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## THE LAW OF REGISTRATION OF PATENTS, INDUSTRIAL DESIGNS AND TRADEMARKS

### The Law of Registration of Industrial Trademarks

#### Chapter III- Marks, Cumulative Marks and Trade Names

**Article 30-** Marks, cumulative marks and trade marks shall be as follows:

- a- A mark means any visible sign by the use of which it shall be possible to distinguish the commodities and services offered by natural persons and legal entities.
- b- A cumulative mark means any visible sign introduced with the title of cumulative sign through a statement of registration and shall be capable of distinguishing the origin and or such other specifications like the quality of goods or services of natural persons and legal entities using that sign under the supervision of the proprietor of a registered cumulative mark.
- c- A trade name means the name or title introducing and identifying a natural person or legal entity.

**Article 31-** The exclusive right of exploitation of a mark shall belong to the one who registered that mark, according to the provisions of this law.

**Article 32-** A mark may not be registered in the following cases:

- a- Where the mark shall not be able to distinguish the commodities or services of one entity from the commodities and services of another entity.
- b- If the mark shall be contrary to the rules of Sharia or against public order or good morals.
- c- If the mark shall cause illusion to commercial and public centers, especially with regard to the geographical origins of goods or services or the specifications of the goods or services.
- d- If a mark shall include the exact configuration of a military badge of honour, the flag or other civil medals or the abbreviated or full name of a country or the first letters of the components of the name or official emblem of a country, inter-governmental organization or the organizations formed under international conventions or an imitation of the above forms or in case the above shall be used as a component of the mark, unless the competent authority of that country or organization shall provide the required right of usage.
- e- If the mark shall be exactly the same or misleadingly similar to or a translation of a trademark or a trade name that shall be used for the same commodities or similar services by another entity known in Iran.
- f- If the same or a similar form of the mark for which application has been given was previously registered and has become famous for services that are different from the ones intended by the mark being the subject of application. Provided that, customarily, there shall exist some relation between the use of the mark and the proprietor of the



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celebrated mark and registration of such mark shall prejudice the rights of the proprietor of the previously registered mark.

- g- If the mark shall be exactly similar to a mark that was registered previously in the name of another proprietor or the date of application for its registration shall be prior to the date of submission of statement for the registration of the second mark or a certificate of priority has already been registered for the previous mark for similar goods and services or if the second mark has been applied for such goods and services that are similar to the ones covered by the first mark and registration of the second mark shall mislead and confuse the users of such products or services.

**Article 33-** A statement of registration of a mark shall be submitted to the Department of Industrial Property together with a sample of the mark and the list of the goods and services for which registration of the mark has been applied, on the basis of the classification that is being enforced or on the basis of the international classification.

The costs of registration of a trademark shall be paid by the applicant.

**Article 34-** If a claim of priority shall be made through the statement of registration in accordance with Paris Convention for Protection of Industrial Property on the basis of application made in this regard by the applicant or his predecessor in any one of the member countries of the said Convention, action shall be taken according to Article 9 of this law.

**Article 35-** An applicant may withdraw his statement at any time prior to registration.

**Article 36-** The Department of Industrial Property shall review a statement to make sure it has been made in compliance with the terms and conditions of this law and shall authorize publication of the pertinent notice if it finds the mark acceptable for registration purpose.

**Article 37-** Any interested party may, within 30 days after publication of notice, object to the Department of Industrial Property on grounds of non compliance with the provisions of Sub-clause (a) of Article 30 as well as Article 32 of this law. In such case:

- 1- The Department of Industrial Property shall serve on the applicant a copy of the objection to the mark in order to declare his opinion regarding such objection. The applicant may reiterate his wish to register the mark by submitting a note against the objection together with his justifications. Otherwise, the statement filed by the applicant shall be considered as withdrawn.
- 2- If the applicant shall submit a note against the objection, the Department of Industrial Property shall put a copy of such note at the disposal of the objecting party. The Department shall then decide whether to register the mark or not by taking into consideration the opinions expressed by the parties and the provisions of this law.



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**Article 38-** After publication of notice of the contents of the statement unit the date of registration of the mark, an applicant shall enjoy the same rights and privileges that the applicant shall have in case of registration of the mark.

Notwithstanding the above, if the applicant shall institute a lawsuit regarding an act that was taken after publication of the notice of the contents of the statement and the defendant shall prove that at the time of action taken by the defendant, the mark could not be registered for legal reasons, the defense made by defendant shall be investigated and an appropriate decision shall be adopted on whether or not the mark can be registered.

**Article 39-** If the Department of Industrial Property shall decide that the regulations of this law have been complied with, the Department shall register the mark, publish the relevant notice of registration and shall hand over the certificate of registration in the name of the applicant.

**Article 40-** The rights resulting from registration of a mark, the period of validity of registration and extending the said period, shall be follows:

- a- Exploitation and use of any mark registered in Iran, by anyone except the proprietor of the mark, shall be subject to agreement by proprietor.
- b- A proprietor of a registered mark may file suit with court against anyone making use of his mark without his agreement or against anyone who commits an act that shall customarily result in violation of the rights of the proprietor of a registered mark. Such rights include the instances where a mark similar to the registered mark has been used for sale of goods for services similar to those sold with the registered mark thereby causing misleading of the public.
- c- The rights resulting from the registration of a mark shall not cover the goods or services imported into Iran by the proprietor of the mark or with his consent and offered for sale to the market in Iran.
- d- The period of validity of registration of a mark shall be ten years after the date of filing the statement of registration.

The above period of validity may be extended repeatedly, at the request of the proprietor thereof, for further ten year periods, by payment of applicable charges.

A grace period of six months, commencing on the date of expiry of the ten year validity period, shall be allowed for payment of the costs of extension, as well as the delay penalties accruing thereon.

**Article 41-** Any interested party may apply for cancellation of a mark through court. In such case, the plaintiff shall be bound to establish that the provisions of Sub-clause (a) of Article 30 as well as Article 32 have not been complied with. Cancellation of registration of a mark shall be valid and effective from the date of registration. The notice pertaining to such cancellation shall be published within the shortest possible delay.

An interested party who shall prove that the owner of a registered mark did not use the mark personally, or through a person authorized on his behalf,



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for three full years after the date of registration until one month prior to the date of application by the interested party, may require cancellation of the mark through court.

The mark shall not be cancelled if it shall be established that the mark was not in use during the said period, due to force majeure.

Article 42- In compliance with the provisions of this present Article as well as Article 43, the provisions of Article 31 to 41 of this law shall also be applicable in the case of cumulative marks. In statements for registration of a cumulative mark, while reference shall be made to the mark being cumulative, a copy of the criteria and conditions of use must also be attached. Proprietors of cumulative marks shall inform the Department of Industrial Property of any change in the above said criteria and conditions.

Article 43- In addition to the causes of cancellation of a mark described in Article 41 above, if a plaintiff shall establish that the owner of a registered mark is personally using the mark, contrary to the criteria envisaged in the latter part of Article 42 above, or is permitting such use or is exploiting the mark in such manner that deceives commercial and public centers in respect of the origin and/or any particular of the goods or services also possessed jointly by other goods or services, the court shall revoke and cancel the cumulative mark.

Article 44- A contract on exploitation of a registered mark or a statement of registration shall explicitly provide permission to the grantor to effectively check and control the quality and marketability of the goods and services being offered by the user. In case of failure to provide such supervision and control or in case no effective control shall be carried out, the agreement of exploitation shall be without validity.

Article 45- Registration of a cumulative mark or the statement thereof can not be the subject of an agreement of exploitation.

Article 46- A name or title the nature or mode of its use shall be against the rules of Sharia, public order or good ethics or that may cause deceit of commercial or public centers with regard to the nature of the entity whose name or title has been used in offering the said goods or services, may not be used as a trade name.

Article 47- In compliance with the laws and regulations on compulsory registration of trade names, any such names shall enjoy protection against the illegal acts of third parties, even without registration.

Any use of trade names by third parties, in the form of trade names or cumulative mark (s), that may customarily deceive the public shall be illegal.

#### Chapter IV- General Provisions

Article 48- Any Change of title and Property of a patent, a registered industrial design, a registered trademark, a collective mark or Property right resulting from filing a pertinent statement of registration, shall be possible at the request of an interested party, in writing, to be submitted to the Department of Industrial Property that shall be registered and, except in the



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case of change of title under a statement, shall be published by the said Department through a notice.

Any such change of title shall be effective in respect of the rights of third party, only in case the said request shall be given.

No change of title to a registered mark or collective (cumulative) mark shall be valid in respect of the nature, origin, process of manufacture, specifications or proportionate relationship with the purpose of commodities or services, if such change of title shall cause deceit or confusion, on the part of the public.

Any change in the Property of title to a registered collective mark or under a statement of registration shall be subject to prior agreement by the Head of the Organization for Registration of Deeds and Property.

Article 49- Any change in the Property of and title to a trade name shall be possible together with the change of title to the entity or a part thereof that is known together with that trade name.

Article 50- Any agreement on the use and exploitation of patents, registered industrial designs, registered mark or statements pertaining to them shall be submitted to the Department of Industrial Designs. The said Department shall treat the contents of such agreements as being confidential but shall register and publish notice thereof. The said agreements shall have effect on third parties only if the above provisions shall be duly complied with.

Article 51- If the applicant shall be domiciled outside Iran, or the main place of business of the applicant shall be outside Iran, his attorney-at-law, who shall be domiciled and practicing in Iran, may take the required actions on his behalf.

Article 52- The Management of affairs pertaining to industrial property rights as well as the representation of Islamic Republic of Iran in the World Organization of Intellectual Property Rights, and in the unions and associations pertaining to the conventions pertinent thereto, shall be carried out by the Organization for Registration of Deeds and Property.

Likewise, the registration of all matters pertaining to industrial property rights and Property including patents, marks, collective marks, and industrial designs shall be carried out by the Department of Industrial Property of the Organization for Registration of Deeds and Property.

In cases where other authorities proceed with the review and registration, under a law, the protections and privileges under this law may be applied if the Property or patent, as the case may be, shall be registered with the Department of Industrial Property.

Article 53- The Department of Industrial Property, through employing modern techniques, shall provide separate registers for the purpose of registration of patents, industrial designs and trademarks. Collective marks shall be registered in a special section of the register of marks.



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**Article 54-** The information in the registers shall be accessible to the public. Any person shall have the right to collect information according to the regulations of the executive by-laws of this law.

**Article 55-** The Department of Industrial Property shall publish all the notices mentioned in this law through the Official Gazette.

**Article 56-** The Department of Industrial Property shall be allowed to correct any mistakes in the translation or copying, administrative mistakes, mistakes in statements or in any one of the completed registrations, in accordance with this law or the executive regulations of this law.

**Article 57-** The Department of Industrial Property, upon receipt of a request, in writing, for extending the period provided to carry out any act under this law, or the executive by-laws thereof, shall review the request and may extend such period.

Any such extension shall be carried out after notifying the interested parties according to the provisions of the executive by-laws hereof.

**Article 58-** The Department of Industrial Property, prior to enforcement of its legal authorities, shall provide sufficient time to the party against whom the Department wishes to take any decision in order for that party to declare his statements. In such case, any decision shall be adopted with due regard to the said statements.

**Article 59-** Review and investigation of disputes arising from the implementation of this law and the executive by-laws thereof shall be within the jurisdiction of one or more branch (es), per se, of Tehran Public Court, that shall be especially designated by the Head of Judiciary no later than six months after the date of ratification of this law.

The decisions adopted by the Department of Industrial Property may be objected to by interested parties. The pertinent complaint must be submitted to and filed with the competent court within two months after the date of service of the decision adopted by the said Department to the interested party concerned or two months after the date such interested party becomes aware of any such decision.

Appeal may be sought from the judgments of the court in accordance with the provisions of the law of Procedures of Public and Revolutionary Courts in Respect of Civil Matters.

**Article 60-** "Violation of the rights created under this law" shall mean engagement in any activity in Iran by any person other than the owners of the rights protected by this law, without agreement given by the owner.

In addition to the owner of the rights being protected by this law, if it shall be established that a holder of permission for use, required the owner thereof, to submit complaint to court for seeking a specific relief but the owner refused or was not able to submit the required complaint, the court may, in addition to issuing injunction to avoid such violation of the rights or a highly contingent violation of the said rights, issue judgment for compensation of losses or take any other decision for the purpose of protection of the said rights.



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**Article 61-** Any person who deliberately commits an act that shall be regarded as violation of rights according to Articles 15, 28 and 40 of this law or shall be regarded as an act against the law according to Article 47 above shall be guilty and shall thus be condemned to payment of cash penalty from Rls. 10,000,000 to Rls. 50,000,000 or to imprisonment from 91 days to six months or to both punishments in addition to being convicted to compensate to losses inflicted by such acts.

In civil proceedings concerning the violation of the rights of the owner of a patent, in cases where the patent shall be a process in order to gain access to a product, if the following conditions shall be present, the responsibility to prove that the product was not produced by the use of that process, shall lie with the defendant in the above cases of violation of rights.

In the above case, if supporting documents and evidence shall be supplied, the legitimate rights of the defendant in the case of violation of rights shall be taken into consideration in order that manufacturing and commercial secrets of the defendant shall not be disclosed in the following instances:

- 1- If the product shall be novel.
- 2- If it shall be highly probable that the product has been manufactured by the use of the said process and the owner of registered right, despite reasonable efforts, could not establish what process was, indeed, used.

**Article 62-** In case of discrepancy between the provisions of this law and those of international conventions on industrial Property to which the Islamic Republic of Iran acceded or is due to accede, the provisions of those conventions shall prevail.

**Article 63-** Through making provisions in the annual budget bills, up to 50% of the foreign currency income earned through implementation of conventions on international registration of industrial Property that shall accrue after the date of approval of this law, shall be allocated to elevate and mobilize the Department of Industrial Property and boosting the quality of its services envisaged in the said annual budgets.

Upon confirmation by the Department of Industrial Property, the Central Bank of Islamic Republic of Iran shall be under the obligation to provide the foreign currency requirements of Iranian proprietors of industrial property rights for the purpose of international registration of the said rights according to the applicable tariffs envisaged in the said conventions and international regulations, at official exchange rates.

**Article 64-** The executive by-laws of this law shall be drawn up within one year after the date of approval of this law by the Organization for Registration of Deeds and Property and presented to the Head of Judiciary for approval.

In the said by-laws, specifically, the tariffs of charges pertaining to statements of registration of patents, industrial designs, marks and collective marks, charges to be collected for extending the validity periods as well as the penalties for delays in extending the validity periods shall be fixed in compliance with the provisions of this law as well as the relevant conventions



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to which the Islamic Republic of Iran has acceded. Such tariffs may be revised, if necessary, once every three years.

**Article 65-** The patents and trademarks that have already been registered in accordance with the regulations of the past, shall remain valid and shall enjoy protection according to the regulations of this law. In such case:

- a- In respect of patents, the applicable annual charges provided in this law shall be paid for the remaining period of validity of the said patents.
- b- The marks are due to be extended on the dates provided in the said law. The marks shall then be classified on the basis of international classification, again.

**Article 66-** As of the date of coming into force of this law, the Law of Registration of Trademarks and Patents approved on June 21, 1931 and its subsequent amendments as well as its regulations and by-laws shall be null and void.

The above Law, comprising 66 Articles, was approved in the course of a session of the Judicial Committee of the Islamic Consultative Assembly on October 28, 2007 in accordance with Article 85 of the IRI Constitution and was subsequently confirmed by the Guardians Council on February 12, 2008, after Majlis agreed to its experimental enforcement for a term of five (5) years.