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Accession of Ukraine**

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ACCESSION OF UKRAINE

Comparative Table of Compliance of the National Legislation of Ukraine With the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The following information has been submitted by the Governmental Commission on Ukraine's accession to the WTO with the request that it be circulated to members of the Working Party.

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
PART I. GENERAL PROVISIONS AND BASIC PRINCIPLES		
Article 1. Nature and Scope of Obligations		
1. Members shall give effect to the provisions of this Agreement. Members may, but shall not be obliged to, implement in their law more extensive protection than is required by this Agreement, provided that such protection does not contravene the provisions of this Agreement. Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.		+
2. For the purposes of this Agreement, the term "intellectual property" refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II.		+
3. Members shall accord the treatment provided for in this Agreement to the nationals of other Members. In respect of the relevant intellectual property right, the nationals of other Members shall be understood as those natural or legal persons that would meet the criteria for eligibility for protection provided for in the Paris Convention (1967), the Berne Convention (1971), the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits, were all Members of the WTO members of those conventions. Any Member availing itself of the possibilities provided in paragraph 3 of Article 5 or paragraph 2 of Article 6 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for Trade-Related Aspects of Intellectual Property Rights (the "Council for TRIPS").		+
Article 2. Intellectual Property Conventions		+
1. In respect of Parts II, III and IV of this Agreement, Members shall comply with Articles 1 through 12, and Article 19, of the Paris Convention (1967).		
2. Nothing in Parts I to IV of this Agreement shall derogate from existing obligations that Members may have to each other under the Paris Convention, the Berne Convention, the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits.		+

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<p>Article 3. National Treatment</p> <p>1. Each Member shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property, subject to the exceptions already provided in, respectively, the Paris Convention (1967), the Berne Convention (1971), the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits. In respect of performers, producers of phonograms and broadcasting organizations, this obligation only applies in respect of the rights provided under this Agreement. Any Member availing itself of the possibilities provided in Article 6 of the Berne Convention (1971) or paragraph 1(b) of Article 16 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for TRIPS.</p>		+
<p>2. Members may avail themselves of the exceptions permitted under paragraph 1 in relation to judicial and administrative procedures, including the designation of an address for service or the appointment of an agent within the jurisdiction of a Member, only where such exceptions are necessary to secure compliance with laws and regulations which are not inconsistent with the provisions of this Agreement and where such practices are not applied in a manner which would constitute a disguised restriction on trade.</p>		+
<p>Article 4. Most-Favoured-Nation Treatment</p> <p>With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members. Exempted from this obligation are any advantage, favour, privilege or immunity accorded by a Member:</p> <ul style="list-style-type: none"> (a) deriving from international agreements on judicial assistance or law enforcement of a general nature and not particularly confined to the protection of intellectual property; (b) granted in accordance with the provisions of the Berne Convention (1971) or the Rome Convention authorizing that the treatment accorded be a function not of national treatment but of the treatment accorded in another country; (c) in respect of the rights of performers, producers of phonograms and broadcasting organizations not provided under this Agreement; and (d) deriving from international agreements related to the protection of intellectual property which entered into force prior to the 		+

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entry into force of the WTO Agreement, provided that such agreements are notified to the Council for TRIPS and do not constitute an arbitrary or unjustifiable discrimination against nationals of other Members.		
Article 5. Multilateral Agreements on Acquisition or Maintenance of Protection The obligations under Articles 3 and 4 do not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.		+
Article 6. Exhaustion. For the purposes of dispute settlement under this Agreement, subject to the provisions of Articles 3 and 4 nothing in this Agreement shall be used to address the issue of the exhaustion of intellectual property rights.		+
Article 7. Objectives The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.		+
Article 8. Principles 1. Members may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Agreement. 2. Appropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.		+
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PART II STANDARDS CONCERNING THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS.		
SECTION 1: COPYRIGHT AND RELATED RIGHTS		
Article 9. Relation to the Bern Convention 1. Members shall comply with Articles 1 through 21 of the Berne Convention (1971) and the Appendix thereto. However, Members shall not have rights or obligations under this Agreement in respect of the rights conferred under Article 6bis of that Convention or of the rights derived therefrom.	The Law of Ukraine “On Ukraine’s Joining the Bern Convention on Protection of Literary and Artistic Works” (Paris Act dated 24 July 1971, amended on 2 October 1979)” dated 31 May 1995 No. 189/95. The Convention came into force on the territory of Ukraine on 25 October 1995	+
2. Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.	The Law of Ukraine "On Copyright and Related Rights" Article 7. Objects that are not-Protected Protection under this Law is not extended to any idea, procedure, method, process, concept, discovery, invention, utility model, industrial design trademark or services mark, innovation or ordinary information, even if such be expressed, described, explained, illustrated, etc., in a work.	+
Article 10. Computer Programs and Compilations of Data 1. Computer programs, whether in source or object code, shall be protected as literary works under the Berne Convention (1971).	Article 5. Protected Works This Law protects works in the field of scholarship, literature, and art, namely: - written literary works of a fictional, scholarship, technical, or practical nature (books, brochures, articles, computer programs, etc.).	+
2. Compilations of data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute intellectual creations shall be protected as such. Such protection, which shall not extend to the data or material itself, shall be without prejudice to any copyright subsisting in the data or material itself.	Article 5. Protected Works This Law protects works in the field of scholarship, literature, and art, namely: - collections of works, collections of folklore adaptations, encyclopedias and anthologies, collections of ordinary data, including data bases, and other composite works, provided that the selection, coordination, or arrangement of the contents is the result of creative effort, without prejudice to protection of the works comprising them;	+
Article 11. Rental Rights In respect of at least computer programs and cinematographic works, a Member shall provide authors and their successors in title the right to authorize or to prohibit the commercial rental to the public of originals or copies of their copyright works. A Member shall be excepted from this obligation in respect of cinematographic works unless such rental has led to widespread copying of such works which is materially impairing the exclusive right of reproduction conferred in that Member on authors and their successors in title. In respect of computer programs, this obligation does not apply to rentals where the program itself is not the essential object of the rental.	Article 14. Author's Economic Rights 1. The author or another person holding copyright is vested with exclusive rights to use a work in any form and in any manner. 2. The author or another person holding copyright is vested with the exclusive right to penult or prohibit: - the distribution of works by sale, other disposal, leasing or rental, or other transfer prior to first sale of specimens of the work.	+

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<p>Article 12. Term of Protection</p> <p>Whenever the term of protection of a work, other than a photographic work or a work of applied art, is calculated on a basis other than the life of a natural person, such term shall be no less than 50 years from the end of the calendar year of authorized publication, or, failing such authorized publication within 50 years from the making of the work, 50 years from the end of the calendar year of making.</p>	<p>Article 24. Term of Copyright Protection</p> <ol style="list-style-type: none"> 1. The protection granted under this Law lasts throughout the author's lifetime and for a period of 50 years after his death, except for the cases specified by this article. 2. Copyright in a work first published within 30 years after the death of the author lasts for a period of 50 years from the date of its lawful publication. 3. The term of protection stipulated In paragraphs 1-4 of this article begins on January I of the year following the year in which the juridical facts specified in the said paragraphs took place. 	+
<p>Article 13. Limitations and Exceptions</p> <p>Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.</p>	<p>Article 14. Author's Economic Rights</p> <p>Restrictions on economic rights established by Art. 15-19 of this Law may be imposed, provided that they do not prejudice normal use of the work and do not curtail the author's legitimate interests without cause.</p>	+
<p>Article 14. Protection of Performers, Producers of Phonograms (Sound Recordings) and Broadcasting Organizations</p> <ol style="list-style-type: none"> 1. In respect of a fixation of their performance on a phonogram, performers shall have the possibility of preventing the following acts when undertaken without their authorization: the fixation of their unfixed performance and the reproduction of such fixation. Performers shall also have the possibility of preventing the following acts when undertaken without their authorization: the broadcasting by wireless means and the communication to the public of their live performance. 	<p>Article 33. Rights of Performers</p> <p>Performers are vested with the exclusive right to permit or prohibit the public presentation of their performances, the fixation of « previously unrecorded performance on a material medium, and aerial and wire transmission of their performances as well as the exclusive right to reproduce and to distribute by first sale or other transfer of ownership or control, or by leasing or rental of phonograms on which their performances are fixed, independently of the first sale or other transfer of ownership or control.</p>	+
<ol style="list-style-type: none"> 2. Producers of phonograms shall enjoy the right to authorize or prohibit the direct or indirect reproduction of their phonograms. 	<p>Article 34. Rights of Phonogram Producers</p> <p>Producers of phonograms have the exclusive right to permit or prohibit their reproduction the distribution of specimens by first sale, by other disposal, and by leasing, rental, and other transfer independent of first sale, [the exclusive right] to adapt them, and [the exclusive right to] import phonograms.</p>	+
<ol style="list-style-type: none"> 3. Broadcasting organizations shall have the right to prohibit the following acts when undertaken without their authorization: the fixation, the reproduction of fixations, and the rebroadcasting by wireless means of broadcasts, as well as the communication to the public of television broadcasts of the same. Where Members do not grant such rights to broadcasting organizations, they shall provide owners of copyright in the subject matter of broadcasts with the possibility of preventing the above acts, subject to the provisions of the Berne Convention (1971). 	<p>Article 35. Rights of Broadcasting Organizations</p> <p>Broadcasting organizations have the exclusive right to permit or prohibit the public communication of their programs through retransmission, fixation on a material medium, reproduction of their transmissions, aerial and wire communication, and public communication of transmissions in places with paid admission, and (the exclusive right) to prohibit the dissemination of a program carrier signal in or from the territory of Ukraine by a distributor to whom this satellite signal was not directed.</p>	+

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4. The provisions of Article 11 in respect of computer programs shall apply mutatis mutandis to producers of phonograms and any other right holders in phonograms as determined in a Member's law. If on 15 April 1994 a Member has in force a system of equitable remuneration of right holders in respect of the rental of phonograms, it may maintain such system provided that the commercial rental of phonograms is not giving rise to the material impairment of the exclusive rights of reproduction of right holders.	Article 37. Use of Commercially Published Phonograms 1. The amount of compensation and the terms for its payment are set by an agreement between the phonogram user or an association of such users, on the one hand, and the organizations administering the economic rights of phonogram producers and performers, on the other hand. 2. The amount of compensation is set for each type of phonogram use.	–
5. The term of the protection available under this Agreement to performers and producers of phonograms shall last at least until the end of a period of 50 years computed from the end of the calendar year in which the fixation was made or the performance took place. The term of protection granted pursuant to paragraph 3 shall last for at least 20 years from the end of the calendar year in which the broadcast took place.	Article 38. Term of Protection of Related Rights 1. Economic rights of performers are protected for 50 years after the first fixation of a performance or production. The moral rights of performers are protected indefinitely. 2. The rights of phonogram producers are protected for 50 years after the first publication of a phonogram, and if it is not published, for 50 years after the first fixation of the sound recording. 3. Broadcasting organizations enjoy the rights granted under this Law for 50 years after the first aerial, or wire transmission. 4. The periods stipulated by this article commence on January 1 of the year following the year in which the juridical facts provided by this article took place.	+
6. Any Member may, in relation to the rights conferred under paragraphs 1, 2 and 3, provide for conditions, limitations, exceptions and reservations to the extent permitted by the Rome Convention. However, the provisions of Article 18 of the Berne Convention (1971) shall also apply, mutatis mutandis, to the rights of performers and producers of phonograms in phonograms.	Article 36. Limitations of the Rights of Performers, Phonogram Producers, and Broadcasting Organizations Provided that it does not interfere with the normal use of performances, phonograms, and transmissions by broadcasting organizations, and that it does not unjustifiably abridge the legitimate interests of performers, phonogram producers and broadcasting organizations, the use of performances, phonograms, and broadcast programs, and the fixation, reproduction, aerial and wire transmission, or other manner of public communication thereof for general knowledge without the consent of the performers, phonogram producers, and broadcasting organizations, and without payment of compensation is permitted in the cases stipulated in article 15-19 of this Law regarding abridgement of the economic rights of authors of literary and artistic works.	+
SECTION 2: TRADEMARKS		
Article 15. Protectable Subject Matter 1. Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently	The Law of Ukraine "On Protection of Rights to Trademarks and Services Marks" Article 1. Definitions Trademark - a sign for differentiation of goods and services of one person from similar goods and services of other persons	+

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capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible.	Article 5. Conditions for Legal Protection Object of a trademark may be signs in the form of words, pictures, volumetric signs, or their combinations in any colour, or a combination of colours.	
2. Paragraph 1 shall not be understood to prevent a Member from denying registration of a trademark on other grounds, provided that they do not derogate from the provisions of the Paris Convention (1967).		+
3. Members may make registrability depend on use. However, actual use of a trademark shall not be a condition for filing an application for registration. An application shall not be refused solely on the ground that intended use has not taken place before the expiry of a period of three years from the date of application.	Article 6. Grounds for Refusal of Legal Protection Absence of use is not indicated amongst the conditions for the refusal of providing legal protection.	+
4. The nature of the goods or services to which a trademark is to be applied shall in no case form an obstacle to registration of the trademark.	Article 6. Grounds for Refusal of Legal Protection Any requirements not indicated amongst the conditions for the refusal of providing legal protection.	+
5. Members shall publish each trademark either before it is registered or promptly after it is registered and shall afford a reasonable opportunity for petitions to cancel the registration. In addition, Members may afford an opportunity for the registration of a trademark to be opposed.	Article 12. Publication on Issuing the Certificate On the basis of the decision on the registration of the trademark, and with the document on the tax payment, the Department shall publish in the official bulletin the information of issuing a certificate. Article 15. Appeal against Decision on Application The applicant may appeal against a Department's decision concerning the application in the Department's Council of Appeal (hereinafter - Council of Appeal) during three months since the Department takes the decision or the copies of the requested documents are received. Appeal against the decision of the Department concerning the application shall be considered by the Council of Appeal within four months since the date is submitted. Article 19. Recognizing Certificate as Invalid Certificate may be recognized as invalid in full or partially, where a) the registered trademark does not meet the conditions of the legal protection; and b) the certificate contains element of the trademark, or list of goods and services which were not included into the application.	+

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<p>Article 16. Rights Conferred</p> <p>1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner’s consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use.</p>	<p>Article 16. Rights under Certificate</p> <p>The certificate shall give to its owner the right to prevent from other persons to use the registered trademark without his permit, except for the cases, where the use of trademark is not under the regulation of this Law.</p> <p>Article 20. Violation of Certificate's Owner's Rights</p> <p>1. Any actions against the rights of the certificate's owner, contained in article 16 of this Law, shall be considered as violations of the certificate's owner's rights, which caused the responsibilities in accordance with the current legislation of Ukraine.</p> <p>2. On the certificate's owner's demand such violation shall be terminated and the violator shall compensate the caused losses.</p> <p>3. The certificate's owner may also demand the removal or destroying of the illegally used trademark from goods and their packaging or other sign much similar to the trademark.</p> <p>Article 16. Rights under Certificate</p> <p>A faithful use of the trademark by other persons before 1 January 1992 shall not be considered as a violation of the rights of owner of the certificate obtained before paragraph 4 of Article 6 of this Law came into force.</p>	<p>+</p> <p>–</p> <p>+</p> <p>–</p> <p>–</p>
<p>2. Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to services. In determining whether a trademark is well-known, Members shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Member concerned which has been obtained as a result of the promotion of the trademark.</p>	<p>Article 6. Grounds for Refusal from Legal Protection</p> <p>There cannot be registered trademarks which are identical, and hence cannot be distinguished from:</p> <ul style="list-style-type: none"> - trademarks previously registered, or applied for the registration in Ukraine on the name of other person, where they regard similar goods and services; - trademarks of other persons, provided these trademarks are legally protected without registration on the basis of the international agreements of Ukraine; and - provisions on the generally known trademarks need further regulation in national legislation 	<p>+</p> <p>–</p>
<p>3. Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to goods or services which are not similar to those in respect of which a trademark is registered, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.</p>		<p>–</p>

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<p>Article 17. Exceptions</p> <p>Members may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.</p>		-
<p>Article 18. Term of Protection</p> <p>Initial registration, and each renewal of registration, of a trademark shall be for a term of no less than seven years. The registration of a trademark shall be renewable indefinitely.</p>	<p>Article 5. Conditions for Legal Protection</p> <p>The property right for a trademark shall be certified. The validity term of the certificate shall be ten years since the date of submitting the application to the Authority, and it shall be prolonged by the Authority for another 10-year period at the request of the certificate's owner during the last year of the validity term.</p>	+
<p>Article 19. Requirement of Use</p> <p>1. If use is required to maintain a registration, the registration may be cancelled only after an uninterrupted period of at least three years of non-use, unless valid reasons based on the existence of obstacles to such use are shown by the trademark owner. Circumstances arising independently of the will of the owner of the trademark which constitute an obstacle to the use of the trademark, such as import restrictions on or other government requirements for goods or services protected by the trademark, shall be recognised as valid reasons for non-use.</p>	<p>Article 17. Duties under Certificate</p> <p>Provided the trademark is not used or hardly used in Ukraine during three years since the date of publication of the information concerned in the bulletin, or since the date when the use of the trademark was terminated, any person can apply to the court (arbitration court) with the application on ahead-of-time termination of the certificate's validity. While settling this question the court (arbitration court) may take into consideration the proofs submitted by the certificate owner that the trademark was not used on not dependant on him reasons.</p>	+
<p>2. When subject to the control of its owner, use of a trademark by another person shall be recognized as use of the trademark for the purpose of maintaining the registration.</p>	<p>Use under the license is determined by the use of a trademark. There is no direct norm.</p>	-
<p>Article 20. Other Requirements</p> <p>The use of a trademark in the course of trade shall not be unjustifiably encumbered by special requirements, such as use with another trademark, use in a special form or use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings. This will not preclude a requirement prescribing the use of the trademark identifying the undertaking producing the goods or services along with, but without linking it to, the trademark distinguishing the specific goods or services in question of that undertaking.</p>	<p>There are no special requirements determined by the law as to the use of a trademark for goods and services in commerce.</p>	+ -

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<p>Article 21. Licensing and Assignment</p> <p>Members may determine conditions on the licensing and assignment of trademarks, it being understood that the compulsory licensing of trademarks shall not be permitted and that the owner of a registered trademark shall have the right to assign the trademark with or without the transfer of the business to which the trademark belongs.</p>	<p>Article 16. Rights under Certificate</p> <ol style="list-style-type: none"> 1. The certificate owner has the right to give a permit (license) for the use of trademark on the basis of the license agreement. 2. License agreement shall contain the provision that quality of goods and services, produced or offered under the license agreement is not worse than the original goods and services, and that the original owner shall exercise control over the fulfillment of this agreement. 	+
SECTION 3: GEOGRAPHICAL INDICATIONS	The Law of Ukraine “On Protection of Rights to Indications of Origin of Goods”	
<p>Article 22. Protection of Geographical Indications</p> <ol style="list-style-type: none"> 1. Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. 	<p>Article 1. Definition of terms</p> <p>"Qualified indication of origin" is a term, which covers (integrates) the following terms:</p> <ul style="list-style-type: none"> - name of the place of the product origin; and - geographical indication of the product origin. <p>"Name of the place of the product origin" (hereinafter referred to as the NPO) shall mean the name of the geographical location used as an indication in the description of products originating in the specified geographical location and having specific features exclusively or mainly due to the natural conditions characteristic of the given geographical location or due to the combination of these natural conditions with the human factor characteristic of the given geographical location;</p> <p>"Geographical indication of origin" (hereinafter referred to as the GIO) shall mean the name of the geographical location as an indication in the description of goods originating in the specified geographical location and having certain qualities, reputation or other characteristics mainly due to the natural conditions or the human factor characteristic of the given geographical location, or due to the combination of such natural conditions and human factor.</p>	<p>+</p> <p>-</p>
<ol style="list-style-type: none"> 2. In respect of geographical indications, Members shall provide the legal means for interested parties to prevent: <ol style="list-style-type: none"> (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and (b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967). 	<p>Article 6. Provision of the Legal Protection of Indications of Origin</p> <p>The legal protection of the simple indication of the product origin shall consist in the prohibition of the use of indications, which either are false, or deceive customers as regards the true geographical location of the product origin.</p> <p>Article 17. Rights Resultant from the Registration of the Qualified Indication of the Product Origin and/or the Right to Use the Same</p> <p>The holder of the certificate shall be entitled:</p> <ol style="list-style-type: none"> a) to use the registered qualified indication of the product origin; b) to take actions aimed at prohibiting the illegitimate use of the qualified 	<p>+</p> <p>+</p>

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	<p>indication of the product origin by persons, which are not entitled thereto; and</p> <p>c) to require persons, who violated his rights, to stop the violations and provide the reimbursement for the material and moral damages according to the procedure established by the law.</p> <p>Article 23. Violation of Rights to Use the Indication of the Product Origin</p> <ol style="list-style-type: none"> 1. The use of a false indication or an indication misleading the customer with regard to the true place of the product origin shall constitute the violation of rights to use the indication of the product origin. 2. Any encroachment on the right of the certificate holder to use the registered qualified indication of the product origin shall entail the liability under the law. 3. The following is the violation of rights of the certificate holder to use the registered qualified indication of the product origin: <ol style="list-style-type: none"> a) the use of the registered qualified indication of the product origin by a person, which is not in possession of the certificate confirming the right to use it; b) the use of the registered indication of the product origin, if the product in question does not originate from the geographical location registered for such an indication, even if the true place of the product origin or its indication is used in translated form or accompanied by terms such as "kind", "type", "style", "make", "imitation", etc.; c) the use of the registered qualified indication of the product origin or another similar indication for the similar goods other than those described in the Register, if such use misleads consumers with regard to the product origin and its specific properties or other characteristics, as well as for non-similar goods, if such use causes damage to the reputation of the registered indication or constitutes the illegitimate use of its reputation; and d) the use of the registered qualified indication of the product origin as a generic name. <p>Article 24. Responsibility for Violations of the Right to Use the Qualified Indication of the Product Origin</p> <ol style="list-style-type: none"> 1. The violation of the right to use the qualified indication of the product origin shall entail the civil, administrative or criminal responsibility under the law. 2. When importing into the customs territory of Ukraine a product marked with the violation of rights of the legitimate users of (holders of the certificate for) the right to use the indication of the origin, such a product may be temporarily detained according to the procedure established by the law. 3. The holder of a certificate for the use of the indication of the origin shall be entitled to require the perpetrator: 	

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	<p>a) to terminate actions, which violate the right or create a threat of the violation;</p> <p>b) to withdraw the products with the illegitimate indication of the origin from the circulation;</p> <p>c) to withdraw the illegitimately applied indication of the origin from the product or its package or, if impossible, to destroy the products;</p> <p>d) to reimburse for losses, including the lost revenue;</p> <p>e) to reimburse losses in the amount not exceeding the profit received by the perpetrator; and</p> <p>f) to take other actions provided for by laws, associated with the protection of the rights to the indication of the product origin.</p> <p>4. The holder of the certificate shall be entitled to refer to the court with a claim for the termination of the violation and the reimbursement of the caused damage.</p> <p>Article 25. Disputes to be Settled by Courts of Law</p> <p>According to their respective competence, the courts of law shall consider the disputes on:</p> <ul style="list-style-type: none"> - the legality of the registration of the qualified indication of the product origin; - the illegitimate use of the qualified indication of the product origin; and - the import of products illegally marked with the qualified indication of the product origin in the customs territory of Ukraine. 	
<p>3. A Member shall, ex officio if its legislation so permits or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin.</p>	<p>Article 14. Registration of the Qualified Indication of the Product Origin and/or the Right to Use the Registered Qualified Indication of the Product Origin</p> <p>The registration of the qualified indication of the product origin may constitute the basis for declaring an earlier registered trademark consisting of only such an indication of the product origin or contains the said indication as an element invalid, unless the owner of the said trademark is the person entitled to use this indication and it belongs to the trademark as an unprotected element. The Law of Ukraine "On the Protection of Rights to Trademarks for Goods and Services".</p> <p>Article 6. Grounds for Refusal from Legal Protection</p> <p>There cannot be registered trademarks which are identical, and hence cannot be distinguished from trademarks previously registered, or applied for the registration in Ukraine on the name of other person, where they regard similar goods and services.</p>	<p>+</p> <p>-</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ – no
4. The protection under paragraphs 1, 2 and 3 shall be applicable against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory.	Article 8. Reasons for the Refusal to Provide the Legal Protection of the Qualified Indication of the Product Origin This Law shall not legally protect a qualified indication of the product origin, which: - correctly indicates the geographical location of the product manufacture, but gives a customer an erroneous idea of the products' being manufactured in another geographical location.	+ –
Article 23. Additional Protection for Geographical Indications for Wines and Spirits 1. Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.	There is no direct regulation for wines and alcoholic beverages in the Law, but see the above articles 23 and 24 of this Law.	+
2. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, ex officio if a Member's legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin.	See the above Article 14 of this Law and paragraph 3 of Article 6 of the Law of Ukraine “On Protection of Rights to Trademarks for Goods and Services”	+ –
3. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.	Article 7. Conditions of the Provision of the Legal Protection The legal protection shall be provided to homonymic indications of the product origin, provided that the measures to avoid the deception of customers as regards the actual identification of the product, the geographical location of the product origin or its boundaries are taken.	+
4. In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system.		+
Article 24. International Negotiations; Exceptions 1. Members agree to enter into negotiations aimed at increasing the protection of individual geographical indications under Article 23. The provisions of paragraphs 4 through 8 below shall not be used by a Member to refuse to		+

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
conduct negotiations or to conclude bilateral or multilateral agreements. In the context of such negotiations, Members shall be willing to consider the continued applicability of these provisions to individual geographical indications whose use was the subject of such negotiations.		
2. The Council for TRIPS shall keep under review the application of the provisions of this Section; the first such review shall take place within two years of the entry into force of the WTO Agreement. Any matter affecting the compliance with the obligations under these provisions may be drawn to the attention of the Council, which, at the request of a Member, shall consult with any Member or Members in respect of such matter in respect of which it has not been possible to find a satisfactory solution through bilateral or plurilateral consultations between the Members concerned. The Council shall take such action as may be agreed to facilitate the operation and further the objectives of this Section.		+
3. In implementing this Section, a Member shall not diminish the protection of geographical indications that existed in that Member immediately prior to the date of entry into force of the WTO Agreement.		+
4. Nothing in this Section shall require a Member to prevent continued and similar use of a particular geographical indication of another Member identifying wines or spirits in connection with goods or services by any of its nationals or domiciliaries who have used that geographical indication in a continuous manner with regard to the same or related goods or services in the territory of that Member either (a) for at least ten years preceding 15 April 1994 or (b) in good faith preceding that date.		-
5. Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either: (a) before the date of application of these provisions in that Member as defined in Part VI; or (b) before the geographical indication is protected in its country of origin. 6. Measures adopted to implement this Section shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.	Article 14. Registration of the Qualified Indication of the Product Origin and/or the Right to Use the Registered Qualified Indication of the Product Origin The registration of the qualified indication of the product origin may constitute the basis for declaring an earlier registered trademark consisting of only such an indication of the product origin or contains the said indication as an element invalid, unless the owner of the said trademark is the person entitled to use this indication and it belongs to the trademark as an unprotected element.	-
7. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in the territory of that Member. Nothing in this Section shall		+ -

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in the territory of that Member as of the date of entry into force of the WTO Agreement.</p> <p>8. A Member may provide that any request made under this Section in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Member or after the date of registration of the trademark in that Member provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Member, provided that the geographical indication is not used or registered in bad faith.</p> <p>9. The provisions of this Section shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.</p>		<p>–</p> <p>–</p>
<p>10. There shall be no obligation under this Agreement to protect geographical indications which are not or cease to be protected in their country of origin, or which have fallen into disuse in that country.</p>	<p>Article 8. Reasons for the Refusal to Provide the Legal Protection of the Qualified Indication of the Product Origin.</p> <p>This Law shall not legally protect a qualified indication of the product origin associated with a geographical location in a foreign country, provided that:</p> <p>(a) Ukraine has not concluded a relevant agreement with the foreign country on the reciprocal protection of this type of the indication of the product origin; and</p> <p>(b) this indication is not protected in the foreign country in question.</p>	<p>+</p>
SECTION 4: INDUSTRIAL DESIGNS		
<p>Article 25. Requirements for Protection</p> <p>1. Members shall provide for the protection of independently created industrial designs that are new or original. Members may provide that designs are not new or original if they do not significantly differ from known designs or combinations of known design features. Members may provide that such protection shall not extend to designs dictated essentially by technical or functional considerations.</p>		<p>+</p> <p>–</p>
<p>2. Each Member shall ensure that requirements for securing protection for textile designs, in particular in regard to any cost, examination or publication, do not unreasonably impair the opportunity to seek and obtain such protection. Members shall be free to meet this obligation through industrial design law or through copyright law.</p>		

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>Article 26. Protection</p> <p>1. The owner of a protected industrial design shall have the right to prevent third parties not having the owner's consent from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.</p>	<p>Article 20. Rights under Patent</p> <p>1. Use of industrial design shall mean its use, offer for sale, setting forth into economic turnover, or keeping for the purposes above the product produced with use of the industrial design under the patent.</p> <p>2. The patent shall give to its owner the right to prevent from other persons to use the industrial design without his permit, except for the cases, where the use of the industrial design is not regulated by this Law.</p> <p>3. The rights do not cover imports and goods, which to the big extend, are the copies of a design.</p> <p>Part VII Protection of rights Article 26. Violation of Patent's Owner's Rights</p> <p>1. Any actions against the rights of the patent's owner, contained in article 20 of this Law, shall be considered as violations of the patent's owner's rights, which caused the responsibilities in accordance with the current legislation of Ukraine.</p> <p>2. On the patent's owner's demand such violation shall be terminated and the violator shall compensate the caused losses.</p> <p>Article 27. Disputes Settled in Court</p> <p>Courts, within their competence, shall settle disputes on establishing the author of the industrial design.</p>	<p>+</p> <p>–</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>2. Members may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.</p>	<p>Article 21 Alienation of Rights.</p> <ol style="list-style-type: none"> Coming from the economic interests and the national security interests the Cabinet of Ministers of Ukraine has the right to use the industrial design under the patent without the agreement of the patent owner, but it provides the just compensation to him. Disputes as to the conditions of giving a permit, and paying the compensation and its amount shall be settled in court. <p>Article 22. Actions Not Recognised as Violation of Rights</p> <ol style="list-style-type: none"> Any person, who before the application is submitted to the Department, or the priority is claimed, in the interests of his activities duly used in Ukraine the claimed industrial design and implemented a hard preparatory work for this use, shall keep the right on the free of charge use of this industrial design, as it was provided due to the named preparation work (the right of advanced use). The right of advanced use may be transferred only together with the enterprise or business practice, or that part of the enterprise which used the named industrial design, or realized a serious preparatory work for such use. There shall not be considered as violation of the rights under the patent the use of the industrial design under the patent in the following cases construction or exploitation of a transport mean of a foreign country which temporary or incidentally stays in the Ukrainian waters, air, or land, provided the industrial design is used exclusively for the requirements of this transport mean; without commercial purpose, for a scientific purpose, or as an experiment; extraordinary situations (calamities, accidents, epidemics, etc.). There shall not be recognized as violation of the rights under patent the setting forth into economic turnover of the goods, produced with use of the industrial design, which followed the same goods being set forth into the economic turnover by the patent owner, or it was made on his special permit. 	<p>+</p>
<p>3. The duration of protection available shall amount to at least ten years.</p>	<p>Article 5. Conditions for Legal Protection</p> <p>The right of property for an industrial design shall be certified by the patent. The validity term of the patent for industrial design shall be ten years since the date of submitting the application to the Department, and shall be extended by the Department on request of the patent's owner, but no more than for 5 years.</p>	<p>+</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
SECTION 5: PATENTS. Article 27. Patentable Subject-matter 1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. ¹	Law of Ukraine "On Protection of Rights to Inventions and Utility Models". Article 1. Definitions of Terms The terms listed herein below shall have the following meaning: - ‘invention’ shall be understood as a technological (technical) solution, which meets the conditions of the patentability (novelty, involvement of an inventive step and capability of industrial application). Article 6. Conditions of the Legal Protection The legal protection shall be granted to an invention (useful model), which does not contradict public interest, principles of humanity and moral and complies with patentability conditions. Article 7. Patentability Conditions of an Invention, Useful Model An invention shall meet patentability conditions if it is novel, involves an inventive step and is capable of industrial application.	+ –
2. Subject to paragraph 4 of Article 65, paragraph 8 of Article 70 and paragraph 3 of this Article, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.	Article 5. Rights of Foreign and Stateless Persons Foreign and stateless persons shall enjoy rights provided for hereby on an equal basis with citizens of Ukraine according to international treaties of Ukraine ratified by the Supreme Rada of Ukraine as binding.	+
3. Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect order public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.	Article 6. Conditions of the Legal Protection The legal protection shall be granted to an invention (useful model), which does not contradict public interest, principles of humanity and moral and complies with patentability conditions.	+
4. Members may also exclude from patentability: (a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals; and (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or	Article 6. Conditions of the Legal Protection 1. The design of a device may be an object of a useful model. 2. The following shall not be eligible for the legal protection hereunder; - plant varieties and animal breeds.	+

¹For the purposes of this Article, the terms "inventive step" and "capable of industrial application" may be deemed by a Member to be synonymous with the terms "non-obvious" and "useful" respectively.

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement.</p>	<p>3. Plant varieties are protected by the Law “On Protection of Rights to Varieties of Plants”.</p>	
<p>Article 28. Rights Conferred</p> <p>1. A patent shall confer on its owner the following exclusive rights:</p> <p>(a) where the subject matter of a patent is a product, to prevent third parties not having the owner’s consent from the acts of: making, using, offering for sale, selling, or importing² for these purposes that product; and</p> <p>(b) where the subject matter of a patent is a process, to prevent third parties not having the owner’s consent from the act of using the process, and from the acts of: using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.</p>	<p>Article 28. Rights Resulting from a Patent</p> <p>1. The patent shall confer on its holder the exclusive right to use the invention (useful model) at his discretion, unless such use infringes upon rights of other patent holders.</p> <p>2. The following shall be considered to be use of an invention (useful model):</p> <ul style="list-style-type: none"> - manufacture, offering for sale, application or importation, storage, introduction of a product in the business turnover otherwise for the above mentioned purposes, provided that the product has been manufactured using the patented invention (useful model); - application of the method protected by the patent or offering thereof for the application in Ukraine, if the person offering such method is aware of such application's being prohibited without consent of the patent holder or, in view of circumstances, it is obvious; and - offering for sale, introduction in the business turnover, application or importation or storage for the above-mentioned purposes of a product directly manufactured by the method protected by the patent. <p>3. The patent shall confer upon its holder the right to prohibit other persons from using the invention (useful model) without his consent, except for cases, when such use is not considered to be the infringement upon rights conferred by the patent hereunder.</p> <p>Article 6. Conditions of the Legal Protection</p> <p>A patent (declarative patent) granted for a method of obtaining a product shall also apply to the product directly derived using such method.</p>	<p style="text-align: center;">+</p> <p style="text-align: center;">+</p>
<p>2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.</p>	<p>Article 10. Right of a Successor</p> <p>The right to obtain a patent may be enjoyed by a successor of the inventor or that of the employer respectively.</p>	

²This right, like all other rights conferred under this Agreement in respect of the use, sale, importation or other distribution of goods, is subject to the provisions of Article 6.

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
	<p>Article 28. Rights Resulting from a Patent</p> <ol style="list-style-type: none"> 1. A patent holder may cede the title to an invention (useful model) on a contractual basis to any person, which becomes his successor. Such cession in respect of a secret invention (useful model) shall be effected only in concurrence with the State Expert. 2. A patent holder shall grant a permit (licence) to any person for the use of the invention (useful model) on the basis of a licence agreement. 3. Succession is not stipulated. 	
<p>Article 29. Conditions on Patent Applicants</p> <ol style="list-style-type: none"> 1. Members shall require that an applicant for a patent shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art and may require the applicant to indicate the best mode for carrying out the invention known to the inventor at the filing date or, where priority is claimed, at the priority date of the application. 	<p>Article 12. Application.</p> <ol style="list-style-type: none"> 1. The description of the invention (useful model) shall be set forth according to the established procedure and disclose the content of the invention (useful model) so clearly and fully that a specialist in the relevant field be able to produce it. 2. The formula of the invention (useful model) shall express its content, be based upon the description and be set forth clearly and concisely according to the established procedure. 	+
<ol style="list-style-type: none"> 2. Members may require an applicant for a patent to provide information concerning the applicant's corresponding foreign applications and grants. 		+
<p>Article 30. Exceptions to Rights Conferred</p> <p>Members may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.</p>	<p>Article 31. Actions not Deemed to Constitute Infringement upon Rights</p> <ol style="list-style-type: none"> 1. Any person, which has used the technological (technical) solution identical to the claimed invention (useful model) in the interests of his activities for commercial purposes bona fide or made considerable and serious preparations to such use prior to the date of the submission of an application to the Institution or, if the priority is claimed, prior to the date of priority, shall retain the right to the gratis continuation of such use or to the use of the invention (useful model) envisaged by the said preparations (right of prior use). 2. The right of prior use shall be restricted by the scope of the use of the solution identical to the claimed invention, which existed as of the application submission date. 3. The right of prior use may be transferred or passed on to another person only together with the enterprise or the business practice or the part of the enterprise or the business practice, where the solution identical to the claimed invention (useful model) was used or considerable and serious preparations for such use were made. 4. The following use of the patented invention (useful model) shall not be considered to constitute the infringement upon rights resulting from a patent: <ul style="list-style-type: none"> - the use in the design or in the course of the operation of a vehicle of a foreign state, which sojourns temporarily or accidentally in waters, airspace or on the territory of Ukraine, provided that the invention (useful model) is being 	+

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
	<p>used solely for the needs of the said vehicle;</p> <ul style="list-style-type: none"> - the use without commercial purposes; - the use for scientific or experimental purposes; - the use in case of extraordinary situations (acts of God, disasters, epidemics, etc.); and - the use for the one-time production of medicines in pharmacies according to a doctor's prescription. <p>5. The introduction in business turnover of a product manufactured using the patented invention (useful model) by any person, which acquired it without infringing upon rights of the holder, shall not be considered to constitute infringement upon rights resulting from a patent.</p> <p>6. A product manufactured using the patented invention (useful model) shall be deemed to have been acquired without infringing upon rights of the patent holder, if such product has been manufactured and/or introduced in the turnover after the manufacture by the patent holder or another person upon special permit (licence) of the patent holder.</p> <p>7. The use of an invention for commercial purposes by any person, which acquired a product manufactured using the patented invention and could not know that such product has been manufactured or introduced in the turnover with infringement upon rights conferred by the patent, shall not be considered to constitute the infringement upon rights resulting from the patent. However, upon receipt of an appropriate notice of the owner of rights, the said person shall cease using the product or pay the owner of rights relevant costs, whose amount shall be ascertained according to laws or upon consent of the parties. The disputes related to such payments and the disbursement procedures shall be settled by way of a court procedure.</p>	

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>Article 31. Other Use Without Authorization of the Right Holder</p> <p>1. Where the law of a Member allows for other use³ of the subject matter of a patent without the authorization of the right holder, including use by the government or third parties authorized by the government, the following provisions shall be respected:</p> <ul style="list-style-type: none"> - authorization of such use shall be considered on its individual merits. 	<p>Article 30. Forced Alienation of Rights to an Invention (Useful Model)</p> <p>1. If an invention (useful model), except for a secret invention (useful model), has not been used or has been used not fully in Ukraine during three years after the date of the publication of the information on the patent issue or after the date, when the use of the invention (useful model) was terminated, then any person desirous of and prepared to using the invention (useful model) may refer to the court of law with an application for a permit to use the invention (useful model) on a non-exclusive licence conditions, in case of the refusal of the owner of rights to conclude a licence agreement.</p> <p>2. Unless the patent holder proves that the failure to use the invention (useful model) was caused by justifiable reasons for non-use, the court of law shall pass a decision to grant the permit to the interested person to use the invention (useful model) on a non-exclusive licence conditions stating the scope of the application, the term of validity of the permit, the amount and the procedure of the payment of emoluments to the patent holder.</p> <p>3. Taking into account the public interest and in case of the state of martial law or the state of emergency, the Cabinet of Ministers of Ukraine shall have the right to allow a person nominated by it to use the invention (useful model) without consent of the holder of the patent (declarative patent) on non-exclusive licence conditions with the payment of an appropriate compensation to the patent holder.</p> <p>4. Disputes related to conditions of granting licences and the payment of compensations and the amount thereof shall be settled by way of court procedure.</p>	<p>+</p>
<p>2. This requirement may be waived by a Member in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use.</p>	<p>Article 31. Actions not Deemed to Constitute Infringement upon Rights</p> <p>1. The following use of the patented invention (useful model) shall not be considered to constitute the infringement upon rights resulting from a patent:</p> <ul style="list-style-type: none"> - the use in the design or in the course of the operation of a vehicle of a foreign state, which sojourns temporarily or accidentally in waters, airspace or on the territory of Ukraine, provided that the invention (useful model) is being used solely for the needs of the said vehicle; - the use without commercial purposes; - the use for scientific or experimental purposes; - the use in case of extraordinary situations (acts of God, disasters, epidemics, etc.); and - the use for the one-time production of medicines in pharmacies according to a doctor's prescription. 	<p>+</p>

³"Other use" refers to use other than that allowed under Article 30.

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>3. In situations of national emergency or other circumstances of extreme urgency, the right holder shall, nevertheless, be notified as soon as reasonably practicable. In the case of public non-commercial use, where the government or contractor, without making a patent search, knows or has demonstrable grounds to know that a valid patent is or will be used by or for the government, the right holder shall be informed promptly.</p>	<p>2. The Procedure for Providing a Permit by the Cabinet of Ministers of Ukraine for Using the Invention (Utility Model), Industrial Design or Topology of an Integrated Circuit Design with the Right Holder's Consent, but with Compensation to Him is approved by the Cabinet of Ministers of Ukraine 6 April 1998, No.444 (further on – Procedure). P. 7 of the Procedure – "The State Department notifies all interested parties about the decision adopted by the Cabinet of Ministers of Ukraine". Urgency of this notification is not mentioned.</p>	<p>+</p> <p>–</p>
<p>4. The scope and duration of such use shall be limited to the purpose for which it was authorized, and in the case of semi-conductor technology shall only be for public non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive;</p> <ul style="list-style-type: none"> - such use shall be non-exclusive; - such use shall be non-assignable, except with that part of the enterprise or goodwill which enjoys such use; - any such use shall be authorized predominantly for the supply of the domestic market of the Member authorizing such use; - authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur. The competent authority shall have the authority to review, upon motivated request, the continued existence of these circumstances; - the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization; - the legal validity of any decision relating to the authorization of such use shall be subject to judicial review or other independent review by a distinct higher authority in that Member; - any decision relating to the remuneration provided in respect of such use shall be subject to judicial review or other independent review by a distinct higher authority in that Member; - Members are not obliged to apply the conditions set forth in subparagraphs (b) and (f) where such use is permitted to remedy a practice determined after judicial or administrative process to be anti-competitive. The need to correct anti-competitive practices may be taken into account in determining the amount of remuneration in such cases. Competent authorities shall have the authority to refuse termination of authorization if and when the conditions which led to such authorization are likely to recur; 	<p>3. See above paragraph 1 of Point 3 of Article 30 of the Law</p> <p>(a) Current legislation of Ukraine does not provide for the transfer of permit for use.</p> <p>4. Point 8 of the Procedure. "In case there are violations in the use of the object by a person who is provided with the permit to use it, the Cabinet of Ministers of Ukraine can terminate the previously issued permit. The decision on the issue of a permit can also be terminated, if there won't be grounds any more for its issue.</p> <p>5. Point 6 of the Procedure "The amount of compensation paid to the right holder and the procedure for its payment are determined in the Decision"</p> <p>6. Point 9 of the Procedure "The decision of the Cabinet of Ministers of Ukraine on the issue of a permit to use the object, terms and conditions for its use, the amount of compensation paid to the right holder and the procedure for its payment may be appealed by the interested person in an order determined by the legislation".</p>	<p></p> <p></p> <p>+</p> <p>–</p> <p>–</p> <p>–</p> <p>+</p> <p>–</p> <p>+</p> <p>+</p> <p>+</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<ul style="list-style-type: none"> - where such use is authorized to permit the exploitation of a patent ("the second patent") which cannot be exploited without infringing another patent ("the first patent"), the following additional conditions shall apply: - the invention claimed in the second patent shall involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent; - the owner of the first patent shall be entitled to a cross-licence on reasonable terms to use the invention claimed in the second patent; and - the use authorized in respect of the first patent shall be non-assignable except with the assignment of the second patent. 	<p>Article 30. Forced Alienation of Rights to an Invention (Useful Model)</p> <p>A patent holder shall be obliged to grant a permit (licence) for the use of the invention (useful model) to a holder of a patent granted later, if the latter's invention (useful model) is intended for attaining another objective or has considerable technical and economic advantages but may not be used without infringement on rights of the owner of the patent granted earlier. The permit shall be granted in the scope required to use the invention (useful model) by the holder of the patent granted later. In this case, the owner of the patent granted earlier shall have the right to obtain a licence for using the invention (useful model), which is protected by the patent granted later, on favourable conditions.</p>	<p>+</p> <p>+</p> <p>+</p> <p>-</p>
<p>Article 32. Revocation/Forfeiture</p> <p>An opportunity for judicial review of any decision to revoke or forfeit a patent shall be available.</p>	<p>Article 35. Disputes to be Settled by Way of Court Procedure</p> <p>According to their competence, the courts shall consider the disputes related to:</p> <ul style="list-style-type: none"> - the invalidation of a patent; - ascertaining the patent holder; and - the issue of a forced license. 	<p>+</p>
<p>Article 33. Term of Protection</p> <p>The term of protection available shall not end before the expiration of a period of twenty years counted from the filing date.⁴</p>	<p>Article 6. Conditions of the Legal Protection</p> <p>The term of validity of a patent of Ukraine for invention shall be 20 years from the date of the submission of the application to the Institution.</p>	<p>+</p>
<p>Article 34. Process Patents: Burden of Proof</p> <p>1. For the purposes of civil proceedings in respect of the infringement of the rights of the owner referred to in paragraph 1(b) of Article 28, if the subject matter of a patent is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process. Therefore, Members shall provide, in at least one of the following circumstances, that any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process:</p> <p>(a) if the product obtained by the patented process is new; and</p> <p>(b) if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been</p>		<p>+</p>

⁴It is understood that those Members which do not have a system of original grant may provide that the term of protection shall be computed from the filing date in the system of original grant.

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<p>unable through reasonable efforts to determine the process actually used.</p> <p>2. Any Member shall be free to provide that the burden of proof indicated in paragraph 1 shall be on the alleged infringer only if the condition referred to in subparagraph (a) is fulfilled or only if the condition referred to in subparagraph (b) is fulfilled.</p> <p>3. In the adduction of proof to the contrary, the legitimate interests of defendants in protecting their manufacturing and business secrets shall be taken into account.</p>		
<p>SECTION 6: LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS</p> <p>Article 35. Relation to the IPIC Treaty</p> <p>Members agree to provide protection to the layout-designs (topographies) of integrated circuits (referred to in this Agreement as "layout-designs") in accordance with Articles 2 through 7 (other than paragraph 3 of Article 6), Article 12 and paragraph 3 of Article 16 of the Treaty on Intellectual Property in Respect of Integrated Circuits and, in addition, to comply with the following provisions.</p>	<p>The Law of Ukraine “On Protection of Rights to Topologies of Integrated Circuit Design”.</p>	
<p>Article 36. Scope of the Protection</p> <p>Subject to the provisions of paragraph 1 of Article 37, Members shall consider unlawful the following acts if performed without the authorization of the right holder importing, selling, or otherwise distributing for commercial purposes a protected layout-design, an integrated circuit in which a protected layout-design is incorporated, or an article incorporating such an integrated circuit only in so far as it continues to contain an unlawfully reproduced layout-design.</p>	<p>Article 16. Rights stipulated by the registration of a topology of an integrated circuit design</p> <p>Registration provides the owner of the registered topology of an ICD with the right to:</p> <ul style="list-style-type: none"> - prohibit other persons from using a topology on an ICD without his permit, except those cases, when such use is not determined by Article 17 of this Law as a violation of rights of the owner of a registered ICD topology. 	
	<p>Use of a topology encompass:</p> <ul style="list-style-type: none"> - copying of the topology of ICD; - production of ICD with the help of the given topology; - production of any goods, which contain such ICDs; - importation of such ICDs and products containing them into the customs territory of Ukraine; and - introduction of them into commerce, sale, storage with the above purposes and other introduction into turnover of the ICDs produced with the help of the given topology, as well as any goods, which contain such ICDs. 	+

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	<p>Article 21. Violations of rights of the owner of a registered topology of the ICD</p> <p>Any trespass to the rights of the owner of a registered topology of ICD, defined in Article 16 of this Law, shall be considered to be a violation of the owner’s rights, which entails the responsibility according to the current Ukrainian legislation.</p>	
<p>Article 37. Acts Not Requiring the Authorization of the Right Holder</p> <p>1. Notwithstanding Article 36, no Member shall consider unlawful the performance of any of the acts referred to in that Article in respect of an integrated circuit incorporating an unlawfully reproduced layout-design or any article incorporating such an integrated circuit where the person performing or ordering such acts did not know and had no reasonable ground to know, when acquiring the integrated circuit or article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design.</p>	<p>Article 17. Actions, which are not recognized as a violation of rights to the registered topology of ICD</p> <p>Use of an ICD by any person, who obtained it and, along with this, did not know and could not know that this ICD or a product containing it were produced with the violation of rights, which are granted with the registration of a topology of ICD, is not considered as a violation of rights granted with the registration of an ICD. However, after obtaining an appropriate notification from the owner of the rights, the above person shall reimburse him the sum they will agree upon. Disputes on the reimbursement and the procedure for its payment are settled in a judicial order.</p>	<p>+</p> <p>-</p>
<p>2. Members shall provide that, after the time that such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the acts with respect to the stock on hand or ordered before such time, but shall be liable to pay to the right holder a sum equivalent to a reasonable royalty such as would be payable under a freely negotiated licence in respect of such a layout-design.</p>		
<p>3. The conditions set out in subparagraphs (a) through (k) of Article 31 shall apply mutatis mutandis in the event of any non-voluntary licensing of a layout-design or of its use by or for the government without the authorization of the right holder.</p>	<p>Article 19. Use of a registered topology of ICD without the owner’s consent</p> <p>1. Following from the public interests and national security consideration, the Cabinet of Ministers of Ukraine may allow the use of a registered topology of ICD without the owner’s consent, but with an appropriate reimbursement to him.</p> <p>2. Disputes on the conditions for granting a permit and reimbursement, and its amount are settled in a judicial order.</p>	<p>+</p> <p>-</p>
<p>Article 38. Term of Protection</p> <p>1. In Members requiring registration as a condition of protection, the term of protection of layout-designs shall not end before the expiration of a period of 10 years counted from the date of filing an application for registration or from the first commercial exploitation wherever in the world it occurs.</p>	<p>Article 4. Conditions for providing legal protection to the topology of ICD</p> <p>An exclusive right to use the topology of an ICD is proved by a certificate, which confirms the registration of a topology of ICD. The certificate is valid during ten years from the date of submission of an application to the Agency, or from the date of the first use of the topology of ICD provided, that not more than two years passed since this date and the date of submission of an application to the Agency.</p>	<p>+</p> <p>-</p>
<p>2. In Members not requiring registration as a condition for protection, layout-designs shall be protected for a term of no less than ten years from the date of the first commercial exploitation wherever in the world it occurs.</p>		+
<p>3. Notwithstanding paragraphs 1 and 2, a Member may provide that protection shall lapse 15 years after the creation of the layout-design.</p>		+

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>SECTION 7: PROTECTION OF UNDISCLOSED INFORMATION Article 39</p> <p>1. In the course of ensuring effective protection against unfair competition as provided in Article 10bis of the Paris Convention (1967), Members shall protect undisclosed information in accordance with paragraph 2 and data submitted to governments or governmental agencies in accordance with paragraph 3.</p>		–
<p>2. Natural and legal persons shall have the possibility of preventing information lawfully within their control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices so long as such information:</p> <p>(a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;</p> <p>(b) has commercial value because it is secret; and</p> <p>(c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.</p>	<p>The Law of Ukraine "On Information". Article 45. Protection of the Right to Information</p> <p>1. The right to information shall be protected by the law. The state shall guarantee all participants in information relationships equal rights and opportunities in terms of information access.</p> <p>2. No one shall restrict the right of the person to choose the form and sources of information, except in cases provided by law.</p> <p>3. Information right entities may demand the elimination of any infringements on this right.</p> <p>Article 46. Inadmissibility of Abuses of the Right to Information</p> <p>Information legally qualified as state or other secrets shall not be disclosed. Law of Ukraine “On Protection Against Unfair Competition”.</p> <p>Article 16. Unlawful Collection of Commercial Secrets</p> <p>Unlawful collection of commercial secrets shall be understood as illegally obtaining data which is qualified by Ukraine’s legislation as confidential commercial information, if by doing so a business entity (entrepreneur) has been or can be damaged.</p> <p>Article 17. Disclosure of Commercial Secrets</p> <p>Disclosure of commercial secrets shall be understood as disclosure of information qualified under Ukraine’s legislation as confidential by the party entrusted with this information to a third party without the knowledge and consent of the authorized party, provided this information was entrusted to that party in due course or was made known in that party’s line of duty, and provided this disclosure has damaged or can damage the given business entity (entrepreneur).</p>	<p>+</p> <p>–</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
	<p>Article 18. Instigating to Disclose Commercial Secrets</p> <p>Instigating to disclose commercial secrets shall be understood as instigating a person duly entrusted with information qualified as commercial secrets under Ukraine’s legislation or made privy to it in the line of duty to disclose this information, provided this disclosure has damaged or can damage the given business entity (entrepreneur).</p> <p>Article 19. Unlawful Use of Commercial Secrets</p> <p>Unlawful use of commercial secrets shall be understood as information used in production or taken into account when planning and doing business, which information was illicitly obtained, without the knowledge and consent of the authorized person, and which is qualified as a commercial secret under the laws of Ukraine.</p> <p>Law of Ukraine “On Enterprises in Ukraine”. Article 30.</p> <p>Commercial secret encompass the data related to: production, technological information, management, financing and other activity of an enterprise, which are not the state secret that might cause damage to the State upon disclosure (transferring, leakage).</p>	
<p>3. Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use. In addition, Members shall protect such data against disclosure, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use.</p>		–
<p>PART III. ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS SECTION 1: GENERAL OBLIGATIONS Article 41</p> <p>1. Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.</p>	<p>The Constitution of Ukraine (Art. 41, 54); the Civil Code of Ukraine (Art.517-523); the Civil Procedural Code (Art.70, 126, 218, 374); the Criminal Code of Ukraine (Art.136, 137); Code of Ukraine on Administrative Violations 9Art. 51, 164, 221, 255, 294); Code of Ukrainian Laws on Labor (Art.42, 91, 126); the Customs Code of Ukraine (Art.74, 89, 150); Law of Ukraine "On Protection of Rights to Industrial Design" of 15 December 1993, No. 3688-XII; Law of Ukraine "On Protection of Rights to Trademarks for Goods and Services" of 15 December 1993, No. 3689-XII; Law of Ukraine "On Protection of Rights to Topologies of Integrated Circuit Design" of 5 November 1997, No. 621-97; Law of Ukraine "On Protection of Rights to Varieties of Plants" of 21 April 1993, No.3116-XII; Law of Ukraine "On Protection of Rights to Indications of Geographical Origin of Goods" of 16 June 1999, No. 752-IXV; Law of Ukraine "On protection of Rights to Inventions and Utility Models" in the reading of 1 June 2000, No. 1771-III; Law of Ukraine “On Amendment of Some Legislative Acts of Ukraine on Intellectual Property Protection" of 28 February 1995, No. 75/95; Law of Ukraine "On Copyright</p>	<p>+</p> <p>–</p>

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	and Related Rights" of 23 December 1993, No. 3792-XII; Law of Ukraine "On the Distribution of Copies of Audiovisual Works and Phonograms" adopted by the Supreme Rada on 23 March 2000; Law of Ukraine "On Property" (Art.13, 40-42); Law of Ukraine "On Enterprises in Ukraine" (Art. 1, 9, 15); Law of Ukraine "On Foreign Investment" (Art.3, 135); Law of Ukraine "On Taxation of Profits of Enterprises and Organizations" (Art.3); Law of Ukraine "On Foreign Economic Activity" (Art.17, 31); Law of Ukraine "On Protection of the Atmosphere" (Art.29); Law of Ukraine "On Television and Radio Broadcasting" (Art.30); Law of Ukraine "On Seeds" (Art.2,4); Law of Ukraine "On Businesses" (Art.13).	
2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.	The Civil Procedural Code of Ukraine . Article 6. In civil cases justice shall be administered exclusively by the court based on the principles of equality before the law and the court of all the citizens regardless of their origin, social and property, or racial and national status, sex, language, attitude to religion, type and nature of occupation, residence or any other circumstances.	+
3. Decisions on the merits of a case shall preferably be in writing and reasoned. They shall be made available at least to the parties to the proceeding without undue delay. Decisions on the merits of a case shall be based only on evidence in respect of which parties were offered the opportunity to be heard. 4. Parties to a proceeding shall have an opportunity for review by a judicial authority of final administrative decisions and, subject to jurisdictional provisions in a Member's law concerning the importance of a case, of at least the legal aspects of initial judicial decisions on the merits of a case. However, there shall be no obligation to provide an opportunity for review of acquittals in criminal cases.	The Civil Procedural Code of Ukraine Article 211. The decision made shall be put in written by the chairman or one of the judges if the case was judged collectively. This decision shall be signed up by all the court body members, who take part in making decision. Article 202. The court's decision shall be legal and well-founded. The court shall found its decision only on the evidences, looked into during the court session.	+ +
5. It is understood that this Part does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of Members to enforce their law in general. Nothing in this Part creates any obligation with respect to the distribution of resources as between enforcement of intellectual property rights and the enforcement of law in general.		+

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>SECTION 2: CIVIL AND ADMINISTRATIVE PROCEDURES AND REMEDIES</p> <p>Article 42. Fair and Equitable Procedures</p> <p>Members shall make available to right holders civil judicial procedures concerning the enforcement of any intellectual property right covered by this Agreement. Defendants shall have the right to written notice which is timely and contains sufficient detail, including the basis of the claims. Parties shall be allowed to be represented by independent legal counsel, and procedures shall not impose overly burdensome requirements concerning mandatory personal appearances. All parties to such procedures shall be duly entitled to substantiate their claims and to present all relevant evidence. The procedure shall provide a means to identify and protect confidential information, unless this would be contrary to existing constitutional requirements.</p>	<p>The Civil Procedural Code of Ukraine</p> <p>Article 4. Right to refer to the court for legal protection</p> <p>Any interested person is eligible to refer to the court in the order determined by law for protection of his breached or claimed right or protected interest. Resignation from the right to refer to the court is not valid.</p> <p>Article 10. Publicity of the judicial examination</p> <p>Cases in all courts shall be open, unless it infringes interests of state secrets protection. Besides this, non-public judicial examination is allowed upon well-motivated decision of the court which is aimed at non-disclosing of information on intimate life of the persons involved, as well as to provide for the secret of adoption.</p> <p>Article 99. Rights and duties of the persons taking part in the case</p> <p>Persons involved in judicial case are eligible to be familiar with the case materials, make extracts from them, receive copies of the decisions, resolutions and other documents that are in the case, submit evidences and take part in their examination, declare petitions and object them, submit verbal and written explanations to the court, suggest their arguments, considerations and objections, object to court’s decisions and resolutions, as well as benefit from other procedural rights provided by law.</p> <p>Article 110. Types of representation</p> <p>Citizens are entitled to conduct their cases in person or via their representatives. Citizen’s personal participation in the case does not deprive him of the right to have some representative in this case. Legal persons’ cases shall be conducted by their bodies, which act within their powers provided by law or statute, or by their representatives. Managers of the organizations which act as the bodies of the legal persons shall submit to the court documents certifying their professional status and powers.</p>	<p>+ -</p>

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	<p>Article 137. Content and form of the statement of claim</p> <p>1. Statement of claim shall be filed to the court in writing. Statement of claim shall contain:</p> <ul style="list-style-type: none"> - contents of the suit demands; - circumstances on which the suit demands are based; and - evidences that are to prove the suit. <p>2. Statement of claim shall be accompanied by the written evidences. If the suit declaration is submitted by the plaintiff's representative, power of attorney or other document to prove representative's powers shall be attached to the declaration.</p> <p>Article 138. Filing of the statement of claim and attached documents copies</p> <p>Plaintiff shall file statement of claim along with its copies according to the number of respondents. In case the judge considers necessary, depending on complexity and character of the case he is eligible to require from the plaintiff copies of all the materials attached to the statement of claim in line with the number of respondents. Regulations of this article shall not be valid for the cases dealing with labor or reimbursement of damage caused by the mutilation or loss of the bread-winner.</p> <p>Article 187. Disclosing of the private correspondence or telegraph messages of the citizens</p> <p>In order to provide for the secrecy of correspondence and telegraph messages, private correspondence and telegraph messages of the citizens can be disclosed during the court's session only upon the involved citizens' consent. Otherwise such correspondence and telegraph messages can be disclosed and examined during the closed session of the court.</p>	
<p>Article 43. Evidence</p> <p>1. The judicial authorities shall have the authority, where a party has presented reasonably available evidence sufficient to support its claims and has specified evidence relevant to substantiation of its claims which lies in the control of the opposing party, to order that this evidence be produced by the opposing party, subject in appropriate cases to conditions which ensure the protection of confidential information.</p>	<p>The Civil Procedural Code of Ukraine</p> <p>Article 33. Court orders for collection of evidences</p> <p>If collection of evidences is necessary in other city, town, or district, the court is eligible to order to the relevant court to take necessary procedural actions.</p> <p>Article 35. Grounds for providing evidences</p> <p>Persons having grounds to apprehend that submission of the necessary to them evidences might be impossible or difficult in a time are eligible to appeal to the court or to the judge during the case consideration for providing these evidences both prior and after</p>	<p>+</p>

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	<p>filing the statement.</p> <p>Article 36. Methods to provide evidences</p> <ol style="list-style-type: none"> 1. Judge shall provide evidences particularly via: examination of witnesses, prescribing tests, demanding and examining of the written and material evidences. Court or judge shall pass the resolution on providing evidences. This resolution shall provide for order and method of its implementation. 2. Records of evidences and all the materials collected while providing evidences shall be directed to the court, which examines the case. <p>Article 38. Order of statements for providing evidences consideration</p> <ol style="list-style-type: none"> 1. Statements for providing evidences shall be considered within ten days by the court or by a judge, under whose jurisdiction procedural action shall be taken. Persons involved shall be informed on such actions. Failure to appear (default) of such persons should not infringe statement consideration. 2. In case of emergency as well as when it is impossible to determine whom the plaintiff will charge, statement for providing evidences shall be considered only under the plaintiff's presence. <p>Article 47. Demanding and obtaining written evidences</p> <ol style="list-style-type: none"> 1. Person appealing to the court for demanding and obtaining written proofs from the other persons shall state in detail: which written proof is being demanded; grounds consider that another person is in possession of the written proof; circumstances that might be proved by this evidence. 2. Written evidences required by the court or a judge from state enterprises, institutions, organizations, agricultural enterprises, other cooperative organizations or their associations, as well as from particular citizens shall be directed immediately to the court. <p>Article 53. Demanding and obtaining material evidences and responsibility for failure to submit them</p> <p>Demanding of the material evidences and making decision regarding failure to submit them shall be conducted in the order determined by articles 47 and 48 of this Code.</p> <p>Article 202. Legitimacy and validity of the court resolution</p> <p>Resolution by the court shall be legitimate and well-grounded. The court shall base its</p>	

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	<p>decision exclusively on the evidences examined during the court session.</p> <p>Article 203. Resolution content</p> <ol style="list-style-type: none"> 1. Resolution shall consist of introductory, descriptive, motivating, and resolute sections. 2. Introductory part shall contain time and place of passing decision, name of the court that made the decision, college of the court, name of the court session secretary, name of the attorney who took part in the case, names of the parties and other persons who took part in the case, name of the non-government organization or working collective. <p>Arbitration Procedural Code of Ukraine Article 38. Demanding and obtaining proofs</p> <p>If the proofs submitted by the parties are not sufficient, arbitration court shall demand and obtain from enterprises and organizations regardless of their participation in the case documents and materials necessary to resolve the argument. Arbitration court is eligible to examine the proofs immediately at place of their location.</p>	
<p>2. In cases in which a party to a proceeding voluntarily and without good reason refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes a procedure relating to an enforcement action, a Member may accord judicial authorities the authority to make preliminary and final determinations, affirmative or negative, on the basis of the information presented to them, including the complaint or the allegation presented by the party adversely affected by the denial of access to information, subject to providing the parties an opportunity to be heard on the allegations or evidence.</p>	<p>Civil Procedural Code of Ukraine</p> <p>Article 48. Responsibility for failure to submit written evidences</p> <ol style="list-style-type: none"> 1. State enterprises, institutions, organizations, agricultural enterprises, other cooperative organizations or their associations, non-government organizations or citizens, who can not submit the proofs required by the court shall inform the court on this mentioning the reason for the failure. In case of failure to inform the court timely or if the reason for failure to submit written evidences is judged invalid, the court or a judge may fine guilty servicemen or employees of the state enterprises, institutions, organizations, agricultural enterprises, other cooperative organizations or their associations, non-government organizations or citizens. The penalty shall be up to amount of the one non-taxable citizen's income. 2. Fining officials or citizens does not release them from the obligation to submit written evidence required by the court. <p>Article 202. Legitimacy and validity of the resolution</p> <p>Decision by the court shall be legitimate and well-grounded. The court shall base its decision exclusively on the evidences examined during the court session.</p>	<p>+</p> <p>-</p>

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<p>Article 44. Injunctions</p> <p>1. The judicial authorities shall have the authority to order a party to desist from an infringement, inter alia to prevent the entry into the channels of commerce in their jurisdiction of imported goods that involve the infringement of an intellectual property right, immediately after customs clearance of such goods. Members are not obliged to accord such authority in respect of protected subject matter acquired or ordered by a person prior to knowing or having reasonable grounds to know that dealing in such subject matter would entail the infringement of an intellectual property right.</p>	<p>Civil Procedural Code of Ukraine</p> <p>Article 149. Grounds for providing a suit</p> <ol style="list-style-type: none"> 1. By their own initiative or meeting the request of the persons who took part in the case court or a judge can take action to provide for the suit. 2. If failure to provide for a suit can complicate or unable the implementation of the court’s decision, providing for a suit is eligible at any stage of the case. 3. Upon assuming the case for his execution in cases on inflicting allowance due to children from father separation, salary or damage caused by mutilation or other health problem, as well as loss of a bread-winner the judge on his own initiative decides on providing for a suit. 	
	<p>Article 151. Consideration of the application for providing a suit</p> <p>Application for providing a suit shall be considered by the court or a judge, who deals with the case at the day of filing the application with no notice to the respondent or other persons who take part in the case.</p> <p>Article 152. Methods to provide for a suit</p> <ol style="list-style-type: none"> 1. A suit can be provided by: <ul style="list-style-type: none"> - sequestration of the property or money sums belonging to the respondent and located at him or at other persons; - prohibition from certain actions; - prohibition to other persons to conduct payments or to pass any property to respondent; - stoppage of the sale of distrained property, if the suit for ownership right for this property or for its exclusion from the distraint; and - stoppage of the penalty on the basis of executive decision by the notary when debtor disputes it with statement of claim. 2. Suits to state enterprises, institutions, organizations, agricultural enterprises, other cooperative organizations or their associations, other non-government organizations can be provided only with prohibition to take certain action. <p>Arbitration Procedural Code of Ukraine. Article 67. Measures to provide for a suit</p> <ul style="list-style-type: none"> - sequestration of the property or money sums belonging to the respondent and located at him or at other persons; - prohibiting respondent from certain actions; 	

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
	<p>prohibiting other persons from actions that have to do with the subject of the argument; and</p> <ul style="list-style-type: none"> - stoppage of the penalty on the basis of executive document according to which the penalty shall be executed in indisputable order. 	
	<p>Law of Ukraine "On Copyright and Related Rights". Article 43. Enforcement of Copyright and Related Rights under Civil Law</p> <ol style="list-style-type: none"> 1. If there is a probable cause to suspect an infringement of copyright and related rights, a court or arbitration court is empowered to issue an order or an injunction barring the release of a work, the performance of a production, the playing of • phonogram, or the making of an aerial or wire transmission, or an order to cease and desist from distribution thereof, or an order to impound or confiscate all specimens of a work or phonogram along with equipment and materials designed to be used in the production and reproduction thereof. 2. A court or arbitration court may rule that all specimens of a work or phonogram found to have been produced or distributed in violation of the exclusive rights of copyright and related right holders be destroyed or declared forfeit. This applies to all plates, dies, molds, originals, magnetic tapes, photographic negatives, and other objects used in making specimens of a work, phonogram, or broadcast program, as well as to materials and equipment used in reproducing them. 	
<p>2. Notwithstanding the other provisions of this Part and provided that the provisions of Part II specifically addressing use by governments, or by third parties authorized by a government, without the authorization of the right holder are complied with, Members may limit the remedies available against such use to payment of remuneration in accordance with subparagraph (h) of Article 31. In other cases, the remedies under this Part shall apply or, where these remedies are inconsistent with a Member's law, declaratory judgments and adequate compensation shall be available.</p>		–
<p>Article 45. Damages</p> <ol style="list-style-type: none"> 1. The judicial authorities shall have the authority to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement of that person's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity. 	<p>The Civil Code of Ukraine Article 203. Debtor's obligation to compensate losses</p> <p>In case of debtor's failure to meet his commitment improper meeting his commitment the debtor is obliged to compensate creditor the loss caused. Losses shall be read as creditor's expenses, loss of or damage to his property, as well as incomes not received by the creditor which would be received, unless debtor failed to meet his commitment.</p>	

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
	<p>Article 440. General grounds of responsibility for damage caused</p> <ol style="list-style-type: none"> 1. Damage caused to personality or property of the citizen as well as organization, shall be compensated by the person who caused the damage, unless otherwise is provided for by the Ukrainian legislature. 2. In cases person who caused the damage proves that the damage was caused by the fault of not his own, he can be released from compensating losses. 3. Damage caused by the legitimate action shall be compensated only in cases provided by the Ukrainian legislature. <p>Article 440-1. Compensation for moral (non-property) losses</p> <ol style="list-style-type: none"> 1. Moral (non-property) losses caused to citizen or organization by the acts of another person, who breached their legitimate rights shall be compensated by the person who caused the damage unless he proves that the damage was caused by the fault of not his own. Moral losses shall be compensated with money or any other material form by court’s decision regardless of compensation for property damage. 2. Amount of compensation shall be determined by the court in mind with statement of claim demands, character of person’s acts, physical or mental suffering of the victim as well as other negative consequences, but in any case compensation shall be no less than five non-taxable salary minimums. <p>Article 453. Methods to compensate losses</p> <p>Sentencing to damage compensation, court or arbitration court in line with the case circumstances puts an obligation onto the person responsible for causing damage to compensate it in natural form (to provide the thing of the same type and quality, repair damaged thing or other) or compensate the damage caused in full.</p>	
	<p>The Law of Ukraine "On Protection of Rights to Inventions and Utility Models". Article 34. Infringement upon Rights of the Patent Holder The patent holder may require:</p> <ul style="list-style-type: none"> - the termination of actions, which infringe upon or threaten with the infringement upon his rights, and the restoration of the status quo before such infringement; - the payment of damages, including non-received revenue; and - reimbursement for the emotional duress. <p>Law of Ukraine "On Copyright and Related Rights" Article 44. Restitution of Losses Resulting from Infringement of Copyright and Related Rights</p>	

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
	<p>Persons holding copyright and related rights may demand:</p> <ul style="list-style-type: none"> - restitution of losses suffered as a result of an infringement of copyright and related rights, including lost revenues - confiscation and attachment of profits earned by the infringer from the infringement of copyright and related rights, in lieu of restitution of losses; and - payment of compensation awarded by the court, in the amount of ten to 50,000 times the minimum wage established by the laws of Ukraine, in lieu of restitution of losses or attachment of profits. <p>Law of Ukraine "On Protection of Rights to Industrial Design". Article 26. Violation of Patent's Owner's Rights</p> <p>On the patent's owner's demand such violation shall be terminated and the violator shall compensate the caused losses.</p> <p>Law of Ukraine "On Protection of Rights to Trademarks for Goods and Services" Article 20. Violation of Certificate's Owner's Rights</p> <p>On the certificate's owner's demand such violation shall</p>	
<p>2. The judicial authorities shall also have the authority to order the infringer to pay the right holder expenses, which may include appropriate attorney's fees. In appropriate cases, Members may authorize the judicial authorities to order recovery of profits and/or payment of pre-established damages even where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity.</p>	<p>The Civil Procedural Code of Ukraine. Article 76. Compensation of expenses for lawyer</p> <ol style="list-style-type: none"> 1. Party winning the case shall receive by court's sentence compensation for a lawyer taking part in the case from losing party in amount up to five per cent of satisfied statement of claim, but not more than amount of statutory price. 2. If according to the determined order the lawyer's assistance was received free of charge, court levies from another party the mentioned amount for the benefit of legal consultation or for state income. 	+
<p>Article 46. Other Remedies</p> <p>In order to create an effective deterrent to infringement, the judicial authorities shall have the authority to order that goods that they have found to be infringing be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to avoid any harm caused to the right holder, or, unless this would be contrary to existing constitutional requirements, destroyed. The judicial authorities shall also have the authority to order that materials and implements the predominant use of which has been in the creation of the infringing goods be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements. In considering such requests, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the</p>	<p>Law of Ukraine "On Copyright and Related Rights" Article 43. Enforcement of Copyright and Related Rights under Civil Law</p> <ol style="list-style-type: none"> 1. It there is probable cause to suspect an infringement of copyright and related rights, a court or arbitration court is empowered to issue an order or an injunction barring the release of a work, the performance of a production, the playing of • phonogram, or the making of an aerial or wire transmission, or an order to cease and desist from distribution thereof, or an order to impound or confiscate all specimens of a work or phonogram along with equipment and materials designed to be used in the production and reproduction thereof. 2. A court or arbitration court may rule that all specimens of a work or phonogram found to have been produced or distributed in violation of the exclusive rights of copyright and related right holders be destroyed or declared forfeit. This applies to 	<p>+</p> <p>–</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
interests of third parties shall be taken into account. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.	all plates, dies, molds, originals, magnetic tapes, photographic negatives, and other objects used in making specimens of a work, phonogram, or broadcast program, as well as to materials and equipment used in reproducing them.	
Article 47. Right of Information Members may provide that the judicial authorities shall have the authority, unless this would be out of proportion to the seriousness of the infringement, to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the infringing goods or services and of their channels of distribution.		–
Article 48. Indemnification of the Defendant 1. The judicial authorities shall have the authority to order a party at whose request measures were taken and who has abused enforcement procedures to provide to a party wrongfully enjoined or restrained adequate compensation for the injury suffered because of such abuse. The judicial authorities shall also have the authority to order the applicant to pay the defendant expenses, which may include appropriate attorney's fees.	The Civil Procedural Code of Ukraine Article 11. Deciding on cases on the basis of actual legislature of Ukraine Court shall decide cases based on the Constitution, other legislative acts of Ukraine, and international agreements in the order determined by this Code. In cases determined by law court can apply legal norms of other countries. In case the law regulating relations subject to the argument is not available, court shall apply the law regulating similar relations. If such similar law is not at available court shall proceed from general principles and content of the Ukrainian legislature.	
	Article 158. Respondent's rights in providing for a suit 1. Assuming providing for a suit, court or a judge can demand from respondent to provide for his possible losses. 2. In case suit is rejected and after decision is in force respondent can demand from the plaintiff to compensate him for losses caused by providing for a suit.	+ –
2. In respect of the administration of any law pertaining to the protection or enforcement of intellectual property rights, Members shall only exempt both public authorities and officials from liability to appropriate remedial measures where actions are taken or intended in good faith in the course of the administration of that law.		–
Article 49. Administrative Procedures To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles equivalent in substance to those set forth in this Section.	The Civil Procedural Code of Ukraine Article 1. Legislature on civil legal procedure Cases coming into existence from administrative-legal relations and cases for separate execution shall be considered according to the general rules of legal procedure, besides of certain exceptions provided for by this Code and other laws of Ukraine.	+

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>SECTION 3: PROVISIONAL MEASURES Article 50</p> <p>1. The judicial authorities shall have the authority to order prompt and effective provisional measures:</p> <ul style="list-style-type: none"> - to prevent an infringement of any intellectual property right from occurring, and in particular to prevent the entry into the channels of commerce in their jurisdiction of goods, including imported goods immediately after customs clearance; - to preserve relevant evidence in regard to the alleged infringement. 	<p>The Civil Procedural Code of Ukraine Article 152. Methods to provide for a suit</p> <p>A suit can be provided for by:</p> <ul style="list-style-type: none"> - sequestration of the property or money sums belonging to the respondent and located at him or at other persons; - prohibition from certain actions; - prohibition to other persons to conduct payments or to pass any property to respondent; - stoppage of the sale of distrained property, if the suit for ownership right for this property or for its exclusion from the distraint; and - stoppage of the penalty on the basis of executive decision by the notary when debtor disputes it with statement of claim. 	
	<p>Article 218. Court's right to immediate execution of resolution</p> <p>1. Deciding on the case court can assume its immediate execution in cases:</p> <ul style="list-style-type: none"> - adjudication of compensation to authors for use of their works in science, literature or arts, as well as objects for intellectual property rights certified by the protection documents; 1-1) inflicting penalty on all sum of debt while adjudging payments determined by points 1 and 2 article 217 of this Code; - when delay with decision execution might cause essential damage to party benefiting from the decision; and - when there are reasons to believe that executing decision later might be infringed or impossible. <p>2. Assuming immediate resolution execution based upon points 2 and 3 of this article, court might demand from the plaintiff to provide for decision execution reversal in case decision is cancelled.</p>	
	<p>Arbitration Procedural Code of Ukraine Article 67. Measures to provide for a suit:</p> <ul style="list-style-type: none"> - sequestration of the property or money sums belonging to the respondent and located at him or at other persons; - prohibiting respondent from certain actions; - prohibiting other persons from actions that have to do with the subject of the argument; and - stoppage of the penalty on the basis of executive document according to which the penalty shall be executed in indisputable order. 	<p>+</p> <p>-</p>

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
2. The judicial authorities shall have the authority to adopt provisional measures inaudita altera parte where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder, or where there is a demonstrable risk of evidence being destroyed.	The Civil Procedural Code of Ukraine Article 53. Demanding and obtaining material evidences and responsibility for failure to submit them Demanding of the material evidences and making decision regarding failure to submit them shall be conducted in the order determined by articles 47 and 48 of this Code.	+
3. The judicial authorities shall have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse. 4. Where provisional measures have been adopted inaudita altera parte, the parties affected shall be given notice, without delay after the execution of the measures at the latest. A review, including a right to be heard, shall take place upon request of the defendant with a view to deciding, within a reasonable period after the notification of the measures, whether these measures shall be modified, revoked or confirmed.	The Civil Procedural Code of Ukraine Article 30. Obligations of proving and providing evidences 1. Each party shall proof circumstances it refers to as the ground for its demands and objections. 2. Parties or other persons who take part in the case shall submit evidences. If parties or other persons who take part in the case face difficulties with demanding and obtaining some evidences, upon their request court shall facilitate demand and obtain of such evidences. Article 36. Methods to provide evidences 1. Judge shall provide evidences, particularly via: examination of witnesses, prescribing tests, demanding and examining of the written and material evidences. Court or judge shall pass the resolution on providing evidences. This resolution shall provide for order and method of its implementation. 2. Records of evidences and all the materials collected while providing evidences shall be directed to the court, which examines the case.	+ - + -
5. The applicant may be required to supply other information necessary for the identification of the goods concerned by the authority that will execute the provisional measures.		+ -
6. Without prejudice to paragraph 4, provisional measures taken on the basis of paragraphs 1 and 2 shall, upon request by the defendant, be revoked or otherwise cease to have effect, if proceedings leading to a decision on the merits of the case are not initiated within a reasonable period, to be determined by the judicial authority ordering the measures where a Member's law so permits or, in the absence of such a determination, not to exceed 20 working days or 31 calendar days, whichever is the longer.		-
7. Where the provisional measures are revoked or where they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by these measures.	The Civil Procedural Code of Ukraine Article 158. Respondent's rights in providing for a suit 1. Assuming providing for a suit, court or a judge can demand from respondent to provide for his possible losses. 2. In case suit is rejected and after decision is in force respondent can demand from the plaintiff to compensate him for losses caused by providing for a suit.	+ -

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
8. To the extent that any provisional measure can be ordered as a result of administrative procedures, such procedures shall conform to principles equivalent in substance to those set forth in this Section.		+
<p>SECTION 4: SPECIAL REQUIREMENTS RELATED TO BORDER MEASURES</p> <p>Article 51. Suspension of Release by Customs Authorities</p> <p>1. Members shall, in conformity with the provisions set out below, adopt procedures to enable a right holder, who has valid grounds for suspecting that the importation of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation of such goods.</p>	<p>The Customs Code of Ukraine Article 74.</p> <p>Sub-paragraph a), Paragraph 1. The following goods and other objects may not cross the customs border:</p> <ul style="list-style-type: none"> - prohibited for importing into Ukraine. Including: - goods imported with the violation of intellectual property rights. 	–
2. Members may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of this Section are met.		–
3. Members may also provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from their territories.	<p>Article 74. Paragraph 1, sub-paragraph b):</p> <ul style="list-style-type: none"> - prohibited for exporting from Ukraine, including: - goods exported with the violation of the intellectual property rights; 	–
<p>Article 52. Application</p> <p>Any right holder initiating the procedures under Article 51 shall be required to provide adequate evidence to satisfy the competent authorities that, under the laws of the country of importation, there is prima facie an infringement of the right holder's intellectual property right and to supply a sufficiently detailed description of the goods to make them readily recognizable by the customs authorities. The competent authorities shall inform the applicant within a reasonable period whether they have accepted the application and, where determined by the competent authorities, the period for which the customs authorities will take action.</p>		–
<p>Article 53. Security or Equivalent Assurance</p> <p>1. The competent authorities shall have the authority to require an applicant to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to these procedures.</p>		–

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
2. Where pursuant to an application under this Section the release of goods involving industrial designs, patents, layout-designs or undisclosed information into free circulation has been suspended by customs authorities on the basis of a decision other than by a judicial or other independent authority, and the period provided for in Article 55 has expired without the granting of provisional relief by the duly empowered authority, and provided that all other conditions for importation have been complied with, the owner, importer, or consignee of such goods shall be entitled to their release on the posting of a security in an amount sufficient to protect the right holder for any infringement. Payment of such security shall not prejudice any other remedy available to the right holder, it being understood that the security shall be released if the right holder fails to pursue the right of action within a reasonable period of time.		–
Article 54. Notice of Suspension The importer and the applicant shall be promptly notified of the suspension of the release of goods according to Article 51.		–
Article 55. Duration of Suspension 1. If, within a period not exceeding ten working days after the applicant has been served notice of the suspension, the customs authorities have not been informed that proceedings leading to a decision on the merits of the case have been initiated by a party other than the defendant, or that the duly empowered authority has taken provisional measures prolonging the suspension of the release of the goods, the goods shall be released, provided that all other conditions for importation or exportation have been complied with; in appropriate cases, this time-limit may be extended by another ten working days.	Article 89. Goods and other objects may stay under customs control during six months...Goods and other objects (except the currency and values), mentioned in Article 86 of the Code, are kept by the customs until the amount of the customs duties for warehousing does not reach the level of cost of those goods and other objects.	–
2. If proceedings leading to a decision on the merits of the case have been initiated, a review, including a right to be heard, shall take place upon request of the defendant with a view to deciding, within a reasonable period, whether these measures shall be modified, revoked or confirmed.		–
3. Notwithstanding the above, where the suspension of the release of goods is carried out or continued in accordance with a provisional judicial measure, the provisions of paragraph 6 of Article 50 shall apply.		–
Article 56. Indemnification of the Importer and of the Owner of the Goods Relevant authorities shall have the authority to order the applicant to pay the importer, the consignee and the owner of the goods appropriate compensation for any injury caused to them through the wrongful detention of goods or through the detention of goods released pursuant to Article 55.		–

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
<p>Article 57. Right of Inspection and Information</p> <p>1. Without prejudice to the protection of confidential information, Members shall provide the competent authorities the authority to give the right holder sufficient opportunity to have any goods detained by the customs authorities inspected in order to substantiate the right holder's claims.</p>		–
<p>2. The competent authorities shall also have authority to give the importer an equivalent opportunity to have any such goods inspected. Where a positive determination has been made on the merits of a case, Members may provide the competent authorities the authority to inform the right holder of the names and addresses of the consignor, the importer and the consignee and of the quantity of the goods in question.</p>		–
<p>Article 58. Ex Officio Action</p> <p>Where Members require competent authorities to act upon their own initiative and to suspend the release of goods in respect of which they have acquired prima facie evidence that an intellectual property right is being infringed:</p> <ul style="list-style-type: none"> - the competent authorities may at any time seek from the right holder any information that may assist them to exercise these powers; - the importer and the right holder shall be promptly notified of the suspension. Where the importer has lodged an appeal against the suspension with the competent authorities, the suspension shall be subject to the conditions, mutatis mutandis, set out at Article 55; and - Members shall only exempt both public authorities and officials from liability to appropriate remedial measures where actions are taken or intended in good faith. 		–
<p>Article 59. Remedies</p> <p>Without prejudice to other rights of action open to the right holder and subject to the right of the defendant to seek review by a judicial authority, competent authorities shall have the authority to order the destruction or disposal of infringing goods in accordance with the principles set out in Article 46. In regard to counterfeit trademark goods, the authorities shall not allow the re-exportation of the infringing goods in an unaltered state or subject them to a different customs procedure, other than in exceptional circumstances.</p>		–
<p>Article 60. De Minimis Imports</p> <p>Members may exclude from the application of the above provisions small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.</p>		–

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
Article 61		+
1. Members shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale.		–
2. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence		+
		–
3. Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed wilfully and on a commercial scale.		+
		–
PART IV. ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS AND RELATED INTER-PARTES PROCEDURES Article 62		+
1. Members may require, as a condition of the acquisition or maintenance of the intellectual property rights provided for under Sections 2 through 6 of Part II, compliance with reasonable procedures and formalities. Such procedures and formalities shall be consistent with the provisions of this Agreement.		
2. Where the acquisition of an intellectual property right is subject to the right being granted or registered, Members shall ensure that the procedures for grant or registration, subject to compliance with the substantive conditions for acquisition of the right, permit the granting or registration of the right within a reasonable period of time so as to avoid unwarranted curtailment of the period of protection.		–
3. Article 4 of the Paris Convention (1967) shall apply mutatis mutandis to service marks.		+
4. Procedures concerning the acquisition or maintenance of intellectual property rights and, where a Member's law provides for such procedures, administrative revocation and inter partes procedures such as opposition, revocation and cancellation, shall be governed by the general principles set out in paragraphs 2 and 3 of Article 41.		

TRIPS Agreement	Ukrainian Domestic Legislation	Compliance “+” – yes “-“ - no
5. Final administrative decisions in any of the procedures referred to under paragraph 4 shall be subject to review by a judicial or quasi-judicial authority. However, there shall be no obligation to provide an opportunity for such review of decisions in cases of unsuccessful opposition or administrative revocation, provided that the grounds for such procedures can be the subject of invalidation procedures.		+
PART V. DISPUTE PREVENTION AND SETTLEMENT Article 63. Transparency	The Constitution of Ukraine. Article 57. Every person is given the right to know his rights and obligations	+
1. Laws and regulations, and final judicial decisions and administrative rulings of general application, made effective by a Member pertaining to the subject matter of this Agreement (the availability, scope, acquisition, enforcement and prevention of the abuse of intellectual property rights) shall be published, or where such publication is not practicable made publicly available, in a national language, in such a manner as to enable governments and right holders to become acquainted with them. Agreements concerning the subject matter of this Agreement which are in force between the government or a governmental agency of a Member and the government or a governmental agency of another Member shall also be published.	1. Laws and other normative and legal acts, which determine the rights and duties of the citizens, shall be made public to the population in an order, established by the law. 2. Laws and other normative and legal acts, which determine the rights and obligations of citizens, not made public to the population in a legally established order, shall be considered invalid.	
2. Members shall notify the laws and regulations referred to in paragraph 1 to the Council for TRIPS in order to assist that Council in its review of the operation of this Agreement. The Council shall attempt to minimize the burden on Members in carrying out this obligation and may decide to waive the obligation to notify such laws and regulations directly to the Council if consultations with WIPO on the establishment of a common register containing these laws and regulations are successful. The Council shall also consider in this connection any action required regarding notifications pursuant to the obligations under this Agreement stemming from the provisions of Article 6ter of the Paris Convention (1967).		+
3. Each Member shall be prepared to supply, in response to a written request from another Member, information of the sort referred to in paragraph 1. A Member, having reason to believe that a specific judicial decision or administrative ruling or bilateral agreement in the area of intellectual property rights affects its rights under this Agreement, may also request in writing to be given access to or be informed in sufficient detail of such specific judicial decisions or administrative rulings or bilateral agreements.		+
4. Nothing in paragraphs 1, 2 and 3 shall require Members to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.		+