

**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**

ISRAEL

The present document reproduces the text¹ of the Law to Amend Intellectual Property Laws: Modifications to Implement the Provisions of the TRIPS Agreement, 5760-1999, containing amendments to the following laws: the Patents Laws, the Patents and Designs Ordinance, the Trademarks Ordinance, the Merchandise Marks Ordinance, the Appellations of Origin (Protection) Law, the Copyright Act, the Copyright Ordinance, the Performers' and Broadcasters' Rights Law and the Customs Ordinance, as notified by Israel under Article 63.2 of the Agreement (see document IP/N/1/ISR/1).

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

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

ISRAËL

Le présent document contient le texte¹ de la Loi 5760-1999 portant modification des lois sur la propriété intellectuelle pour mettre en œuvre les dispositions de l'Accord sur les ADPIC, et modifiant les lois suivantes: Loi sur les brevets, Ordonnance sur les brevets et les dessins et modèles, Ordonnance sur les marques de fabrique ou de commerce, Ordonnance sur les marques de fabrique, Loi sur la protection des appellations d'origine, Loi sur le droit d'auteur, Ordonnance sur le droit d'auteur, Loi sur les droits des artistes interprètes ou exécutants et des organismes de radiodiffusion et Ordonnance sur les douanes, notifiée par Israël au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/ISR/1).

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

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

ISRAEL

En el presente documento se reproduce el texto¹ de la Ley por la que se modifica la legislación sobre propiedad intelectual: modificaciones para aplicar a las disposiciones del Acuerdo sobre los ADPIC, 5760-1999, que contienen enmiendas a las leyes siguientes: Ley sobre las Patentes, Ordenanza sobre patentes y diseños y dibujos, Ordenanza sobre marcas de fábrica o de comercio, Ordenanza sobre marcas de fábrica, Ley sobre la Protección de las Denominaciones de Origen, Ley sobre Derecho de Autor, Ordenanza sobre derecho de autor, Ley sobre los derechos de los artistas intérpretes o ejecutantes y de los organismos de radiodifusión y Ordenanza sobre las aduanas, notificado por Israel en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/ISR/1).

¹ English only./Anglais seulement./En inglés solamente.

**Law to Amend Intellectual Property Laws –
(Modification to Suit the Provisions of the TRIPS Agreement)
5760-1999**

Purpose of the Law

1. The purpose of this Law is to amend intellectual property laws to conform with the requirements of the World Trade Organization Agreement relating to aspects of intellectual property rights (Agreement on Trade-Related Aspects of Intellectual Property Rights Including Trade in Counterfeit Goods – (TRIPS)) (hereinafter: “TRIPS”).

Chapter 1: Copyright

Amendment of Copyright Ordinance

2. In the Copyright Ordinance¹ –

- (1) Section 2 – repealed;
- (2) After the end of current section 2A, the following words shall be added: “in this Ordinance, ‘computer programs’ - whether in source or object code.”
- (3) After section 3F, the following shall be inserted:

“Rental of computer software

3F1. The rental of computer programs for commercial purposes shall be deemed copyright within the meaning of such term in the Copyright Act 1911 except where the computer program itself is not the essential object of the rental.”;

- (4) The following shall be inserted after section 7A:

“Subjects not protected

7B. Notwithstanding the provisions of section 1 of the Copyright Act 1911, no copyright shall subsist in any of the following:

- (1) an idea;
- (2) a process or method of performance;
- (3) a mathematical concept;
- (4) a fact or datum, on their own;

¹ *Laws of Palestine*, Vol. I., p. (H) 369, (E) 389.

² *Laws of Palestine*, Vol. II, p. (H) 2635, (E) 2475.

(5) the daily news;

however, copyright shall subsist in the manner in which these are expressed.

Destruction of goods

7C. Without derogation from the provisions of section 7 of the Copyright Act 1911, the court may, at the end of the hearing of a claim, order the destruction of goods produced in infringement of copyright or used to perform such an infringement; a party filing an application for the destruction of goods under this section shall advise the Israel Police Force of such in the manner to be prescribed in the regulations, and the court shall not deal with the application without providing an opportunity to the police to make claims.

Grant of notice to Director of Customs

7D. (a) The holder of copyright in a work whose copyright has been infringed, or where there is a reasonable suspicion that it will be infringed, may give notice in writing to the Director of Customs to the effect that he is the holder of copyright in the work, and requesting the Director to delay releasing the goods that he claims are infringing copies of the work and to treat them as goods the import of which is prohibited under the Customs Ordinance.³

(b) A notice under sub-section (a) shall include one of the following:

- (1) An example of the original work or a non-infringing copy of it in which the applicant has copyright and in respect of which the holder gives notice of the importation of infringing copies;
- (2) A catalog or any other document that enables the Customs Director to compare the original work or non-infringing copy of it with the infringing copies.

(c) The holder of copyright shall provide the Customs Director with the following information, to the extent that he has knowledge of it:

- (1) The number of parcels to be received;
- (2) Sufficient notation of means of importation or the name of the ship bringing the infringing copies;
- (3) The date on which the infringing copies are meant to be received.

(d) The copyright holder must provide the Customs Director with primary evidence, and a personal guarantee, as prescribed by the Customs Director, in order to cover all expenses connected with detaining goods, or in order to compensate for any damage caused as a result of the detaining of goods, should it become apparent that the detention of the goods was

³ *Sefer Hachukim*, 5755, p. 366.

unjustified, and to pay any fee prescribed for this purpose in the Customs Ordinance.

(e) The provisions of this section shall not apply to infringing copies imported for personal use as defined in section 129 of the Customs Ordinance.”;

Amendment of Copyright Act

3. Section 14 of the Copyright Act 1911 shall no longer apply in Israel.

Chapter 2: Designs

Amendment of Patents and Designs Ordinance

4. In the Patents and Designs Ordinance⁴ –

(1) The following shall be inserted at the end of section 2:

““World Trade Organization” – the World Trade Organization constituted by the agreement signed in Marrakech on 15 April 1994”;

“Member state” – a state that is party to the Paris Treaty or a member of the World Trade Organization;

“Paris Treaty” – the Treaty relating to Industrial Property Protection signed in Paris in 1883⁵, as amended, to the extent that Israel is bound by such;”

(2) The following shall be inserted at the end of section 33:

“(4) Despite the provisions of sub-sections (2) and (3), where the proprietor of a design has not requested an extension of the period of copyright and has not paid the fee on the date set out as aforesaid in sub-sections (2) or (3), such person may, during a period of six months commencing at the end of the first or second period of five years, as the case may be, request an extension of the period of copyright, subject to the payment of a fee in addition to the fee set out under these sub-sections.”;

(3) The following shall replace section 52:

“*Priority*

52 (a) Where the proprietor of a design files an application for registration of a design for a design in respect of which such person or a person preceding

⁴ *Laws of Palestine*, Vol. II, p. (H) 1053, (E) 1076.

⁵ These agreements are deposited in the Ministry of Industry and Trade and any person may inspect them.

⁵ *Treaties*, Vol. 21, p. 495.

him in ownership has already filed an application for registration in one or more member states (hereinafter: the "prior application") and the prior application was filed on behalf of a citizen or resident of the said state, the proprietor may demand that for the purposes of sections 30(f) and 36, the date of the first prior application shall be the date of the application filed in Israel (hereinafter: "priority"), if all of the following have been fulfilled:

- (1) The application in Israel is filed within six months after the filing of the first prior application;
- (2) Priority is claimed in Israel within two months after the filing of the application in Israel;
- (3) A copy of the prior application together with the sketches accompanying it, certified by the competent authority in the member state in which the prior application was filed, were filed with the registrar within the time prescribed by the Minister of Justice;
- (4) The design set out in the prior application and the design sought to be registered by the applicant are fundamentally similar.

(b) The provisions of sub-section (a) shall also apply to an application to register a design based on an application to register a utility model^{*};

(4) In section 56, the words "and renewal of them" shall come after the words "registration of designs" in sub-section (1)(g).

Amendment of Patents Law

5. In the Patents Law 5727-1967⁶ –

(1) In section 1 –

(a) the following shall be inserted before the definition of "inspector":

"“World Trade Organization” – the World Trade Organization constituted by the agreement signed in Marrakech on 15 April 1994”;

(b) the following shall be inserted after the definition of "union State":

"“Member state” – a state that is party to the Paris Treaty or a member of the World Trade Organization”;

(2) In section 3, the words "in any technological field" shall be inserted after the words "a process", and the word "industrial" shall replace the words "industrial or agricultural";

⁶ *Sefer Hachukim* 5727, p. 148.

^{*} These agreements are deposited in the Ministry of Industry and Trade and any person may inspect them.

(3) In section 10(a), the words “in a member state (hereinafter: the “prior application”) and the prior application is filed on behalf of the citizen or resident of such state” shall replace the words “in Israel or in any union State (hereinafter: the prior application)””;

(4) In section 50, the following shall replace sub-section (b):

“(b) With regard to an invention which is a process for manufacturing a product, in a claim for infringement, the defendant must prove that the process in which use was made to manufacture an identical product was different from that protected by the patent; for the purposes of this sub-section, an identical product manufactured without the consent of the proprietor of the patent will be considered as a product manufactured using the process protected by the patent, unless proven otherwise, if the following two elements exist:

1) the proprietor of the patent was unable to clarify, using reasonable means, which process was actually used in the manufacture of the identical product;

2) there is a high level of reasonableness that the identical product was manufactured using the process protected by the patent.”;

(5) In section 118(a), the words “in writing” shall be inserted after the words “notify him” and the words “by way of manufacture or importing, and if so, the extent manufactured or imported and the place of manufacture” shall replace the words “by way of manufacture, and if so, the extent and place of manufacture”;

(6) In section 119, paragraphs (3), (4) and (5) shall be deleted;

(7) Section 120 is repealed;

(8) In section 121 –

(a) in sub-section (a), the words “and provided that the later invention contains an important technological advance of considerable economic value as compared with the previous invention” shall replace the end of the sub-section commencing with the words “provided that the later invention”;

(b) in sub-section (b), the words “the same purpose” shall replace the words “the same industrial purpose”;

(c) the following shall be inserted after sub-section (c):

“(d) a license granted to the proprietor of a later invention under the provisions of sub-section (a) shall not be transferable unless the rights in the later invention are transferred together with the license.”;

(9) in section 122 –

(a) at the beginning of the section, the words “section 117” shall replace the words “section 117 or 120”;

(b) in paragraph (2), the words “or importing” shall be inserted after the words “by way of manufacture”;

(c) in paragraph (4), the words “or importing” shall be inserted after the words “by way of manufacture”;

(d) in paragraph (5), the words “or importing” shall be inserted after the words “by way of manufacture”;

(10) the following shall replace section 123:

“Restriction of scope of compulsory license

123. a license under this Chapter shall be granted mainly to supply the local market.”;

(11) in section 126 –

(a) at the beginning of the sub-section, the words “having consideration of the legitimate interests of the proprietor of the patent” shall be inserted after the words “in the circumstances of the case”;

(b) in paragraph (2), the words “having consideration, *inter alia*, of the economic value of the license and of the patent – the” shall be inserted before the words “modes of determining”;

(12) the following shall be inserted after section 126:

“Transfer of compulsory license

126A. A license awarded under this Chapter may not be transferred unless that part of the business or goodwill connected with use of the patent is transferred together with the license.”.

Chapter 4: Trade Marks

Amendment to Trade Marks Ordinance

6. In the Trade Marks Ordinance [New Version], 5732-1972⁷ –

(1) in section 1 –

(a) the following shall be inserted after the definition of “trade mark”:

“Well-known trade mark” – a mark that is well known in Israel as a mark owned by a person that is a citizen of a member state, a permanent resident of such state or who has an active

⁷ *Dinei Medinat Yisrael*, [New Version], 26, 5732, p. 511.

business or factory in such state, even if the mark is not a trade mark registered in Israel or if there are no users of the mark in Israel; for the purposes of determining whether a trade mark is a well-known trade mark in Israel, the extent to which the mark is known in public circles relating to it and the extent to which it is known as a result of marketing, shall be taken into account, *inter alia*.”;

(b) the following shall be inserted at the end of the definition of “infringement”:

“(3) of a well known trade mark even if it is not a registered trade mark, or of a mark so similar to it as to be misleading in respect of goods for which the mark is well known or in respect of goods of the same description;

(4) of a well known trade mark which is registered, or a mark similar thereto, in respect of goods not of the same trade description, provided that such use could indicate a connection between such goods and the proprietor of the registered trade mark and the proprietor of the registered trade mark might be harmed as a result of such use;

(c) the following shall be inserted at the end of section 1:

““World Trade Organization” – the World Trade Organization constituted by the agreement signed in Marrakech on 15 April 1994*;;

““Member state” – a state that is party to the Paris Treaty or a member of the World Trade Organization;;

““Geographical Indication” - means an indication that identifies in Israel goods as originating in a given geographical area of a member state, or a region or part thereof, where a given quality, characteristic or reputation connected with the good is essentially attributable to its geographical origin;;

(2) in section 11 –

(a) the following shall be inserted after paragraph (6):

“(6A) a mark containing a geographical indication in respect of goods originating in the geographical area indicated, if the geographical indication may be misleading as to the real geographical area in which the goods originated;

(6B) a mark containing a geographical indication that is literally correct, however that contains a false representation to the effect that the goods originated in a different geographical area;;

(b) the following shall be inserted after paragraph (11):

* These agreements are deposited in the Ministry of Industry and Trade and any person may inspect them.

“(12) a mark identifying wines or spirits that contains a geographical indication, if such wine or spirit did not originate in that geographical area;

(13) a mark identical to, or misleadingly similar with, a well known trade mark even if the mark is not registered in respect of goods for which the mark is well known or in respect of goods of the same description;

(14) a mark identical to or similar to a well-known trade mark being a registered trade mark, even in respect of goods not of the same class, if the mark sought to be registered might indicate a connection between the goods in respect of which the mark is sought and the registered proprietor of the trade mark, and the registered proprietor of the trade mark might be harmed as a result of using the mark sought.”;

(3) in section 16(a), the following shall replace paragraph (2):

“(2) the mark is devoid of any distinctive character; a trade mark shall not be disqualified from registration if it is different from the trade mark registered in its country of origin in a manner that does not alter its distinctiveness, and does not adversely affect its identity in the form in which it has been registered in the said country of origin.

(4) in section 24, the following shall be inserted after sub-section (a):

“(a1) the following are causes for opposition to the registration of a mark:

1) there is a reason for which the registrar may, under the provisions of this Ordinance, refuse the application for registration;

2) the opponent, and not the applicant, is the owner of the mark.”;

(5) the following shall be inserted in section 39 after sub-section (a):

“(a1) Notwithstanding the provisions of sub-section (a), an application for removal of a trade mark on the grounds that the application for registration of the mark was filed in bad faith may be filed at any time.”;

(6) In section 41 –

(a) in sub-section (a), the words “during the three years” shall be inserted in place of the words “during the two years”;

(b) the following shall be inserted after sub-section (e):

“(f) in this section, “use” of a trade mark shall include –

1) use of a registered trade mark by its proprietor or by an authorized person under section 50 in a manner that differs from that noted on the register in such a way as not to change the distinct character of the mark as it is registered;

- 2) use by an authorized person under section 50 on condition that such use is subject to the control of the proprietor of the mark.”;

(7) The following shall be inserted after section 46:

“Exclusive use of a well-known trade mark

46A. (a) The proprietor of a well known trade mark, even if it is not a registered trade mark, shall be entitled to the exclusive use of the mark in respect of the goods for which the mark is well known in Israel or in respect of goods of the same description.

(b) The proprietor of a well known trade mark that is a registered trade mark shall also be entitled to the exclusive use of that mark in respect of goods which are not of the same description if use of that mark by a person other than the proprietor would be likely to indicate a connection between the said goods and the registered proprietor of the mark, and the registered proprietor is likely to be damaged by such use.

Protection of trade marks used in exhibitions

46B. A mark that is not a registered trade mark shall be considered, for the purposes of goods shown at an official or officially recognized international exhibition held in Israel, as a registered mark for the duration of the term in which the exhibition is held.”;

(8) In section 47 –

(a) the words “place of” shall be deleted;

(b) the words “or the geographical name of his place of business” shall be inserted after the words “his business”;

(9) In section 50(1), the words “in this Ordinance” shall replace the words “in this section”;

(10) The following shall be inserted after section 52:

“Continued use of a trade mark

52A. Notwithstanding the provisions of this Ordinance, where an application for registration of a trademark is filed, or where a trade mark has been registered in good faith, or where rights to a trade mark have been acquired through use in good faith, neither the eligibility of the mark for registration, the validity of the registration, nor the right to use such trade mark, shall not be prejudiced for the sole reason that the trade mark is identical or similar to a geographical indication or to a well known trade mark, provided that the application for registration of the trade mark, the registration of the trade mark or the acquisition of rights through use as aforesaid were effected prior to -

- 1) in the case of a well known trade mark - the day on which the trade mark became a well known trade mark;
- 2) in the case of a geographical indication - 1 January 2000, or the date on which the geographical indication became protected in the member state in which the geographical area indicated by the geographical indication is situated;

(11) In section 55 –

- (a) the marginal heading shall read “Priority”;
- (b) in sub-section (a), the words “in the member state” shall replace the words “in a union state”;

(12) In section 57 –

- (a) the words “or the proprietor of a well-known trade mark” shall be inserted after the words “proprietor of a registered trade mark” and at the end of the section the words “however, in the case of a well-known trade mark, it may entertain an action for infringement of a mark even it is not registered.” shall be inserted;
- (b) sub-section (b) – repealed;

(13) In section 59 –

- (a) the provisions of this section shall be marked “(a)” and at the end of the section, the words “and shall be entitled to the remedies set forth in section 59A.” shall be inserted;
- (b) the following shall be inserted after sub-section (a):
 - “(b) for the purposes of an infringement relating to a well-known trade mark that is not a registered trade mark, the plaintiff shall be entitled to relief by way of injunction only.”;

(14) the following shall be inserted after section 59:

“Additional remedies

59A. (a) The court may order, at the end of hearing the claim, one of the following:

- 1) the destruction of goods produced during the performance of the infringement or which served in performing the infringement (in this section – “the goods”);
- 2) where the plaintiff so requests, the transfer of ownership of the goods to the plaintiff, in consideration for payment of the value of them but for the infringement;
- 3) on the doing of any other thing in respect of the goods.

However, the court shall not allow the defendant to possess the goods, even if the defendant has removed the infringing marks, except in extraordinary cases ;

(b) A party that files an application for the destruction of goods under this section shall notify the Israel Police Force of such in the manner prescribed in the regulations, and the court shall not hear such an application without giving the Police an opportunity to make claims.”;

(15) The following shall be inserted after section 69:

“Grant of notice to Customs Director

69A. (a) The proprietor of a registered trade mark whose rights have been infringed, or where there is a reasonable suspicion that they will be infringed, may give notice in writing to the Customs Director to the effect that he is the proprietor of the trade mark, and requesting the Director to delay releasing the goods that he claims are infringing goods and to treat them as goods the import of which is prohibited under the Customs Ordinance.

(b) A notice under sub-section (a) shall include one of the following:

- (1) An example of the original goods in respect of which the applicant has rights in the trade mark and in respect of which he gives notice of the importation of infringing goods;
- (2) A catalog or any other document that enables the Customs Director to compare original goods with the infringing goods.

(c) The proprietor of a registered trade mark shall provide the Customs Director with the following information, to the extent that he has knowledge of it:

- (1) The number of parcels to be received;
- (2) Sufficient notation of means of importation or the name of the ship bringing the infringing goods;
- (3) The date on which the infringing copies are meant to be received.

(d) The proprietor of the trade mark must provide the Customs Director with primary evidence, and a personal guarantee, as prescribed by the Customs Director, in order to cover all expenses connected with detaining goods, or in order to compensate for any damage caused as a result of the detaining of goods, should it become apparent that the detention of the goods was unjustified, and to pay any fee prescribed for this purpose in the Customs Ordinance.

(e) The provisions of this section shall not apply to infringing goods imported for personal use as defined in section 129 of the Customs Ordinance.”;

* (Translator’s Note: this footnote does not appear in the original).

Chapter 5: Appellations of Origin

Amendment to Appellations of Origin (Protection) Law

7. In the Appellations of Origin (Protection) Law 5725-1965 –

- (1) In the title of the law, the words “and Geographical Indications” shall be inserted after the words “Appellations of Origin”;
- (2) In section 1, the following shall be inserted at the end of the section:

““Geographical Indication” - means an indication that identifies in Israel goods as originating in a given geographical area of a member state, or a region or part thereof, where a given quality, characteristic or reputation connected with the good is essentially attributable to its geographical origin;”;

““Member state” – a state that is a member of the World Trade Organization;

““World Trade Organization” – the World Trade Organization constituted by the agreement signed in Marrakech on 15 April 1994.”;

- (3) The following shall be inserted after section 21:

“Chapter 3.1: Geographical Indication

Unlawful use of a geographical indication

21A. Use of a geographical indication in respect of a product the origin of which is other than the geographical region indicated therein is unlawful use of a geographical indication if the geographical indication might be misleading as to the true geographical origin of the product, and shall be considered an infringement of an appellation of origin right under sections 22 and 23.

Unlawful use of a geographical indication identifying a wine or spirit beverage

21B. (a) Use of a geographical indication identifying wine or spirit beverages where the origin of the wine or spirit beverage is not from the geographical region indicated, constitutes an unlawful use of a geographical indication, and shall be deemed an infringement of an appellation of origin right under sections 22 and 23, even if the geographical indication is accompanied by expressions such as "sort", "type", "kind", "imitation" or similar expressions or translations of them into a foreign language.

(b) Notwithstanding the provisions of sub section (a), a person, who has continuously used the geographical indication of a member state for identifying a wine or spirit beverage, may continue to use such geographical indication in respect of wine or spirit beverages or in respect of any related product if one of the following conditions exists:

- 1) it was used for a period of at least 10 years prior to 15 April 1994;
- 2) the use of it was made in good faith and commenced prior to 15 April 1994.

21C. Despite the provisions of sections 21A and 21B, the following uses are lawful uses of a geographical indication:

- 1) use, in respect of a product, of a geographical indication that is identical to a linguistic expression commonly used in Israel as the name for the product;
- 2) use, in respect of a product, of a geographical indication that is not protected or that has ceased to be protected in the geographical region indicated therein, or that the use of it in such geographical region has ceased;
- 3) use, in respect of a grape product, of a geographical indication that is identical to a commonly used expression of a species of grape, if the term for the species of grape was commonly used prior to 15 April 1994;
- (4) (a) use, in respect of wine, of homonymous geographical indications that indicate various separate geographical regions which can be differentiated from each other;

(b) In dealing with a claim made pursuant to sub paragraph (4) the Court: when determining whether there is differentiation between the homonymous geographical indications the Court shall take consideration, inter alia, the need to ensure equitable treatment as between the various products involved and the need to ensure that consumers will not be misled;
(c) for purposes of sub paragraph (4), "homonymous" means indications which are identically spelled or pronounced but differ in their meaning.

(5) The following shall be inserted after section 22:

"Use of name in good faith

22A. The lawful use of a geographical indication under this Law shall not prevent a person from using his own name or that of his predecessors in a business, provided that such use is in good faith and in such a way so as not to mislead the public.”;

(6) The following shall be inserted after section 33:

“Chapter 5.1: Rights in Respect of Trade Marks

Right to continued use of trade mark

33A. Notwithstanding the provisions of this Law, where an application is filed for the registration of a trade mark as defined under the Trade Marks Ordinance [New Version] 5732-1972 (hereinafter: the “trade mark”), or a trade mark is registered in good faith, or rights are acquired in a trade mark by use thereof in good faith, the fitness of the mark for registration, the validity or registration and the right of use of the trade mark shall not be prejudiced solely because the trade mark is identical or similar to a geographical indication, provided that the application for registration of the trade mark, the registration or the acquisition of rights as aforesaid were effected prior to 1 January 2000, or prior to the date on which the geographical indication was awarded protection in the member state in which the geographical region indicated in the geographical indication is situated.

Claim of protection before the Registrar and the Court

33B. In any proceedings before the Registrar or the Court in which a party raises a claim that he is the proprietor of a geographical indication, the opposing party may claim that the geographical indication is not a geographical indication.”;

Amendment of Merchandise Marks Ordinance

8. In the Merchandise Marks Ordinance⁸, section 6A is repealed.

Amendment of Performers and Broadcasters Rights Law

9. In the Performers and Broadcasters Rights Law 5744-1984⁹ –

(1) In section 4D, the words “in sections 10, 11 and 12” shall replace the words “in sections 11 and 12”;

(2) In section 10, the words “fifty years” shall replace the words “twenty five years”;

(3) The following shall be inserted after section 10:

⁸ (Translator’s Note: this footnote does not appear in the original).

⁹ (Translator’s Note: this footnote does not appear in the original):

“The period of broadcasters’ rights

10A. The provisions of this Law shall not apply to a broadcast twenty five years after the year in which it was made.”

Chapter 7: Prohibited Imports and Exports

10. In the Customs Ordinance, the following shall be inserted after section 200:

“Detention of Infringing Goods

200A. (a) Should the Director discover, via the receipt of notice as aforesaid in section 7D of the Copyright Ordinance, or in section 69A of the Trade Marks Ordinance [New Version] 5732-1972 (hereinafter: the “Trade Marks Ordinance”), or in any other manner, that a prima facie infringement of copyright or of a right in a trade mark has been committed, he shall take the following steps:

- (1) order the detention of the copies or goods, claimed to be infringing (hereinafter: the “infringing goods”) for 3 working days;

the Director may extend the said detention for a further period of no more than 3 days;

- (2) notify whomever he believes to be the apparent owner of the infringing goods, in writing, of the delay in their being released together with a copy of any notice given, and a copy of the personal guarantee;
- (3) notify the proprietor of the copyright or trade mark (hereinafter: the “proprietor”) that the infringing goods have been detained and fix the sum of a bank guarantee that the proprietor is to deposit under sub-section (c), in addition to the personal guarantee pursuant to section 7D of the Copyright Ordinance or section 69A of the Trade Marks Ordinance, when the notice is given;
- (4) Notify the proprietor of the delay in releasing the infringing goods and that the detention shall be cancelled at the end of 3 working days from the date of the detention, if the required guarantee or guarantees are not deposited and after 10 working days from the date of delivery of the notice of the detention if no claim is filed in court.

- (b) The Director may, for special reasons which he will note, extend the period for filing the claim referred to in sub-section (a)(4) for a further 10 days

- (c) Within 3 working days of the date of the detention, the proprietor shall lodge a bank guarantee with the Director in the sum fixed by the Director under sub-section (a)(3), which will cover all expenses related to the detention or which will compensate for all damage that may be caused by the detention.

- (d) Upon depositing the bank guarantee under sub-section (c), the Director shall deliver, at the proprietor’s request, examples of the detained infringing goods as aforesaid for the purpose of their examination, as well as the name and address of

the importer of the infringing goods; the expenses of the examination, including expenses of the delivery of the examples to the place of the examination shall be borne by the proprietor.

- (e) The Director shall cancel the detention of the infringing goods if, by the end of the periods set out in sub-sections (a) through (c), the proprietor did not act in accordance with such sub-sections.
- (f) The Minister of Finance may make regulations for the performance of this section and may set the fees to be paid by an applicant.

Release of guarantees

200B. The Director shall refund the guarantee or guarantees to the person who deposited them as set out below, in accordance with the following circumstances:

- (1) If he rejects a detention application as set out in Section 200A(a) – at the end of 3 months from the date of rejection if no legal claim is filed by the importer for damages caused to it as a result of the detention prior to the end of such period as aforesaid;
- (2) If the release of infringing goods is delayed as aforesaid in Section 200A, and the detention is cancelled – at the end of 3 months from the date of release of the infringing goods, if no legal claim is filed by the importer for damage caused to it as a result of the detention, prior to the end of such period as aforesaid;
- (3) If the claim referred to in Section 200A(a)(4) is rejected by the court in a final judgment, and the importer or any person representing it confirms in writing that it has and shall have no claim or suit in any way connected with the detention of the infringing goods, or with the damage caused as a result of such, at the end of the three months from the date of rejection of the claim;
- (4) By order of the court.

Prohibited import and export

200C. Infringing goods imported into Israel shall be treated as goods the import and export of which is prohibited under this Ordinance.

Personal import

200D. Sections 200A through 200C shall not apply to infringing goods imported for personal use as defined in Section 129.

Reservation of powers

200E. The provisions of Sections 200A through 200D are in addition to the Director's authority under any other law."

Commencement

11. This law shall come into force on 23 Tevet 5760 (1 January 2000) (hereinafter: the “date of commencement”).

Application and transitional provisions

12. (a) The provisions of section 3F1 of the Copyright Ordinance as set out in section 2(3) of this Law shall not apply to the hiring of computer software acquired prior to the date of commencement.

(b) The provisions of the Patents Law 5727-1967 as set out prior to the date of commencement shall apply to a compulsion license granted prior to the date of commencement.

(c) Where a person files an application for registration prior to the date of commencement and no decision has yet been made on the application on the date of commencement, such person may, within three months of the date of commencement, apply to amend the application so that it complies with the provisions of the law applying to it under the terms of this Law;

In this section, an “application for registration” – an application to register a design under the Patents and Designs Ordinance, an application to register a Patent under the Patents Law 5725-1965, and an application to register a trade mark under the Trade Marks Ordinance [New Version] 5732-1972.
