEGAL PROTECTION OF AN APPELLATION

Recognition of Registration of an Appellation and of the Certificate for the Right to Use the Appellation as Invalid

43.—(1) The registration of an appellation may be recognized as invalid, if it is made in violation of the requirements established by this Law.

(2) A certificate may be recognized as invalid, if it is issued in violation of the requirements established by this Law.

(3) Any person may submit to the Appeals Board or courts an appeal against the registration of an appellation and the issue of a certificate for the right to use the appellation on the grounds stated in Articles 30, 31 and 35 of this Law. The Appeals Board shall examine the appeal in accordance with the procedure approved by the Office.

(4) The decision of the Appeals Board may be challenged in the courts within six months of the day on which it is received.

***Recognition of the Lapse of Registration of an Appellation
and Validity of a Certificate for the Right to Use the Appellation***

44.—(1) The Office shall recognize the validity of the registration of an appellation as having lapsed, if

(a) the registration of the appellation is recognized as invalid in accordance with Article 43 of this Law;

(b) the conditions which are typical of the geographical location in question have ceased to exist and the good can no longer be produced with the features indicated in the State Register. The registration of an appellation in the name of individual manufacturers living outside the Republic of Armenia and of foreign legal persons shall, apart from on the grounds stated, be recognized as having lapsed also where the rights to use the appellation in question in the country in which the good is produced have been lost by the persons concerned.

(2) The Office shall recognize a certificate for an appellation as having lapsed, if

(a) the certificate is recognized as invalid in accordance with Article 43 of this Law;

(b) the good has lost the special features indicated in the Register;

(c) the validity of the registration of an appellation is recognized as having lapsed in accordance with paragraph (1) of this article;

(d) the certificate holder has gone into liquidation;

(e) the certificate holder has submitted a request to the Office for the certificate to be withdrawn.

**PART III
FINAL PROVISIONS**

State Fees

45. For the registration of a trademark or an appellation, as well as the filing of an application to obtain a certificate for the right to use an appellation, and the performance of other related legal acts, fees shall be levied, the types, levels and procedures for payment of which shall be prescribed by law.

Settlement of Disputes Relating to the Implementation of this Law

46. Disputes relating to the implementation of this Law shall be settled by the courts, including those concerning the

- (a) infringement of the exclusive right to a trademark;
- (b) conclusion and execution of a licensing agreement and also a trademark assignment agreement;
- (c) unlawful use of an appellation.

Liability for the Unlawful Use of a Trademark and an Appellation

47.—(1) The use of a trademark or a designation similar thereto to the point of confusion, and also the use of an appellation or designation similar thereto to the point of confusion, which does not comply with the requirements of Articles 4 and 41 of this Law, shall incur liability in accordance with the procedure established by the legislation of the Republic of Armenia.

(2) In the case of unlawful use of a trademark, the civil rights concerned shall, apart from the requirement to terminate the unlawful use and to compensate for the losses incurred, shall be protected by means of:

(a) the infringing party publishing the court decision in order to re-establish the reputation of the injured party;

(b) removing from the good or its packaging the unlawfully used trademark, or the designation similar thereto to the point of confusion, by means excluding the risk of it being placed again on the good or its packaging;

(c) destroying the images of the trademark or designation similar thereto to the point of confusion;

(d) where the methods provided for by subparagraphs (b) and (c) cannot be used, removing or also destroying, without any form of compensation, the good and/or packaging, unlawfully labeled with the trademark, excluding as a consequence the likelihood of causing some kind of harm to the trademark owner.

(3) At the request of the holder of a certificate for the right to use an appellation of origin, or of a public organization, a person unlawfully using the registered appellation or designation similar thereto to the point of confusion shall:

(a) terminate the use thereof and provide compensation for all the losses caused, and also contribute to the local budget the sum of the profit received in excess of the compensation for the losses, and resulting from the unlawful use of the appellation;

(b) publish the court decision in order to re-establish the reputation of the injured party;

(c) remove from the good, its packaging, form and other documentation the unlawfully used appellation or designation (means of expression) similar thereto to the point of confusion, so as to exclude the risk of it being placed again on the good or its packaging;

(d) destroy the manufactured images of the appellation;

(e) where the requirements of subparagraphs (c) and (d) of this paragraph cannot be satisfied, the good and/or packaging unlawfully labeled with the appellation shall be removed or destroyed without any form of compensation.

(4) In the case of unlawful use of a trademark or appellation of origin, the civil rights concerned shall be protected, for the purposes of reducing the further threat of infringements, by removing the material objects (materials, equipment, means of advertising and so on), serving as the basis of the infringement, if the majority of the objects concerned were used for the purposes indicated.

(5) Any person, whose rights in relation to a trademark or appellation of origin are infringed or may be infringed, may request the courts to demand from the owner of the unlawfully used trademark or good, or the holder of the appellation, information on third parties involved in the production and dissemination of such goods, as well as on how the goods were obtained and disseminated.

(6) In accordance with the procedure established by the legislation of the Republic of Armenia, liability shall be borne by:

(a) the person owning the unlawfully used trademark or good—the holder of the appellation who refuses to provide information as to how such goods were obtained;

(b) any person who makes a false statement as to the true rights owner of a trademark or appellation, or unlawfully removes from the good (or its packaging), the trademark or appellation, or by means of deception presents himself as the rights owner of the trademark or appellation;

(c) a person using the preventive marking together with a trademark or appellation of origin not registered in the Republic of Armenia, if this marking does not reflect some kind of reference to the existence of registration in another country, or this trademark or appellation relating to the goods in question is not actually registered in the said country.

The Rights of Foreign Individual Manufacturers and Legal Persons

48.—(1) Foreign individual manufacturers and legal persons shall enjoy the rights provided for by this Law and shall be equally liable with individual manufacturers and legal persons in the Republic of Armenia, in accordance with the international agreements to which the Republic of Armenia is a party or on the basis of the principle of reciprocity.

(2) The right to register and use an appellation in the Republic of Armenia shall be granted to individual manufacturers and legal persons of States granting a similar right to individual manufacturers and legal persons in the Republic of Armenia.

International Agreements

49. If the international agreements to which the Republic of Armenia is a party make alternative provisions to those specified by this Law, the provisions of the international agreements shall be applied.

Transitional Provisions

50.—(1) The validity of registration of the trademarks registered prior to the entry into force of this Law, and also the registration of the appellations of origin and certificates for the right to use those marks, shall continue to be valid.

(2) Applications for the registration and/or use of trademarks and appellations of origin, filed with the Office prior to the entry into force of this Law, and consideration of which is incomplete, shall be examined in accordance with the requirements of this Law.

(3) The Law of the Republic of Armenia on Trademarks, Service Marks and Appellations of Origin, adopted on May 12, 1997, is hereby repealed.

Entry into force: April 15, 2000.