

**WORLD TRADE ORGANIZATION**

**ORGANISATION MONDIALE DU COMMERCE**

**ORGANIZACIÓN MUNDIAL DEL COMERCIO**

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**Council for Trade-Related Aspects  
of Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS  
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

**Norway**

By means of a communication from the Permanent Mission of Norway, dated 20 November 1996, Norway has notified the text of the Norwegian Trademarks Act, as amended by Act No. 82 of 22 December 1995 (entry into force 1 April 1996).<sup>1</sup>

**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A LA  
PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**Norvège**

Par une communication de la Mission permanente de la Norvège, datée du 20 novembre 1996, la Norvège a notifié le texte<sup>1</sup> de la Loi sur les marques, modifiée par la Loi n° 82 du 22 décembre 1995 (entrée en vigueur le 1er avril 1996).<sup>1</sup>

**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**Noruega**

Noruega ha notificado el texto de la Ley de Marcas de Fábrica o de Comercio, modificada por la Ley N° 82 de 22 de diciembre de 1995 (que entró en vigor el 1° de abril de 1996)<sup>1</sup>, mediante una comunicación de la Misión Permanente de Noruega, de fecha 20 de noviembre de 1996.

<sup>1</sup>English only/anglais seulement/en inglés solamente.



## NORWEGIAN PATENT OFFICE

# Trademarks Act



*Act No. 4 of March 3, 1961, as amended by Act No. 9 of June 21, 1963,  
Act No. 33 of May 29, 1970, Act No. 47 of June 16, 1972,  
Act No. 79 of June 21, 1985, Act No. 113 of November 27, 1992,  
and Act No. 82 of December 22, 1995.*



## Trademarks Act

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**Trademarks Act****Chapter 1.  
General Provisions**

**§ 1** By registration in accordance with the present Act, the sole right to use a trademark as a distinctive sign for an establishment's goods or services may be acquired.

A trademark may consist of any sign which is capable of distinguishing the goods or services of an establishment from those of others, and which is capable of being represented graphically, such as words or combinations of words, including slogans, names, figures and pictures, letters and numerals, and the shape of the goods and their packaging.

The subsequent provisions of this Act concerning goods shall also apply to services provided this is not contrary to the context.

**§ 2** The sole right to a trademark may also be acquired without registration when the trademark is established by use.

A trademark is considered to be established by use when it is well known within the circle of trade concerned in this country as a distinctive sign for someone's goods.

**§ 3** Anyone has the right in the course of trade to use his name or the name of his business as a sign for his goods, provided this is not done in such a way that it is likely to be confused with a trademark or a name of a business which is already protected for someone else, or with a name someone already rightfully uses in the course of his trade.

**§ 4** The right to a sign in accordance with Sections 1 to 3 has the effect that no one except the holder may in the course of trade use the same sign for his goods, cf. the third period. This applies whether the sign is being used on the goods or their packaging, in advertising, in business documents or in any other way, including spoken mention, and regardless of whether the goods are meant to be sold or offered in any other way in this country or abroad, or imported into this country. The same sign in the present Act shall be understood as a sign that is so similar to another sign, that it is likely to be confused with this sign in the ordinary course of trade, cf. Section 6.

It shall also be regarded as unlawful use if anyone in selling or offering spare parts, accessories, or the like, refers to a sign which is the property of someone else in such a way as to give the wrongful impression that the goods offered originate from the holder of that sign or that he has consented to the use of that sign.

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Where a sign as referred to in Sections 1-3 has been in legitimate use for a product and the product afterwards has been substantially altered by processing, repairs, or the like by someone other than the holder of the sign, the sign must not, without the consent of the holder, be kept or used for the product if the product is subsequently imported, sold or offered in the course of trade, unless the alteration is clearly indicated or is otherwise apparent from the circumstances.

**§ 5** The right to a sign does not entitle the holder to a sole right to such parts of the sign as mainly serve to make the goods or the packaging more suitable or otherwise serve another purpose than being a sign.

The right to a trademark does not entitle the holder to prohibit a third party from using his own name or the name of his business or his address in the course of trade in accordance with fair trade practice.

**§ 6** Under the present Act signs shall only be considered likely to be confused if they relate to identical or similar goods. This is however not a necessary condition for likelihood of confusion when the sign with the earlier right is the holder's own name or of the name of his firm.

Signs that are similar shall however be considered likely to be confused even if they do not relate to identical or similar goods, if the sign with the earlier right is so well known and established in this country that it would imply an unreasonable utilization or be detrimental to its goodwill if the other sign was to be used by someone else.

**§ 7** Where several independent parties claim a sole right to the same sign according to Sections 1 to 3, the earliest claim shall have priority, provided this is not contrary to the provisions in Sections 3, 8 or 9.

**§ 8** Although a registered trademark is likely to be confused with a sign which has an earlier right, it shall be allowed to exist validly side by side with the latter, provided the application for registration was filed in good faith and the holder of the earlier right has knowingly tolerated the use of the later trademark for five consecutive years from the date of registration.

**§ 9** A later right to a sign shall also be allowed to exist side by side with an earlier right provided:

- (a) the later right has been established by use and the holder of the earlier right has taken no steps within a reasonable time to prevent the use of the other sign; or
- (b) the rights to the signs have been established by use in different parts of the country and it is presumed that both signs may continue to be used as before, without any likelihood of confusion with regard to whom the goods originate from.

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**§ 10** In order to prevent any likelihood of confusion as referred to in Sections 3, 8 and 9, a court of law may, where this is found reasonable, order that one or both of the signs may in future only be used for particular goods or within a certain area or in a particular manner, such as in a certain shape or form or with a reference to a geographical location or with the addition of the name of the holder or with any other elucidating addition.

**§ 11** When publishing of a dictionary, manual, textbook or similar non-fictional publication, the author, chief editor and publisher are obliged, at the request of the holder of a registered trademark, to ensure that the trademark is not reproduced in the publication unless it is clearly stated that it is protected by registration.

If a request made in due time and in accordance with the preceding paragraph is not met, the person to whom the request was addressed may be required to pay the expenses of a notice of rectification published in such a manner and as widely as is deemed reasonable.

## **Chapter 2. Registration of Trademarks**

**§ 12** A Register of Trademarks shall be kept for the whole country by the Patent Office (Patentstyret).

**§ 13** For a trademark to be registered it must be capable of distinguishing the goods of the holder from those of others. The trademark may not exclusively, or with no more than minor alterations or additions, indicate the kind, quality, quantity, use, price or the place or date of their production. In deciding whether a trademark has a distinctive character, however, all factual circumstances shall be taken into consideration, in particular how long and how extensively the trademark has been in use.

Trademarks which consist exclusively of the shape of goods or their packaging may not be registered if the shape or the packaging results from the nature of the goods themselves, is necessary to obtain a technical result, or gives significant value to the goods.

**§ 14** A trademark may not be registered if:

1. it is contrary to law or public order or is likely to cause offence;
2. it is likely to deceive;
3. without authorization by the competent authorities, it includes official coats of arms, flags or other official emblems or badges, including official national or foreign certification or hallmarks or stamps required for goods identical with or similar to those for which registration is

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being applied for, or coats of arms, flags or other emblems, abbreviations or designations of intergovernmental organizations, or international marks, seals or signs the unauthorized use of which is forbidden by law. Nor shall the trademark be registered if it includes anything likely to be confused with such emblems or badges, etc. as referred to in this Section. Foreign emblems or badges, etc., with the exception of flags of States, shall nevertheless not prevent registration until they have been published in a notice in the publication issued by the Patent Office;

4. it includes anything likely to be understood as another person's business name or as another person's name or portrait and which does not obviously refer to a person deceased a considerable time ago;
5. it includes anything likely to be understood as the distinguishing title of another person's protected work of intellectual achievement, or infringes the copyright to such a work or the right to a photography or a design;
6. it is likely to be confused with another person's name or business name or with a trademark registered for another person in accordance with an application filed earlier, or which was established by use for another person at the time when the application for registration was filed;
7. it is likely to be confused with a trademark which someone else had begun using before the applicant, and the applicant was aware of this use when he filed his application for registration;
8. it is likely to be confused with an international registration of a trademark, provided that this registration is effective in Norway in accordance with Section 53 from an earlier date than the date of the filing of the application.

In cases as mentioned in subparagraphs 4 to 8 of the first paragraph, registration may nevertheless take place if the holder of the earlier right consents and there are no other obstacles according to the first paragraph that prevent registration.

**§ 15** The sole right acquired by registration of a trademark does not include such part of the trademark as would be refused separate registration.

If the trademark includes such a part, and the Patent Office presumes that registration of the trademark may create uncertainty as to the extent of the sole right, it may at the time of registration clearly be stated by a disclaimer that the part is excluded from the legal protection.

If it is later shown that the part of the trademark which was excluded from legal protection may be registered, a new application for registration may be filed for that part alone or the trademark as a whole without the previous disclaimer.

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**§ 16** A trademark shall be registered for specified goods within specified classes of goods. Provisions regarding the classification of goods shall be issued by the King.

**§ 17** An application for registration of a trademark shall be filed in writing to the Patent Office. The application shall state the applicant's name or business name, and include a reproduction of the trademark and a list of the goods for which registration of the trademark is being applied for. The application shall otherwise meet the requirements set forth in the regulations and enclose the stipulated fee.

An application is not regarded as filed as long as a reproduction of the mark has not been received by the Patent Office.

**§ 17 a** The application and all its enclosures and documents shall be kept available for anyone from the first working day after filing of the application by the Patent Office, unless a request as referred to in the second paragraph has been filed.

If a document contains business secrets, the Patent Office may, when particular reasons exist and a request has been filed, decide that the document shall not be made available to the public. When such a request has been filed, the document will not be available to the public until the request has been refused by a final decision. The reproduction of the mark and the information that registration of the mark in this country has been applied for, and the list of the goods for which registration has been applied for, are not considered business secrets according to the provisions in this paragraph.

Proposals, drafts, reports and other similar working papers that the Patent Office prepares for the examination of an application are not available to the public unless the Patent Office should so decide.

**§ 18** If someone files an application for registration of a trademark that is first used on goods shown at an international exhibition in this country, and the application is filed within six months after the opening of the exhibition, the application shall, in relation to other signs that someone else has applied to have registered or started to use, be deemed to have been filed on the day the goods were first shown at the exhibition.

The King may issue regulations to what extent the first paragraph shall apply correspondingly to international exhibitions abroad.

**§ 19** If an application for registration of a trademark is not in the prescribed form, or there otherwise are obstacles that prevent registration, the Patent Office shall notify the applicant of this. The applicant shall be given a suitable time limit to respond and in the event to remedy the application.



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Irregularities in the application shall not prevent the application from being regarded as filed on the day when the reproduction of the mark was received by the Patent Office, provided that those irregularities will be remedied within the time limit set by the Patent Office.

If the applicant does not respond or remedy the irregularity within the expiration of the time limit, the application shall be considered abandoned. The processing of the application shall be resumed if the applicant within two months from the expiration of the time limit responds or remedies the irregularity and pays the stipulated fee. Resumption can only be granted once during the processing of the application.

If the applicant has responded to the notification from the Patent Office within the set time limit, but the Patent Office still finds there to be irregularities regarding the application, the application shall be refused unless the Patent Office finds that the applicant should be given another notification with a new time limit.

**§ 20** If the application is in the prescribed form, and there otherwise are no obstacles that prevent registration, the mark shall be registered and a letter of registration shall be sent to the applicant.

The registration of a trademark shall be published.

**§ 21** Anyone can file an opposition to the registration of a trademark. An opposition shall be presented in writing, state the reasons for the opposition and being filed with the Patent Office within two months of the date of publication. The Patent Office can in special cases on request grant the opposer a short additional time limit to supply further documentation to support the opposition.

The Patent Office shall dismiss an opposition which does not meet the requirements in the first paragraph.

The Patent Office shall notify the holder of the registration of oppositions and shall give him the opportunity to comment on them.

If an opposition to the registration of a trademark is filed, this shall be recorded in the Trademark Register and be published.

Even if the opposition is withdrawn, processing of the opposition may continue if particular reasons so indicate.

**§ 21 a** Following an opposition the Patent Office shall cancel the registration of the trademark in whole or in part if the trademark was registered in contravention of the present Act and the obstacle that prevents registration still exists.

The Patent Office shall reject the opposition if there is no obstacle to upholding the registration.

When the Patent Office's decision concerning an opposition is final, the notification of the final decision shall be recorded in the Trademark Register and be published.

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**§ 21 b** If after an application for registration of a trademark has been granted another application is filed which according to Sections 18 or 30 shall be considered filed earlier than the first mentioned application, and the Patent Office presumes that the second application would have been regarded as an obstacle that prevents registration of the first mentioned application, the Patent Office shall notify the holder of this and give him an opportunity to respond to this within a set time limit. If the application with the better priority is granted the Patent Office shall, after the expiration of the time limit, cancel the first registration in whole or in part if the application with the better priority in whole or in part prevents the registration from being upheld.

The first paragraph applies correspondingly if the Patent Office presumes that an earlier application which is resumed according to the third paragraph of Section 19, or after reinstatement according to Section 60, would be considered an obstacle that prevents registration for a later application which already has been granted.

The first paragraph also applies correspondingly if the Patent Office receives notification that an international registration shall be considered valid in Norway and it presumes that the international registration would have been considered an obstacle to the registration of a granted application which is considered filed at a later date than the date on which the international registration shall come into effect in this country, cf. Section 53.

If the registration of a trademark is cancelled in whole or in part according to this Section, the cancellation shall be recorded and be published when it is final.

**§ 21 c** If a trademark has clearly been registered by mistake, the Patent Office may ex officio within three months from the date of the registration cancel the registration in whole or in part.

If the registration of a trademark is cancelled in whole or in part according to this Section, the cancellation shall be recorded and be published when it is final.

**§ 22** The final decision of an application for registration made by the Patent Office may be appealed to the Board of Appeals if the decision is in disfavour of the applicant.

The final decision of an opposition may be appealed by the holder or the opposer if the decision is in disfavour of the concerned party.

A final decision by the Patent Office regarding cancellation of a registration in whole or in part according to Sections 21b or 21c, may be appealed by the holder to the Board of Appeals.

If a request for resumption according to the third paragraph of Section 19, or a request for secrecy according to the second paragraph of Section 17a, is refused, the decision may be appealed to the Board of Appeals by the party the refusal concerns.

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**§ 22a** An appeal must be filed with the Patent Office within two months from the date the notification of the refusal was sent to the concerned party. Within the same time limit the stipulated fee shall be paid. The appeal shall otherwise not be processed.

Even if the appeal is withdrawn, it may be examined if particular reasons is indicated.

A decision where by the Board of Appeals refuses an application for registration of a trademark, cancels a registration or upholds a decision by the Patent Office regarding cancellation of a registration, can not be brought before the courts of law later than two months after the notification of the decision was sent to the applicant or the holder.

Information of the time limit for taking legal action shall be stated in the notification.

The second and third paragraph of Section 17a apply correspondingly to documents filed to the Board of Appeals.

**§ 23** The registration is effective from the day the application is considered filed with the Patent Office according to Section 17, or from the day it is considered filed according to Sections 18 or 30. The registration is valid for ten years from the day of the registration.

**§ 23a** A registration of a trademark can be renewed at the request of the holder for ten years at a time, counting from the expiration of the previous registration period.

A request for renewal shall be filed in writing to the Patent Office one year at the earliest before or six months at the latest after the expiration of the registration period, and must enclose the stipulated fee. If the request for renewal is filed after the expiration of the registration period, an additional fee must also be paid.

Payment of the renewal fee, stating the trademark's registration number, made within the time limits referred to in the first paragraph, shall be regarded as a written request for renewal.

Sections 19, 20, 21c, 22 and 22a apply correspondingly as appropriate to the processing of requests for renewal.

**§ 24** On an application from the holder and for payment of a stipulated fee, minor alterations, which do not affect the impression of the trademark as a whole, may be made to a registered trademark. The alteration of the mark shall be recorded in the Trademark Register and a new letter of registration shall be sent to the holder. Notification of the alteration, with a reproduction of the trademark in the altered form, shall be published. Section 21c applies correspondingly.

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### Chapter 3. Cessation of Registrations, etc.

**§ 25** If a trademark has been registered in contravention of the present Act, the registration may be invalidated by a court ruling, unless it can remain valid according to the provisions in Sections 8 to 10. The registration can however not be invalidated for the reason that the mark is likely to be confused with another trademark, if the requirements set forth in Section 25a for deletion of the registration of the other trademark from the Trademark Register are met.

A registration may be deleted from the Trademark Register by a court judgment if the mark after registration has obviously lost its character as a distinctive mark or it has become deceptive, contrary to public order or likely to cause offence.

**§ 25a** Where the holder of a registered trademark has not used the mark in this country for the goods which it is registered for within five years from the date of the registration, or if the use has been interrupted for five consecutive years, the registration may be deleted from the Trademark Register by a court judgment, unless there are reasonable grounds for non-use. Use of the mark includes use of the mark in a form that only differs from the form it is registered for in details that do not affect its distinctiveness, and in this country placing of the mark on goods or their packaging for export. As the holder's use of the mark is also reckoned use of the mark by someone else with the holder's consent.

The registration can not be deleted if the trademark is taken into use or the use of the mark is resumed after the expiration of the five year-period, but before an action for deletion has been brought. Use of the mark in the last three months before an action is brought shall be disregarded, if the preparations for the use were only begun after the holder learned that an action might be brought.

If the trademark has been used for some of the goods the mark is registered for, the registration shall only be deleted for the goods which the mark has not been used for.

**§ 25b** An action according to Sections 25 and 25a may be brought by anyone who has legal interest in the matter. An action that builds upon the provisions in Sections 13, subparagraphs 1 to 3 of the first paragraph of Section 14, or the second paragraph of Section 25, may also be brought by the Patent Office.

**§ 25c** When both the holder and the person contesting his right agree, they may demand that a final decision of the question of the validity of the registration or the deletion of the registration be made by the Board of Appeals. A stipulated fee shall be paid for this.

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When it finds that the requirements for trademark protection obviously have not been present or obviously no longer are present, the Board of Appeals may make a final decision that the registration is invalid or is to be deleted from the Trademark Register if the holder does not object. An objection from the holder must be filed with the Patent Office within three months after the Patent Office has sent the holder a notification saying that it is planning to make such a final decision and has stated the reasons for so doing.

**§ 26** If there is reasonable doubt whether the holder exists, anyone may for payment of a stipulated fee request that the registration be deleted. The same applies if the holder's address is unknown.

Before deletion after the first paragraph may be carried out, the Patent Office shall request the holder to come forward within a set time limit. Notification of the time limit shall be given in a registered letter or by other reliable means. If the holder's address is unknown, the time limit shall be published.

If the holder has not come forward within the time limit, the registration of the trademark will be deleted.

**§ 27** Where the registration of a trademark has been invalidated or a final decision has been taken to cancel or delete it, the decision shall be recorded in the Trademark Register and be published.

The same applies if the registration is not renewed or if the holder himself requests that the registration be deleted from the Trademark Register.

### **Chapter 4. Special Provisions regarding Registration of Foreigners' Trademarks.**

**§ 28** If anyone not engaged in an establishment in this country applies for registration of a trademark, the applicant must prove that the mark is registered by him in his home country for the goods which the application comprises.

This shall however not apply where the home country of the applicant makes corresponding concessions in respect of applications by owners of establishments in Norway to have trademarks registered there.

**§ 29** Subject to reciprocity, the King may decide that a trademark which is registered in a foreign State on more detailed conditions be registered in this country, as it is validly registered in the foreign State. Where pursuant to this provision a mark is registered which would not otherwise have been able to obtain protection in this country, the protection shall not exceed the scope or duration of the protection in the foreign State.

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**§ 30** The King may by regulation decide that anyone, who has filed an application for registration of a mark in a foreign State, shall within a certain time limit be able to file an application for registration of the mark in this country, with the effect that in relation to signs which others have applied to have registered or have taken into use, the application shall be deemed to have been filed in this country at the same time as the filing of the application with the foreign State.

The King issues provisions on when claims of priority according to the first paragraph must be put forward.

**§ 31** If an applicant for registration of a trademark is not domiciled in this country, the person concerned shall have a representative who is domiciled in this country, who can represent him in all matters concerning the application.

If the holder of a registered trademark is not domiciled in this country, he shall have a representative who is domiciled in this country, who on his behalf can receive notifications from the Patent Office and announcements and other communications relating to legal proceedings. Regarding the proceeding of oppositions the first paragraph shall apply correspondingly for the holder.

The name and address of the representative shall be recorded in the Trademark Register.

The King may in regulations exempt foreign applicants and holders from the obligation to have a Norwegian representative.

## Chapter 5. Transfers and Licences.

**§ 32** The right to a trademark may be transferred together with, or independently of, the establishment in which it is used.

If an establishment is transferred, the right to the trademarks which are attached to it passes to the new owner, unless otherwise agreed.

**§ 33** The transfer of a registered trademark shall at the request of the new holder and on payment of a stipulated fee be recorded in the Trademark Register and be published. Sections 28 and 31 apply correspondingly.

The Patent Office may refuse to record a transfer if it was not made in connection with the transfer of the establishment the mark has been attached to, and the Patent Office finds the use of the mark on the hands of the new holder to be likely to be deceptive. Such a refusal may be appealed to the Board of Appeals. Regarding the time limit for appeals etc., and the admission to bring the decisions made by the Board of Appeals before the courts of law, Section 22a applies correspondingly.

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A legal action which concerns a registered trademark, may always be brought against the person registered as the holder in the Trademark Register, and notifications from the Patent Office will be sent to that person.

**§ 34** The holder of a mark may give another the right to use the trademark in the course of trade (licence). A licence may relate to some or all the goods the mark is protected for, and it may relate to the use of the mark in the whole country or part of the country. A licensee can not transfer his right further to a third party unless this is agreed or must be regarded as agreed.

The holder can invoke his right to the trademark in relation to a licensee who infringes the provisions of the licensing agreement regarding the duration of the licence, in which design the mark can be used, on which goods the mark can be used, within which geographical area the licensee can use the mark, or regarding the quality of the goods which the licensee produces.

Both the holder and the licensee may request that a licence for a registered trademark on payment of a stipulated fee be recorded in the Trademark Register and be published. In the same manner it will be recorded in the Trademark Register and be published if it later is shown that the licence has expired. The Patent Office may refuse to record a licence if it finds that the licensee's use of the mark is likely to be deceptive. Such a refusal may be appealed to the Board of Appeals. Regarding time limits for appeals etc., and the admission to bring the decisions made by the Board of Appeals before the courts of law, Section 22a applies correspondingly.

**§ 35** The right to a trademark may not be subject to execution or any other separate enforcement proceedings on the part of creditors.

### **Chapter 6. Prohibition of the Use of Deceptive Signs.**

**§ 36** If a sign starts being used by a new holder or by another with the consent of the holder, and the use of the sign by the new holder is likely to be deceptive, a court judgment may prohibit him from using the sign in an unaltered form, and otherwise order the injunctions that the court finds necessary.

The same also applies in other cases where a sign is deceptive or is used in a way that is likely to be deceptive.

A legal action according to this Section may be brought by the Patent Office and otherwise by anyone who has a legal interest in it.

## **Chapter 7.**

### **Provisions regarding Legal Protection.**

**§ 37** Anyone who intentionally uses a sign in violation of this Act, shall be punished by fines or imprisonment for up to three months. Prosecution shall take place only at the request of the plaintiff.

**§ 38** Anyone who intentionally or negligently has used a sign in violation of this Act, shall be liable to pay the injured party compensation corresponding to a fair licence fee for the use, besides damages for further losses the use may have caused. The compensation may be reduced and the damages may be lowered when there is little to blame the infringing party for.

Where such use has been made in good faith, the court of law may order the user to pay such compensation according to the provisions in the first paragraph as it finds reasonable.

**§ 39** In cases concerning unlawful use of a registered trademark, Section 37 shall only apply where the use has taken place after the publication of the registration. Section 38 shall only apply where the use has taken place after the publication or after the user in any other manner has learned that registration of the mark had been applied for.

**§ 40** At the request of the injured party, anyone who has used a sign in violation of this Act is obliged to alter or to remove the sign. Where the sign can not be altered or removed without unreasonable costs to the person found liable, or without damaging or ruining the goods, confiscation may be demanded of the objects on which the sign is found.

The confiscated objects may, as agreed between the person held liable and the injured party, be transferred to the latter and be deducted against any claim for compensation he may have on the person liable in accordance with Section 38.

In cases regarding infringements of rights to signs, the court of law may decide that also other measures than those referred to above be taken to prevent misuse of the sign.

**§ 41** A licensee who brings an action regarding infringement is obliged to notify this to the holder.

## **Chapter 8.**

### **Provisions relating to Legal Proceedings.**

**§ 42** The following actions may be brought before the Municipal Court of Oslo (Oslo byrett):



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1. actions for review of decisions whereby the Board of Appeals refuses an application for registration of a trademark, cancels a registration, or maintains a decision to cancel a registration made by the Patent Office, cf. the third paragraph of Section 22a,
2. actions regarding invalidation or deletion of a trademark registration, cf. Sections 25 and 25a, and
3. actions for review of refusals made by the Board of Appeals in cases referred to in Sections 33 and 34.

§ 43 Anyone who brings an action as referred to in subparagraph 2 of the first paragraph of Section 42, shall at the same time notify the Patent Office and by registered mail notify any licensee who is recorded in the Trademark Register of the action stating the party's address.

If the plaintiff fails to document that a notification as referred to in the first paragraph has been given, the court of law may give the plaintiff a time limit within which to provide such notification. If the time limit is exceeded, the case will be rejected.

§ 44 The court shall send the Patent Office transcripts of judgments in civil cases brought in accordance with the present Act.

### Chapter 9. International Registration of Trademarks.

§ 45 An international trademark registration means the registration of a trademark effected by the International Bureau of the World Intellectual Property Organization (WIPO) under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, adopted at Madrid on June 27, 1989 (the Madrid Protocol).

The Patent Office (Patentstyret) is the national authority in matters relating to the international registration of trademarks in Norway.

§ 46 The holder of a trademark registration or an application for registration of a trademark in this country, and who either is a Norwegian citizen or is domiciled or has a real and effective industrial or commercial establishment here in this country, may file an application for international registration of a trademark with the Patent Office.

§ 47 An application for international registration of a trademark shall be in writing and contain the applicant's name or business name, a reproduction of the mark and a list of the goods for which the registration of the mark is being applied for. The application shall otherwise meet the requirements set forth in the regulations and enclose the stipulated fee.

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**§ 48** The Patent Office shall certify that the particulars in the international application correspond to the particulars in the Norwegian basic trademark registration or the basic application for registration of a trademark on which the international registration is based upon.

In case the particulars do not correspond, the Patent Office shall notify the applicant of this. The applicant shall be given a time limit to remedy the application. If the notification from the Patent Office is not replied to within the time limit, the application shall be considered abandoned. If the notification is replied to, but the particulars still do not correspond, the Patent Office shall refuse to proceed with the application to the International Bureau.

When the particulars correspond as mentioned in the first paragraph, the Patent Office shall send a certification of this to the International Bureau together with the international application.

**§ 49** If the Patent Office is notified by the International Bureau that the holder of an international registration of a trademark that is not based upon a Norwegian registration or an application, cf. Section 46, has requested that the international registration of the trademark be valid in Norway, the Patent Office shall examine to see whether there are any obstacles that prevent this. For such a designation of Norway, the holder of the international registration shall pay the stipulated fee.

Obstacles that prevent the international registration from being valid in Norway exist if the mark fails to meet the requirements set forth in Section 13 or if it is not registrable in this country because of the provisions in Section 14.

**§ 50** Where such obstacles exist referred to in the second paragraph of Section 49, the Patent Office shall decide that the international registration is not valid in Norway.

The holder of the international registration may, to the extent and on the terms as set forth in regulations, request the Patent Office to review the question of whether the international registration shall be valid in Norway.

Regarding reinstatement when the time limits have been exceeded, Section 60 applies correspondingly.

**§ 51** Where the Patent Office does not find any obstacles as referred to in the second paragraph of Section 49, it shall be recorded in the Trademark Register and published that the international registration is valid in Norway.

**§ 52** Anyone may within two months from the date of the publication file an opposition against the international registration's validity in Norway. Regarding the filing of oppositions, the second paragraph of Section 21 applies correspondingly. If an opposition is filed, it shall be recorded in the

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Trademark Register and published. Further provisions regarding the procedure of oppositions will be issued in regulations. When a final decision regarding the opposition has been made by the Patent Office, a notice of the final decision shall be recorded and published.

Regarding the Patent Office's admission to ex officio invalidate the effects of an international registration in Norway, Sections 21b and 21c apply correspondingly if this can be done within the time limits set forth in Article 5 of the Madrid Protocol.

**§ 53** A recordal in the Trademark Register that an international registration of a trademark is valid in Norway, has the same effect as if the trademark was registered in this country. The recordal is effective from the day the international registration is deemed to have been made by the International Bureau according to the Madrid Protocol, or from the date of a subsequent designation of Norway, or from the date when the registration or the subsequent designation of Norway has priority according to Sections 18 or 30.

**§ 54** The international registration or the subsequent designation of Norway is valid for up to ten years from the day on which the international registration is deemed to have been made.

The registration may be renewed for ten years at a time as set forth in the Madrid Protocol. A stipulated fee must be paid for renewals. Renewals are recorded and published.

**§ 55** If a person has both an international registration which is effective in this country and a Norwegian trademark registration, the international registration of the mark replaces its Norwegian registration if the international registration is effective in this country from a later date than the Norwegian registration, and all the goods listed in the Norwegian registration are covered by the list relating to Norway in the international registration. The first period entails no limitations to the rights which have already been acquired on the basis of the Norwegian registration.

The lapse as referred to in the first paragraph of the effect of a Norwegian registration shall upon request and on payment of a stipulated fee be recorded in the Trademark Register and published.

**§ 56** Where an international registration which is valid in Norway ceases in full or in part, it ceases at the same time in Norway to the same extent. This shall be recorded in the Trademark Register and published.

**§ 57** If an international registration which is valid in Norway ceases due to lapse of the basic national registration or the national application according to the Madrid Protocol, and the holder within three months from the date of

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the cessation files an application for registration of the mark in this country, this application is deemed to have been filed on the date the international registration was effective in Norway, provided that the goods stated in the application are covered by the list of goods relating to Norway in the international registration.

If an international registration which is valid in Norway, ceases due to denunciation of the Madrid Protocol, and the holder within two years from the time the denunciation was effective, files an application for registration of the trademark in this country, this application is deemed to have been filed on the date the international registration was effective in Norway, provided that the goods stated in the application are covered by the list of goods relating to Norway in the international registration.

**§ 58** Regarding the admission to appeal decisions made by the Patent Office in cases concerning international registrations to the Board of Appeals and regarding the admission to bring decisions made by the Board of Appeals before the courts of law, Sections 22 and 22a apply correspondingly.

**§ 59** The Patent Office will notify the International Bureau in accordance with the Madrid Protocol and the regulations to the Protocol according to further provisions issued by the King.

## **Chapter 10. Miscellaneous Provisions.**

**§ 60** If anyone who applies for registration of a trademark, exceeds a time limit set forth in or in accordance with chapter 2, with the effect that the application for this reason can not be granted, the party concerned shall on request be given reinstatement provided it is proved that the applicant himself and as the case may be also his representative, has shown all the care that can reasonably be demanded. The request must be presented in writing to the Patent Office within two months after the obstacle that caused the exceeding of the time limit has ceased, and at the latest four months after the expiration of the time limit. Within the same time the omitted action shall be taken and the stipulated fee paid.

The first paragraph does not apply to time limits referred to in Sections 18 and 22a.

The Director of the Patent Office shall decide who shall determine requests for reinstatement. Refusal of requests for reinstatement may be appealed to the Board of Appeals. Regarding time limits for appeal etc., and the admission to bring decisions by the Board of Appeals before the courts of law, Section 22a shall apply correspondingly.



§ 61 Anyone has a right to examine the Trademark Register and to obtain certified extracts from it, or copies of trademark applications with accompanying documents which are accessible to the public in accordance with Section 17a.

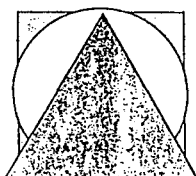
A stipulated fee shall be paid for transcripts, copies and for recordals in the Trademark Register with publication of alterations concerning the name of the holder or concerning his representatives.

The request for a time limit or an extension of a time limit to remedy obstacles, respond, provide further grounds or the like, shall enclose a stipulated fee, which will be refunded if the requested time limit or extension of time limit is not granted.

§ 62 The King may issue more detailed provisions regarding applications for registration of trademarks and oppositions and the procedure regarding these, the stipulation of fees, the Trademark Register, the publication issued by the Patent Office, and otherwise concerning the implementation of this Act.

§ 63 This Act shall enter into force from such date as the King shall decide. As from the same date "lov 2 juli 1910 nr 5 om varemerker og om utilbørlige varekjendetegn og forretningsnavn (the Trademarks Act of July 2, 1910 number 5), as later amended, shall be repealed, with the exception of Sections 26 and 27.

A trademark that is registered prior to the entry into force of this Act, may only be declared invalid if it does not meet the requirements in the earlier Act. Registration according to the second paragraph of Section 25, or Section 25a, may be deleted if the mark was registered before the entry into force of this Act.



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