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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**

Denmark

The present document reproduces¹ the Trademarks Act No. 341 of 6 June 1991, as notified by Denmark under Article 63.2 of the Agreement (see document IP/N/1/DNK/1).

**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**

Danemark

Le présent document contient le texte de la Loi n° 341 du 6 juin 1991 sur les marques de fabrique ou de commerce¹, notifiée par le Danemark au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/DNK/1).

**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**

Dinamarca

En el presente documento se reproduce¹ la Ley de Marcas de Fábrica o de Comercio, N° 341, de 6 de junio de 1991, notificada por Dinamarca en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/DNK/1).

¹English only/anglais seulement/inglés solamente.

DENMARK

Trademarks Act
(Act No. 341 of June 6, 1991)*

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Part I

General Provisions

1. Pursuant to the provisions of this Act persons and enterprises may obtain an exclusive right to trademarks (trademark right). Trademarks mean distinctive signs for goods or services being used or intended to be used by a commercial enterprise.

Signs of Which a Trademark May Consist

2.-(1) A trademark may consist of any sign capable of distinguishing the goods or services of one enterprise from those of other enterprises and capable of being represented graphically, in particular:

- (i) words and word combinations, including slogans, personal names, company names or names of real property;
- (ii) letters and numerals;
- (iii) pictures and designs; or
- (iv) the shape, equipment or packaging of the goods.

(2) A trademark right shall not be acquired for signs which consist exclusively of a shape which is dictated by the goods themselves, a shape of goods

which is necessary to obtain a technical result or a shape which gives substantial value to the goods.

Establishing a Trademark Right

3.-(1) A trademark right may be established either:

- (i) by registration of a trademark in accordance with the rules of this Act for the goods or services comprised by the registration; or
- (ii) by commencement of use of a trademark in this country for the goods or services for which the trademark has commenced to be used and for which it is continuously used.

(2) Use of a trademark which according to its nature is excluded from registration shall not establish any trademark right.

(3) If the trademark is devoid of the required distinctive character on commencement of use, the right shall not be established until a distinctive character is created by use of the mark.

Contents of the Trademark Right

4.-(1) The proprietor of a trademark right shall be entitled to prohibit all persons not having his

consent from using in the course of trade any sign which is identical with or similar to the trademark:

(i) if the use relates to goods or services which are identical with or similar to those comprised by the trademark right; and

(ii) there exists a likelihood of confusion including the likelihood of assuming a connection between the trademarks.

(2) Irrespective of the limitation in subsection (1) to goods or services identical with or similar to those covered by the trademark, the proprietor of the trademark shall be entitled to prohibit the use of the trademark also in relation to goods or services which are not identical or similar where the trademark is well known in this country and the use would take unfair advantage of, or be detrimental to, the distinctive character of the repute of the trademark.

(3) Use in the course of trade means in particular:

(i) affixing the sign to the goods or to the packaging thereof;

(ii) offering the goods for sale, putting them on the market or stocking them for that purpose or offering or supplying services under the sign in question;

(iii) importing or exporting the goods under the sign in question; or

(iv) using the sign on business papers and in advertising.

Limitations to the Rights of the Proprietor

5. The proprietor of a trademark right shall not be entitled to prohibit others from using, in the course of trade and in accordance with honest practices in industrial or commercial matters:

(i) his own name and address;

(ii) indications concerning the kind, quality, quantity, intended purpose, value or geographical origin of the goods or services, the time of production of the goods or of rendering the service or other characteristics of the goods or services; or

(iii) the trademark when it is necessary for the indication of the intended purpose of the goods or services, in particular as accessories or spare parts.

Exhaustion

6.-(1) The proprietor of a trademark shall not be entitled to prohibit the use of the trademark in rela-

tion to goods which have been put on the market in the European Community under that trademark by the proprietor himself or with his consent.

(2) Subsection (1) shall not apply if there are legitimate reasons for the proprietor to oppose further commercialization of the goods, especially where the condition of the goods has been changed or impaired after they have been put on the market.

Conflicting Rights

7. If two or more parties individually claim a trademark right in the same or similar signs, the right which has arisen first shall have priority, unless otherwise provided in the following Sections. A registered right shall be deemed to have arisen on the date of filing of the application for registration, cf. Section 12, or on the date from which priority is claimed pursuant to the rules of Section 18 or 19.

8. A later right in a registered trademark may coexist with an earlier right in a confusingly similar trademark, provided that the registration was applied for in good faith and that the proprietor of the earlier right has been aware of and tolerated the use in this country of the later right for a period of five successive years.

9. A later right in a trademark may also coexist with an earlier right in a confusingly similar trademark if the proprietor of the earlier right has not, within a reasonable time, taken the necessary steps to prevent the use of the later mark.

10.-(1) In the cases referred to in Sections 8 and 9, the proprietor of a later trademark shall not be entitled to oppose the use of an earlier trademark even if the proprietor of the earlier trademark may no longer invoke his right against the later trademark.

(2) In the cases referred to in Section 9, it may be decided, if it is deemed reasonable, that one or both of the trademarks shall only be used in a special manner, for example, in a particular shape or with the addition of an indication of locality.

Reproduction of a Trademark in Dictionaries, etc.

11.-(1) In encyclopaedias, handbooks, textbooks or similar publications of a professional nature the

author, editor and publisher shall, at the request of the proprietor of a registered trademark, ensure that the trademark is not reproduced without indication to the effect that it is a registered trademark.

(2) If any party fails to comply with the provision of subsection (1), he shall be liable to pay the costs of publishing a correcting notice in the manner deemed reasonable.

Part II

Registration of Trademarks

12.-(1) An application for the registration of a trademark shall be filed in writing with the Patent Office. The application shall contain a reproduction of the trademark and state the applicant's name or company. Furthermore, the goods or services for which registration of the trademark is applied for shall be stated.

(2) The application shall be drawn up in accordance with the provisions laid down pursuant to Section 48. The prescribed fee shall accompany the application.

(3) The Patent Office shall keep a Register of Trademarks. The Office shall publish registrations, etc.

Grounds for Refusal

13.-(1) For a trademark to be registered it shall be of the nature referred to in Section 2, including a distinctive character.

(2) The following trademarks shall not be registered:

(i) trademarks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering the services or other characteristics of the goods or services;

(ii) trademarks which consist exclusively of signs or indications which are customarily used to designate the goods or services in the current language or in the established practices of the trade.

(3) Irrespective of the provisions of subsections (1) and (2), a trademark may be registered if, before

the filing of the application, in consequence of the use which has been made thereof, it has acquired a distinctive character.

14. Furthermore, the following shall not be registered:

(i) trademarks which are contrary to law, public order or morality;

(ii) trademarks which are liable to mislead the public, for instance, as to the nature, quality or geographical origin of the goods or services;

(iii) trademarks which have not been authorized by the competent authorities and are to be refused pursuant to Article 6^{ter} of the Paris Convention for the Protection of Industrial Property, and trademarks which include badges, emblems, and escutcheons which are of public interest, unless the consent of the appropriate authority to their registration has been given;

(iv) trademarks which without permission consist of or contain an element which can be construed as a personal name or company name to which another party has a legal title, or as a portrayal provided allusion is not made to persons long dead, or which without permission contain a distinctive name, or a picture of the real property, of another party;

(v) trademarks which without permission consist of or contain an element which can be construed as a distinctive title of the protected literary or artistic work of another party or which infringe the copyright in such works or the right to a photograph of another party or the industrial property rights of another party.

15.-(1) A trademark shall not be registered if:

(i) it is identical with an earlier trademark, and the goods or services for which the trademark is sought to be registered are identical with the goods or services for which the earlier trademark is protected; or

(ii) there exists a likelihood of confusion, including a likelihood of association, with the earlier trademark because the later trademark is identical with or similar to the earlier trademark and the goods or services are identical or similar.

(2) For the purpose of subsection (1), earlier trademarks mean:

(i) marks of the following categories in respect of which the date of application for registration is earlier than the date of application for registration of

the trademark, taking account, where appropriate, of the priorities claimed in respect of those marks:

- (a) Community trademarks;
- (b) trademarks registered in this country; or
- (c) trademarks registered under international agreements and having effect in this country;
- (ii) Community trademarks which claim seniority, in accordance with the Regulation on the Community trademark, in relation to a trademark referred to under (i)(b) and (c), even if the latter trademark has been surrendered or has lapsed;
- (iii) applications for trademarks referred to under (i) and (ii), subject to their registration;
- (iv) trademarks which, on the date of application for registration of the trademark, or, where appropriate, of the priority claimed in respect of the application for registration of the trademark, are well known in this country, in the sense in which the words "well known" are used in Article 6bis of the Paris Convention.

(3) A trademark shall, furthermore, not be registered if it is identical with or similar to an earlier Community trademark within the meaning of subsection (2) and is sought to be registered for goods or services which are not similar to those for which the earlier Community trademark is registered, provided that the earlier Community trademark is well known in the Community and the use of the later trademark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier Community trademark.

(4) A trademark shall, moreover, not be registered if:

- (i) the trademark is identical with or similar to an earlier Danish trademark within the meaning of subsection (2) and is sought to be registered for goods or services which are not similar to those for which the earlier trademark is registered, where the earlier trademark is well known in this country and where the use of the later trademark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark; or
- (ii) in consequence of use in this country a right has been acquired to an identical or confusingly similar trademark or to another identical or confusingly similar sign used in the course of trade prior to the date of the application for registration of the later trademark, or, where appropriate, the date of the priority claimed in respect of the application for registration of the later trademark.

(5) A trademark shall not be excluded from registration pursuant to the provisions of subsections (1) to (4) where the proprietor of the earlier trademark or other earlier rights consents to the registration of the later trademark.

Disclaimers

16.-(1) A trademark right acquired by registration shall not include such elements of the trademark as cannot be registered separately.

(2) If a trademark contains such elements, and there is special reason to assume that registration of the trademark may cause doubt as to the scope of the trademark right, such elements may on registration be explicitly excepted from the protection.

(3) If elements of the trademark which have been excepted from the protection appear later on to have become registrable, a new registration may be made of these elements or of the actual trademark without the limitation referred to in subsection (2).

Classes of Goods

17. Trademarks shall be registered in one or more classes of goods or services. The Minister of Industry shall lay down provisions concerning the division into classes.

Convention Priority

18.-(1) If an application for the registration of a trademark is filed in this country within six months after the filing of the first application for the registration of the trademark in a country party to the Paris Convention for the Protection of Industrial Property, the application shall on request receive priority from the first filing date.

(2) Subject to reciprocity, subsection (1) shall apply *mutatis mutandis* to trademarks sought to be registered for the first time in a country which is not a party to the Paris Convention.

Exhibition Priority

19. If an application for the registration of a trademark is filed in this country within six months after the trademark has been used for the first time for goods displayed at an official or officially recog-

nized international exhibition, the application shall on request receive priority from that date. The exhibitions referred to are such exhibitions as are defined in the Convention on International Exhibitions signed on November 22, 1928, as subsequently revised.

Processing of Applications

20.-(1) If the application does not comply with this Act or the provisions laid down pursuant to this Act, or if the Patent Office has other objections to the acceptance of the application, the Patent Office shall notify the applicant accordingly and invite him to file his observations within a specified time limit.

(2) On the expiry of the time limit, the Patent Office shall decide on the application unless the applicant is invited again to file observations.

Claiming a Right to a Trademark

21.-(1) If anybody claims to be entitled to a trademark for which registration has been applied for or to a registered trademark, the Patent Office may, if it finds the question doubtful, invite him to bring it before the courts within a time limit to be specified. If the invitation is not complied with, the claim may be disregarded. Information to that effect shall be given in the invitation.

(2) If legal proceedings have been brought concerning the right to a trademark, the processing of the application by the Patent Office may be suspended until a final decision has been given in the legal proceedings.

Registration

22. When the application has been accepted, the trademark shall be registered, and the registration shall be published.

Opposition

23.-(1) When the registration has been published, opposition may be filed against the validity of the registration. The opposition, which shall be reasoned, shall be filed in writing with the Patent Office within two months from the date of publication. The proprietor of the registered right shall be notified of the opposition and be given an opportunity to file his observations.

(2) If the opposition is rejected, this shall be communicated to the opponent and the proprietor of the right.

(3) If the opposition is allowed, the registration shall be declared void in full or in part. The decision to that effect shall be published when it is final.

Amendment of Trademarks

24.-(1) At the request of the proprietor, insignificant amendments of a registered trademark may be made, provided the general impression of the trademark is not influenced by the amendment.

(2) Amendments of registered trademarks shall be entered in the Register and published.

Requirement of Use

25.-(1) If, within a period of five years following the date of the completion of the registration procedure, the proprietor has not put the trademark to genuine use in this country in connection with the goods or services in respect of which it is registered, or if such use has been suspended during an uninterrupted period of five years, the registration may be revoked, cf. Section 28, unless there are proper reasons for non-use.

(2) The following shall also constitute use within the meaning of subsection (1):

(i) use of the trademark in a form which does not significantly differ from the form in which it was registered;

(ii) affixing the trademark to goods or to the packaging thereof in this country solely for export purposes.

(3) Use of the trademark with the consent of the proprietor shall be deemed to constitute use by the proprietor.

Duration of the Registration

26.-(1) The rights obtained by registration of a trademark shall be effective from the date on which the application is filed pursuant to Section 12, cf. Sections 18 and 19, and shall continue to be effective for 10 years from the date of registration.

(2) The registration may be renewed for periods of 10 years from the expiry of the period of registration concerned.

Renewal

27.-(1) Application for renewal shall be made by payment to the Patent Office of the prescribed fee not earlier than three months before and not later than six months after the expiry of the registration period.

(2) If the application is accepted, the renewal shall be entered in the Register.

(3) The Patent Office shall collect renewal fees from the proprietor of the trademark or his agent, but shall not be held responsible for any loss of right as a consequence of non-collection.

(4) If the application does not comply with the provisions laid down, the Patent Office shall notify the applicant accordingly and prescribe a time limit for the applicant to file his observations.

(5) On the expiry of the time limit, the Patent Office shall decide on the application, unless the applicant is invited again to file his observations.

Part III

Termination of the Registration

28.-(1) If a trademark is registered contrary to the provisions of this Act, the registration may be revoked, cf., however, Sections 8 and 9. If the grounds for revocation are a lack of distinctive character or the like, cf. Section 13, the use which has taken place after the registration, cf. Section 13(3), shall also be taken into account.

(2) A registration may also be revoked if the trademark:

(i) is not used in accordance with Section 25;

(ii) in consequence of the activity or inactivity of a proprietor, has become the common name in the trade for the product or service in respect of which it is registered; or

(iii) in consequence of the use made of it by the proprietor of the trademark or with his consent in respect of the goods or services for which it is registered, is liable to mislead the public, particularly as to the nature, quality or geographical origin of the goods or services.

(3) Revocation of a trademark under subsection (2)(i) may not be claimed where, in the interval between the expiry of the five-year period and the

filing of the application for revocation, genuine use of the trademark has been commenced or resumed. The commencement or resumption of use within a period of three months preceding the filing of the application for revocation shall, however, be disregarded where preparations for the commencement or resumption occur only after the proprietor has become aware that an application for revocation may be filed.

(4) Where grounds for revocation exist in respect of only some of the goods or services for which the trademark has been registered, the revocation shall cover those goods or services only.

Revocation by Court Decision

29. Revocation of a registration under Section 28 shall be made by a court decision. Proceedings shall be instituted against the proprietor and may be instituted by any person with a legal interest therein. Proceedings pursuant to the provisions of Sections 13 and 14(i) to (iii) may also be instituted by the Patent Office.

Administrative Revocation

30.-(1) At the request of any person with a legal interest therein, and on payment of the prescribed fee, the Patent Office may revoke a trademark registration, provided that the condition for revocation in Section 25, cf. Section 28(2)(i), is fulfilled.

(2) The decision of the Patent Office may be brought before the Patent Board of Appeal and the courts in accordance with Section 46. However, the proprietor of the trademark may at any time institute proceedings against the person claiming revocation of the registration whether or not the Patent Office has made a decision on the case.

31.-(1) If there is reasoned doubt as to the existence of a proprietor of a trademark or if his address is unknown, any person with a legal interest therein may request that the trademark be deleted from the Register.

(2) Prior to any deletion, the Patent Office shall request the proprietor to come forward within a time limit fixed by the Patent Office. Notification of the time limit shall be given by registered letter or a similar, satisfactory method. If the address of the proprietor is unknown, the time limit shall be

communicated by public notification. If thereafter the proprietor has not come forward, the trademark shall be deleted from the Register.

Cancellation

32. If a registration of a trademark, a renewal of a trademark registration or an entry of an amendment in the Register has been made by obvious mistake, the Patent Office may, within three months from the date of registration or the date of the entry, cancel the registration, the renewal or the entry.

Deletion

33. Deletion from the Register shall be made if:

- (i) the registration is not renewed;
- (ii) the proprietor of the trademark requests deletion of the trademark;
- (iii) the registration is declared void pursuant to Section 23; or
- (iv) a decision is made or a judgment is given concerning revocation pursuant to Sections 29, 30, 31 or 37(2).

34. Office copies of any court decision concerning the registration of a trademark or the application for a trademark shall be communicated to the Patent Office by the relevant court.

Part IV

Special Provisions Relating to the Registration of Foreign Trademarks

Domestic Registration

35.-(1) An applicant who does not conduct business in this country and who is not a resident of a State which is a party to the Paris Convention for the Protection of Industrial Property shall document that a similar trademark is registered by him in his home country in respect of the same goods or services as comprised by the application.

(2) Subject to reciprocity, the Minister of Industry may direct that subsection (1) shall not apply.

36. Subject to reciprocity, the Minister of Industry may direct that trademarks which would not otherwise be registrable in this country, but which are registered in a foreign State, may be registered in this country such as they are registered in the foreign State. Such a registration shall not extend further than in the foreign State.

Agents

37.-(1) A proprietor of a trademark who is not a resident of this country shall have an agent residing in this country to receive summonses and all other communications concerning the trademark on his behalf with binding effect on the proprietor. The name and address of the agent shall be entered in the Register of Trademarks.

(2) If no appropriate agent is recorded, the proprietor of the trademark shall take steps to correct this matter within a time limit prescribed by the Patent Office. Notification of the time limit shall be given by registered letter or a similar, satisfactory method. If the address of the proprietor of a trademark is unknown, the time limit shall be communicated by publication. If an agent has not been appointed prior to the expiry of the time limit, the trademark shall be deleted from the Register.

Part V

Transfer and Licensing, etc.

38.-(1) The right to a trademark may be transferred in or without connection with the enterprise in which it is used.

(2) If anybody transfers his enterprise, the right to the trademarks of the enterprise shall pass to the transferee unless it has been or is deemed to have been agreed otherwise.

39.-(1) The transfer of the right to a registered trademark shall on request be entered in the Register of Trademarks.

(2) Until the transfer has been communicated to the Patent Office, the proprietor of the trademark shall be deemed to be the latest person who is entered in the Register.

Licensing

40.-(1) A trademark may be licensed for some or all of the goods or services for which it is registered and for the whole or part of the country. A license may be exclusive or non-exclusive.

(2) At the request of the proprietor or the licensee, the license shall be entered in the Register of Trademarks. It shall also be entered in the Register when it is later established that the license has terminated.

(3) The proprietor of a trademark may invoke the rights conferred by the trademark against a licensee who contravenes any provision in the licensing contract with regard to its duration, the form in which the trademark may be used according to the registration, the nature of the goods or services for which the license is granted, the territory within which the trademark may be used, or the quality of the goods manufactured or the services provided by the licensee.

Mortgage and Execution

41. If the right to a registered trademark has been mortgaged or a writ of *fieri facias* has been executed therein, the Patent Office shall at the request of the proprietor, the mortgagee or the execution creditor enter a note to that effect in the Register of Trademarks.

Part VI

Provisions Concerning the Legal Protection

42.-(1) Intentional infringement of a trademark right established by registration or use shall be punished by a fine. Under aggravating circumstances, including in particular if the purpose of the violation is a significant and obviously unlawful profit, punishment may be increased to ordinary imprisonment of not more than one year.

(2) Proceedings in respect of violations comprised by subsection (1), first sentence, shall be brought by the injured party. Proceedings in respect of other violations shall be brought by the State at the request of the injured party. The cases shall be treated as proceedings instituted by the police. The remedies of Part LXXIII of the Administration of

Justice Act concerning search may be used to the same extent as in proceedings instituted by the Public Prosecutor.

(3) If the violation has been committed by a limited liability company, a private limited company, a cooperative society or the like, the enterprise as such may be liable to a fine. If the violation has been committed by the State, a municipality or a municipal corporation, cf. Section 60 of the Administration of Local Authorities Act, the State, the municipality or the municipal corporation as such may be liable to a fine.

43.-(1) Anybody who intentionally or negligently infringes the trademark right of another person shall be liable to pay reasonable compensation for the exploitation of the trademark as well as damages for the further injury which the infringement may have caused.

(2) If anybody commits infringement which is not intentional or due to negligence, he shall be liable to pay compensation and damages under the provisions of subsection (1) to the extent found reasonable.

(3) If the trademark right is constituted by registration, the rules of subsection (1) shall also apply in the interval between the date of filing of the application and the date of registration of the trademark, if the infringer knew or ought to have known that the application had been filed.

(4) Civil cases for the outcome of which the application of this Act is significant shall be brought before the Maritime and Commercial Court in Copenhagen, unless the parties agree otherwise.

44. In cases of infringement of a trademark right, the court may decide on measures to prevent the abuse of the trademark. In that respect, it may *inter alia* be decided that the illegally affixed trademarks shall be removed from the goods which are in the possession of the party concerned or are otherwise at that party's disposal or, if necessary, that the goods shall be destroyed or surrendered to the injured party in return for or without compensation.

45.-(1) If a license has been granted to use a trademark, the licensor as well as the licensee shall be deemed to be entitled to bring proceedings in cases of infringement of the trademark right, unless otherwise agreed.

(2) A licensee who wishes to institute proceedings shall inform the licensor thereof.

Part VII

Miscellaneous Provisions

46.-(1) The decisions of the Patent Office under this Act may be brought before the Patent Board of Appeal (Board of Appeal for Industrial Property) not later than two months after the date on which the party concerned was notified of the decision. The fee for appeal shall be paid within the same time limit. If payment is not made, the appeal shall be rejected as inadmissible. Filing of appeals with the Patent Board of Appeal shall have suspensive effect.

(2) The decisions of the Patent Board of Appeal may not be brought before any higher administrative authority.

(3) Proceedings for the trial of decisions of the Patent Office which may be appealed against to the Patent Board of Appeal may not be brought before the courts until the decision of the Patent Board of Appeal has been given. Proceedings for the trial of decisions by the Patent Board of Appeal shall be brought within two months after the date on which the party concerned was notified of the decision. The proceedings shall have suspensive effect.

47.-(1) The Patent Office may on request undertake the solution of special tasks concerning trademarks and trademark rights.

(2) The Minister of Industry shall lay down rules concerning the payment therefor.

48. The Minister of Industry shall lay down further provisions concerning applications, priority claims, cf. Sections 18 and 19, registration and deletion of trademarks and concerning the conversion of Community trademark applications and Community trademarks into national applications. The Minister of Industry shall, moreover, lay down further provisions concerning the arrangement and keeping of the Register, concerning the publication of registrations, etc., and concerning fees for the filing and processing of applications, handling fees, fees for office copies, etc. The Minister of Industry may lay down specific rules concerning the days on which the Patent Office shall be closed.

49. If the Minister of Industry transfers his authority under this Act to the Patent Office, the Minister may lay down rules concerning the right of appeal including rules to the effect that appeals may not be brought before any higher administrative authority.

Part VIII

International Trademark Registration

50. An international trademark registration means a registration under the agreement adopted in Madrid on April 14, 1891, concerning the international registration of marks as subsequently revised (the Madrid Agreement) or under the protocol relating to the Madrid Agreement (the Protocol) adopted in Madrid on June 27, 1989.

Effects of an International Registration

51. From the date of registration or from the date of a subsequent designation, an international trademark registration designating Denmark shall have the same legal effect as if the trademark was registered in Denmark.

Refusal

52. Within the time limit laid down in the Madrid Agreement or the Protocol, the Patent Office may notify the International Bureau that the protection of the trademark is fully or partially refused in Denmark if the trademark does not comply with the conditions of registration under this Act or if an opposition is filed.

Lapse and Proceeding Under Danish Law

53.-(1) If the international trademark registration is invalidated, its validity shall also lapse in Denmark from the date of lapse of the international registration.

(2) The proprietor of an international trademark registration under the Protocol may in that case file a Danish trademark application with the same effect as if the application had been filed on the filing date of the application for the international registration or the date of a subsequent designation, provided that:

(i) the application is filed within three months after the date of deletion;

(ii) the Danish trademark application does not comprise other goods or services than the international trademark application; and

(iii) the application, moreover, complies with the requirements of a trademark application and the applicant pays the prescribed fees.

Prohibition Against Double Protection

54.-(1) In the cases where, at the request of the proprietor of the trademark, a trademark registered in Denmark is also the object of an international trademark registration, the international trademark registration shall replace the Danish registration if:

(i) Denmark is designated either originally or subsequently;

(ii) the goods or services comprised by the Danish registration are also comprised by the international registration; and

(iii) Denmark is designated at a later date than the date of application for the Danish registration.

(2) The Patent Office shall on request enter in its Register the existence of an international trademark registration.

Application for International Trademark Registration on the Basis of an Application or Registration in Denmark

55. International trademark applications may be filed by applicants residing in Denmark who are proprietors of Danish trademark applications or registrations.

56. International trademark applications or subsequent designations on the basis of an application or registration in Denmark shall be filed with the Patent Office pursuant to the provisions laid down by the Minister of Industry, cf. Section 60. The prescribed fee shall accompany the application.

57. An international application shall only comprise the goods or services comprised by the Danish application or registration.

58. On filing an international trademark application, priority may be claimed pursuant to the Paris Convention.

Renewal, etc.

59. The rules laid down in the Madrid Agreement and the Protocol shall apply to renewal.

60. The Minister of Industry shall lay down further rules for implementation of the provisions of this Part of the Act. Special rules may be laid down concerning publication of the internationally registered trademarks, cf. Section 51, and on the filing of oppositions against them, cf. Section 52. The Minister of Industry may, furthermore, lay down rules concerning fees for the examination of cases in connection therewith.

Part IX

Provisions as to Entry Into Force and Transitional Provisions

61.-(1) This Act shall enter into force on January 1, 1992, and at the same time the Consolidated Trademarks Act, No. 249 of April 17, 1989, shall be repealed.

(2) The administrative rules laid down pursuant to the Consolidated Trademarks Act, cf. subsection (1), shall remain in force until they are replaced by provisions issued under this Act.

(3) For trademarks which are registered prior to December 31, 1991, the five-year period under Section 25 shall not commence until January 1, 1992.

(4) The provisions of Part VIII shall enter into force in their entirety or in part by order issued by the Minister of Industry.

62. Applications which at the entry into force of this Act are not published in accordance with the previous provisions shall be processed pursuant to the provisions of this Act.

63. This Act shall not apply to the Faroe Islands and Greenland, but may by Royal Decree be put into force for the Faroe Islands and Greenland with the amendments deemed appropriate considering the special Faroese and Greenland conditions.

**Ordinance on the Entry Into Force of the
Trademarks Act
and the Collective Marks Act for Greenland
(No. 856 of December 16, 1991)***

Pursuant to Section 63 of Act No. 341 of June 6, 1991, on Trademarks, and to Section 13 of Act No. 342 of June 6, 1991, on Collective Marks,¹ the following is ordered:

1. The said Acts shall enter into force for Greenland on January 1, 1992, with the following amendments:

(1) Section 42 of the Trademarks Act:

** Official title: Anordning om ikrafttræden for Grønland af varemærkelov og fællesmærkelov.*

Entry into force (of the Trademarks Act of Denmark): January 1, 1992.

Source: Communication from the Danish authorities.

Note: English translation furnished by the Danish authorities.

¹ See *Industrial Property Law and Treaties, DENMARK – Text 3-002 (Editor's note)*.

“42.-(1) Intentional infringement of a trademark right established by registration or use shall be punished with a fine, unless heavier penalties are prescribed by other legislative texts.

(2) Cases under subsection (1) shall be treated according to the law applicable in Greenland.

(3) If the violation has been committed by a limited liability company, a private limited company, a cooperative society or the like, the enterprise as such may be liable to a fine. If the violation has been committed by the State or by the local administration, a municipality or a municipal corporation of Greenland, cf. Section 57 of the Law on the Parliament [*Landsting*], the State or the municipality or municipal corporation, as such, may be liable to a fine.”

(2) Section 43(4) of the Trademarks Act is repealed.

2. This Ordinance shall enter into force on the date of its publication in the law journal *Lovtidende*.