

Law of Georgia on Trademarks

Chapter I. General Provisions

Article 1. Purpose of the Law

The Law regulates the relations connected with the registration and protection of trademarks, service marks and collective marks, as well as with use of these marks.

Article 2. Definitions of Terms

The terms used in this Law have the following meanings::

a) “Sakpatenti” means a legal entity governed by the public law, which creates the legal grounds for acquisition of the rights of natural persons and legal entities in the sphere of intellectual property;

b) Paris Convention - the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, (as revised and amended at Stockholm on July 14, 1967 and on September 28, 1979);

c) Madrid Protocol - Protocol Relating to the Madrid Agreement Concerning the International registration of marks signed on June 27, 1989;

d) International Classifier – the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, (as revised at Stockholm on July 14, 1967 and Geneva on May 13, 1977);

e) Certificate – the document granted in the name of the trademark holder in accordance with this Law, confirming the exclusive rights of the trademark holder;

f) Application - collection of documents necessary for granting of a certificate, made in accordance with the approved requirements;

g) Applicant – a natural person or legal entity requesting the certificate;

h) Priority – privilege enjoyed by the earlier filed application, compared to the later filed application;

i) Convention priority – priority established in regard to Article 4 of the Paris Convention;

j) Exhibition Priority - priority established in regard to Article 11 of Paris Convention;

k) Patent Attorney - the authorized person registered at Sakpatenti entitled to represent third parties in the sphere of industrial property;

l) Chamber of Appeals - the body existing at Sakpatenti for consideration of the litigation arising in regard to the acquisition of the rights on industrial property objects;

m) Association - any association of the producers established in accordance with the legislation of Georgia or its country of origin.

Article 3. Trademark

1. A trademark is a sign or combination of signs, which can be represented graphically and is capable of distinguishing the goods and/or services (hereinafter – the goods) of one undertaking from those of other undertakings.

2. The sign can be a word or words, as well as personal names; letters; figures; sounds; designs; three-dimensional figures; including the shape of goods or their wrapping, as well as other packaging, including colors or combination of colors.

3. The trademark is protected by its registration with Sakpatenti or on basis of international agreement.

4. The well-known trademarks in Georgia are protected without registration under Article 6 bis of the Paris Convention.

Article 4. Absolute Grounds for Refusal on Registration of Trademark

1. As a trademark shall not be registered a sign, or combination of signs which:

a) does not comply with the provisions of Article 3 point 2 of this Law;

b) are devoid of any distinctive character with respect to the relevant goods:

b.a.) consists exclusively of kind, quality, quantity, characteristics, value, intended purpose, geographic origin, place of sale, time or other characteristics of the goods or are regarded as such;

b.b.) is widely used as a generic term for certain type of goods;

b.c.) represents the term or sign in economic circulation characteristic for those goods, which registration is required;

c) offends or is contrary to the national dignity, religion feelings and traditions, norms of morality;

d) is likely to deceive the consumer as to the nature, quality, the geographic origin or other features of the goods;

e) coincides fully or by any constituent element with an armorial bearing, flag, emblem of a foreign state, its full name or abbreviation; international or intergovernmental organization's emblem, its full name or abbreviation; official control, warranty, testable hallmarks, sign (among them certification sign of goods accordance), seal, order and medal; existing or historical name of the territorial unit of Georgia, its armorial bearing, flag, emblem, banknote or their imitation. Such signs shall be included in a trademark as an unprotected part, if there is a permission of Ministry of Culture or a holder.

2. As a trademark shall not be registered such a three-dimensional sign, the shape of which:

a) is conditioned only by the nature of the goods;

b) is necessary to obtain a technical result.

3. The subpoint "b" of point 1 of this Article shall not apply if before taking a decision on registration of the trademark, this mark has become distinctive in relation to the goods indicated in the application in consequence of the use in the course of trade.

Article 5. Relative Grounds for Refusal on Registration of a Trademark

A trademark shall not be registered if, it:

a) is identical with the trademark registered in regard to the same goods;

b) is identical with the trademark of third party and the goods are similar to such an extent that, creates the possibility of confusion of the marks, including confusion based on association;

c) is similar to the trademark of the third party and the goods are identical or similar to such an extent, that there exists the likelihood of confusion of the marks, which includes confusion based on association;

d) is identical with or similar to the well-known trademark in Georgia, that there exists the likelihood of confusion with it, which includes confusion based on association. This rule applies even in the case when the list of goods are different;

e) is identical with or similar to the appellation of origin or geographic indication protected in Georgia that causes the likelihood of confusion with it, which includes confusion based on association;

f) is identical with the industrial design protected in Georgia except the cases when the registration of the trademark is sought by the holder of the exclusive right on the industrial design;

g) is identical with or similar to the third party's registered trademark enjoying good reputation in Georgia, and the use of this trademark creates the unfair advantages for its applicant, or damages the reputation of the protected trademark. This rule is applied in the case where the lists of goods are different;

h) contains name, pseudonym, facsimile, portrait of a famous person in Georgia without the consent of these person or his/her legatee, and if they are the property of the history and culture of Georgia without the permission of the Ministry of Culture of Georgia;

i) contains the names of the historical monuments of Georgia or their reproduction without the permission of the Ministry of Culture;

j) contains the firm name causing confusion.

Article 6. Exclusive Right

1. The exclusive right of a holder on a trademark protected by registration arises from the day of the mark registration.

2. The person enjoying exclusive right can prohibit third parties to use without his consent in the course of trade such a mark, which in respect to the protected trademark of the person enjoying exclusive rights, is:

a) identical and the goods are identical as well;

b) identical, and the goods are similar to such an extent that, there exists a likelihood of confusion, which includes confusion based on association;

c) similar to, and the goods are identical or similar to such an extent, that there exists the likelihood of confusion of the marks, which includes confusion based on association;

d) identical or similar to and due to the good reputation of the trademark protected in Georgia the use of the mark creates unfair advantages for the third parties or damages the good reputation of the trademark or its distinctive ability.

3. In the cases provided for by point 2 of this Article apart from the other possible prohibitions, there is prohibited to:

a) affix the trademark on goods or their packaging;

b) offer, put in the market, or to stock them for this purpose, import or export of goods under this mark, except the cases where this action is conducted with the goods bearing a sign affixed by the person having exclusive rights on the trademark;

c) offer or render services using this trademark;

d) use this mark for advertisement or business papers.

4. Without the consent of a trademark holder, the third party is prohibited:

a) to affix a sign identical with or similar to this trademark on the packaging materials, labels, tags, etc.

b) to offer, put in the market, sell, prepare for sale, to import or export the packaging material, or wrapping affixed with a mark identical to or similar with this trademark.

Article 7. Scope of Exclusive Rights

1. The person enjoying the exclusive right on the trademark shall not be entitled to prohibit the third parties from using in the course of trade:

a) his (her) name or address, if they coincide with the trademark of the person having the exclusive right;

b) the sign or combination of signs as indications concerning the characteristics of the goods, in particular, the kind quality, quantity, nature, value, intended purpose, geographic origin, place of sale, time or the other features of the goods;

c) the protected trademark where it is necessary to indicate the intended purpose of the goods, in particular, if the goods affixed with this trademark are used as accessories or spare parts, provided that such use is not contrary to accepted principles of fair practices in production. In such case the third person must use the protected trademark subject to the principles of entrepreneurial activities in good faith.

2. The person enjoying the exclusive right on the trademark shall not prohibit third parties to use the protected trademark on such goods, which have been put in the course of trade directly by the holder of the trademark or on basis of his consent. This rule shall not apply, if the features of the goods have changed, the quality has become worse or there exists other important basis for the prohibition.

Article 8. Reproduction of Trademark in Reference Books

If the reproduction of a trademark in a dictionary, encyclopedia or other reference work gives the impression that it constitutes the generic term of goods for which it has been registered, or its registration is required, the publisher shall, at the request of the holder of the indicated mark, ensure that the reproduction of the trademark in the next edition of the publication is accompanied by an indication, that it is a registered trademark.

Chapter II. Acquisition and Maintenance of the Trademark Right

Article 9. Application for a Trademark Registration

1. An application for registration shall be filed with Sakpatenti by an applicant or his representative.

2. The application is drawn up in Georgian language in accordance with the established rule.

3. The foreign applicant, who has no permanent residence or a real undertaking within the territory of Georgia conducts his relations with Sakpatenti through a patent attorney registered at Sakpatenti.

4. The application shall apply to only one trademark.
5. The application contains:
 - a) a request for a trademark registration;
 - b) a full name (title) and legal address of applicant;
 - c) a representation of a trademark;
 - d) a list of goods for which the registration is sought. It is permitted to present a list of goods in a foreign language, the Georgian translation of which shall be presented to Sakpatenti within one month from the date of filing the application;
 - e) a name and address of the representative, if the application is filed by him;
 - f) an application shall be signed by the applicant or his representative.
6. All the other data and the list of the documents necessary for examination, the terms and conditions of their presenting are defined by the legislation of Georgia.

Article 10. Date of Filing an Application with Sakpatenti

The date of filing of an application with Sakpatenti shall be the day on which the applicant files it to Sakpatenti, if the presented application complies with the requirements of Article 9 points 2 and 5.

Article 11. Priority

1. A trademark priority is established by the date of filing an application, if the fee prescribed for the examination shall be paid no later than in one month after filing the application. If for several identical trademarks were filed the applications by one and the same filing date, then the priority is established as of the date starting the actual use of the trademark.

2. The trademark priority can be established by the filing date of the first application with the State party to the Paris Convention (hereinafter referred to as "Convention priority"), if from this date no longer than six months have passed to the date of filing the application with Sakpatenti.

3. The priority of the trademark displayed on the exhibit presented at an official or officially recognized international exhibition held in the state party to the Paris Convention is established by the first day of the exhibition (exhibition priority), if he files the application within not more than six months from the date of display of the trademark at the exhibition. The exhibition and Convention priorities do not extend each other's term.

4. The applicant who wants to enjoy the Convention, or the exhibition priorities, is obliged to notify Sakpatenti of his intention within one month from the date of filing the application with Sakpatenti, and, within three months from the filing date, present the evidence confirming the right on such a claim.

5. The fee determined by the established rule for Convention and exhibition priorities shall be paid to Sakpatenti within one month from the filing date of the application.

Article 12. Examination of Trademark Application

1. Sakpatenti conducts the examination as to form and substantive examination of a trademark application.

2. Sakpatenti is authorized to require from an applicant the additional materials needed for the examination. The additional materials are furnished to Sakpatenti within two months from the date the relevant notification is handed to the applicant.

If the applicant fails to comply with the established term, Sakpatenti shall take the decision to reject the application.

3. The application, where the list of goods contains two or more names, at the request of the applicant before the registration of the trademark shall be divided into two or more applications, by redistribution of the goods and services of the first application on each application, after paying the fee by prescribed rule. The divided applications preserve the date of filing of the first application.

4. Sakpatenti gives the information on trademark applications only after establishing the priority.

5. The applicant has the right to:

a) require suspension of consideration of his own application at any stage of examination after paying the prescribed fee, but no longer than three months;

b) familiarize himself with the materials applied at examination and require the copies;

c) before establishing the application priority, to fill, amend, correct or specify the application material. After establishing of the application priority, the mentioned changes are possible only after paying the prescribed fee, but no later than the registration of the trademark. If the additional materials expand the list of goods or essentially change the presented sign, then such information is not taken into account;

d) withdraw the application before the trademark registration.

6. The rules of drawing up the application and filing, of examination, of opposing the examination decision, retention of the procedural terms, of extension and renewal, also other rules respecting the trademark registration are defined by the instruction "On Filing the Application for Trademark and Procedures Respecting the Registration" approved by the rule prescribed under the legislation of Georgia

Article 13. Examination as to Form

1. The examination as to form shall be conducted within two months after filing the application and if the applicant claims the Convention or exhibition priority - within the term provided for by Article 11, point 4 of this Law. If a notification requiring the additional materials has been sent to the applicant, the examination is retained till the receipt of the response on notification, but not later than the term defined by point 2 of Article 12 of this Law.

2. The examination as to form checks whether the application is drawn up in accordance this Law.

3. If the application satisfies the requirements of Article 9 points 2 and 5 of this Law, a document shall be issued in the name of the applicant on the establishment of the date of filing the application, with the indication of the office number and a list of documents. Otherwise, the applicant shall receive notification of well-grounded refusal on accepting the application.

4. If the application fee is not paid within one month from the date of filing the application, or is paid the amount, which is less than the amount established for one class, Sakpatenti takes the decision on rejecting the application. Where within this term is paid the amount less than the amount established for presentation of the classes specified by the application, but enough for presentation of one class, the examination shall cover the classes selected by the applicant, and, in the case of lack of such selection, it shall cover as many of the first classes for which the paid amount shall be enough.

5. On the basis of examination as to form Sakpatenti takes decision on accepting

the application for examination and establishing of the priority or on the rejecting the application and notifies the applicant.

Article 14. Substantive Examination

1. The substantive examination is carried out within six months period from ending the examination as to form;

2. The substantive examination verifies whether there exists the grounds for refusal pursuant to Articles 4 and 5 of this Law.

3. On the basis of the substantive examination, the decision on registration, or refusal on a trademark registration for the whole list of goods or for its part is sent to the applicant.

Article 15. Publication

1. After taking a decision of substantive examination on a trademark registration Sakpatenti within one month publishes the trademark data in the Official Bulletin of the Industrial Property (hereinafter referred to as Bulletin).

2. If the applicant enjoys the right defined in point 2 of Article 16, the publication of the data of the application in the Bulletin shall be conducted within one month after the Chamber of Appeals takes the decision.

3. The following shall be published in the Bulletin: representation of the trademark, the data and address of the holder, the list of those goods grouped in accordance with the International Classification for which the trademark registration is required, the priority date of the trademark.

Article 16. Claiming the Examination Decision at the Chamber of Appeals

1. The decision of the examination as to form on rejection of the application shall be claimed by the applicant at the Chamber of Appeals within 3 months after taking the decision.

2. The decision of the substantive examination on refusing the trademark registration respecting the full list of goods or its part can be opposed by the applicant at the Chamber of Appeals within 3 months after taking the decision.

3. The decision of the substantive examination on registration of the trademark can be revised in accordance with Article 11 of this Law relating the filing with Sakpatenti of the application having earlier priority.

4. Within three months period following the date of publication of the trademark data in the Bulletin, any party concerned has right to bring an action to the Chamber of Appeals against the decision of the examination.

5. The Chamber of Appeals shall consider the appeal within two months from the date of its filing.

6. The decision of the Chamber of Appeals can be appealed against at the court.

Article 17. Trademark Registration

1. If within 3 months after publication of the trademark data on the basis of an appeal the Chamber of Appeals takes decision on registration of trademark or the appeal will not be presented to the Chamber of Appeals, Sakpatenti registers the trademark in the Register of Trademarks (hereinafter referred to as the Register).

2. The Register shall contain: a representation of trademark, information about its holder, date of the trademark priority, the date of the trademark registration, a list of

the goods grouped in accordance with the International Classification for which the trademark is registered, and other information regarding the registration.

3. Any person in question is authorized, after filing a proper application with Sakpatenti, to familiarize himself with the register data and, in the case of payment of the prescribed fee, demand issuance of the endorsed excerpt from this register.

Article 18. Trademark Certificate

1. After recording the data in the register Sakpatenti grants a trademark certificate.

2. The certificate confirms the registration of a sign as a trademark, the date of the trademark priority, the exclusive right of the holder to the indicated trademark and the term of validity of a trademark.

Article 19. Making Amendments in the Register

1. Each amendment of the data obligatory for registration provided for by point 2 of Article 17 of this Law shall be entered in the Register on the basis of a request of trademark holder or his representative. Whereas, at amending of the list of goods the expansion thereof is prohibited. The amendments enter into force after registration.

2. The amendments in the Register shall be published in the following Bulletin.

3. The amendments shall be entered in the certificate as well.

Article 20. Validity Term of Trademark Registration

1. The validity term of a trademark registration is defined by ten years, and is counted from the date of a trademark registration with Sakpatenti.

2. The validity term of a trademark registration can be extended each time for following ten years, without any time limit. Extension of the validity term of registration shall be conducted on the basis of a request filed by the holder with Sakpatenti, after payment of the prescribed fee. Submission of said request to Sakpatenti and payment of respective fee shall be conducted during the last 6 months of the tenth year of the certificate validity.

3. The notification on extension of the validity term of a trademark registration shall be recorded in the certificate and the register, and the relevant information shall be published in the Bulletin.

Article 21. Re-Registration of Trademark

1. The re-registration of the mark is prohibited within a year from expiration of the registration term of this trademark, except the cases when the registration is requested by the last holder of this trademark. This rule shall also apply, when the trademark holder renounces the mark before the expiration of its registration term. In this case one-year term shall be counted from the day of trademark invalidation.

2. when in the case provisioned by the first point of this Article, after expiration of the above mentioned term, several persons, one of them being the last holder of this trademark, file applications with Sakpatenti for one and the same trademark on the same day, the privilege on registration of the said trademark shall be given to the last holder.

Article 22. Fees

For the examination as to form of trademark application, for substantive

examination, for opposition of the examination decision, for the mark registration, for the registration of the amendments, for publication, for granting of the certificate, for issuance of an excerpt from the Register, for retaining of the procedure terms of registration, for renewal and extension, also for other acts, connected with legal protection of the trademark, shall be paid the fees established in accordance with legislation of Georgia. The amount of fees and conditions of payment are defined by legislation of Georgia. The amount of the fee shall be revised from time to time with consideration to respective international standards, changes of national currency rate and inflation.

Article 23. Registration of Trademark in Foreign Country

The holder of the trademark registered in Georgia has the right, to present a trademark for registration in another country, or conduct its international registration in accordance with the established order.

Chapter III. Use of Trademark and Transfer of Rights Conferred by Registration

Article 24. Use of Trademark

Trademark affixing on the goods for which it has been registered, on its packaging, on the exhibit displayed at exhibition and fairs, signs, official forms, labels, advertisements, published works, also other use of trademark by the holder of a trademark, licensee or third party on the basis of assignment of the right by the holder of the mark is considered as use of a trademark. The use of a slightly different sign instead of the registered trademark is also considered as use of a trademark.

Article 25. Transfer of Rights Conferred by Trademark Registration

1. The rights conferred by the trademark registration can be transferred to other legal entity and natural person on the basis of a Georgian law-established order.

2. The trademark can be transferred to another party with or without an enterprise.

3. Subject to registration of a trademark the transfer of rights may be applied to the full list of goods or to its portion.

4. The transfer of the enterprise implies the trademark transfer as well, unless the contrary is provided by the transfer contract.

5. The contract on the trademark transfer shall be concluded in a written form. Inobservance of a written form shall result in invalidation of the contract.

6. If on the basis of the submitted documents Sakpatenti shall consider, that a trademark transfer can mislead a consumer as to the features, quality, or geographic origin of those goods for which it is registered, Sakpatenti shall not record a note about the transfer in the register until it gets consent from assignee on withdrawal from the list of goods leading into confusion.

7. At transfer of the trademark, the relevant amendments shall be recorded in the register and published after payment of the prescribed fee.

8. The new holder of trademark cannot apply the rights conferred by the registration against the third party, until the relevant amendments regarding the trademark transfer shall be recorded in the Register.

Article 26. License Contract

1. The right to the use of a trademark can be conferred by its holder (licenser) to another person (licensee) on the basis of a license contract. The license contract can be concluded in relation with the full list of goods or to its portion.

2. The license is exclusive or simple.

3. If the license character is not defined by the contract, the license shall be considered as simple. In this case the licenser can use the trademark himself or conclude another license contract.

4. The exclusive license prohibits the licenser to conclude other license contracts and use the trademark, unless otherwise provided by the contract. The rights conferred by the exclusive license shall be in force during the validity term of trademark registration, unless otherwise provided by the contract.

5. The licensee is prohibited to transfer the rights conferred by the license contract or to issue a sublicense, even if it is not provisioned directly by the contract.

6. In the case of infringement of a license contract, the trademark holder has the right to apply his exclusive rights in regard to the license pursuant to this Law, if the infringement relates to contract term, the form of trademark use, the list of goods for which the license was issued, territory, where the trademark can be used, the quality of goods or rendered service.

7. The fact of conclusion of a license contract on the trademark is registered at Sakpatenti and the respective information is published in the Bulletin after the payment of the prescribed fee.

8. In the case of infringement of rights on the trademark the licensee brings an action only by consent of a trademark holder.

9. The licensee shall, for the purpose of compensation of damages suffered by him, be entitled to participate in the Court proceedings against the infringement of the rights on trademark.

10. The transfer of the rights on trademark or license shall not affect the license granted earlier to the third parties.

Chapter IV. Cancellation of Exclusive Rights on Trademark

Article 27. Grounds for Cancellation of Trademark Registration

1. A trademark registration shall be canceled by Sakpatenti if:

- a) upon request of the trademark holder;
- b) at expiration of trademark registration term, if the term has not been extended;
- c) in the case of death of a trademark holder (natural person) if he has no successor, or while liquidation of a legal entity if there is not a legatee;
- d) if there exists an application having the earlier priority pursuant to Article 11 of this Law;

2. The trademark registration shall be canceled by the Court at a request of the third party if:

- a) within a continuous period of five years, the trademark has not been put to use in connection with the goods in respect of which it is registered in Georgia. No person may claim the revocation of the trademark registration, where during the interval between expiry of five-year period and the filing of the cancellation request

the use of the trademark has been started or resumed;

b) the trademark has become a generic term for the goods for which it was registered;

c) where at taking the decision there exist the grounds for revocation considered under Article 5 of this Law.

d) the use of the trademark by its holder or with his consent, the trademark misleads the public as to the nature, quality, features, value, or geographic origin.

3. Where the grounds for revocation of the trademark exist in respect of the part of goods for which the trademark is registered, the registration shall be canceled in respect of this part only.

Article 28. Recognition of Registration Invalidation

1. A trademark registration shall be recognized annulled by the Court at the request of the third party, if it has been registered in breach of Article 4 of this Law.

2. Where the grounds for nullification of a trademark exists in respect of only part of the goods for which the trademark is registered, the registration shall be canceled in respect of these goods in the Register and published in the Bulletin.

Article 29. Results of Recognition of the Trademark Registration Canceled or Annulled

1. If the trademark registration is canceled in accordance with Article 27 of this Law, the rights conferred by the registration shall be considered terminated from the date of taking the decision on revocation.

2. If the trademark registration is considered annulled in accordance with Article 28 of this Law, the rights conferred by the registration shall be considered annulled from the day of origin of rights on the trademark.

3. The compensation of the damage is regulated by civil legislation of Georgia.

Chapter V. Collective Mark

Article 30. Rights on Collective Mark

1. A collective mark is a sign or combination of signs, which within the meaning of Article 3 of this Law may be protected as a trademark and which distinguishes the goods of the members of collective mark holder association from other goods with regard to geographic origin, common qualitative or other features.

2. The holder and the applicant of collective mark can be only an association or a legal entity governed by public law.

3. The transfer the collective mark and granting of a license for this mark to the person, who is not the member of the collective mark holder association is prohibited.

4. Rules specified by this Law are applicable to the collective mark, if not provided otherwise by this Chapter.

Article 31. Use of Indication of Geographic Origin as Collective Mark

1. Among the restrictions considered under the subpoint “b” of point 1 of Article 4 of this Law, it is admissible, as an exception, to register such a sign as a collective

mark which designates the place of geographic origin of goods (place, district, region, name of the country or other indications designating the geographic origin of the goods).

2. The indication of geographic origin is not used as a collective mark for those goods, which did not originate from the respective geographic place, district, region, country, if such an indication leads to the confusion as to the origin of goods.

3. If the indication of geographic origin includes special features and quality of the goods, such indication shall be used as a collective mark only for the goods of the same origin if they have respective features and quality.

4. The points 2 and 3 of this Article shall apply to the name, indication and sign, which are similar to the indication of geographic origin.

Article 32. Regulations Governing the Use of Collective Mark

1. The application for a collective mark shall comply with the requirements of Article 9. The regulations of collective mark must be enclosed to the application.

2. The regulations governing the use of collective mark shall contain:

- a) the title of the association;
- b) the names and the legal addresses of the members of the association;
- c) the purpose of the association;
- d) the conditions for the use of a collective mark and control over its use;
- e) the rights and obligations of the member parties of the association in the event of infringement of the rights to the collective mark;
- f) list of those goods and common characteristics for which the collective mark is intended.

3. If the collective mark contains a geographic name, the regulations governing the use of collective mark must provide, that any person, whose goods originate within the indicated geographic region and meets the conditions for use of the mark set out in said regulations, has the right to become a member of the association and the authority to use the mark.

4. Any interested person is entitled to inspect the regulations governing the collective mark.

Article 33. Examination of Application on Collective Mark

Except for the grounds under Articles 4 and 5, the application filed for registration of a collective mark shall be rejected if it does not comply the requirements provided under points 1 and 2 of Article 30 and under Article 32 of this Law, unless the applicant amends the regulations of collective trademark in such a way, that the grounds for refusal on the registration ceases.

Article 34. Limitation of Collective Mark Protection

Registration of geographic name as a collective mark does not entitle its holder to prohibit the third party to use this name in the course of trade, unless the use is conducted with violation of the norms of fair competition and the third party has reasonable grounds to the use of this name.

Article 35. Appeal

Any person entitled to the use of a collective mark, has the right to bring an action

on infringement of this right only with the permission of the collective mark holder association, unless the contrary is provided by the regulations governing the use of collective mark.

Article 36. Making Amendments to the Regulations of Collective Mark

1. A collective mark holder is obliged to notify Sakpatenti about any changes made in the regulations governing use of collective mark.

2. In case of making amendments in a collective mark regulations, the requirements of Articles 31 and 32 shall be taken into account.

Article 37. Cancellation of the Collective Mark Registration

The collective mark registration can be canceled:

- a) in accordance with Article 27 of this Law;
- b) if the holder of the collective mark uses the mark in breach to the collective mark regulations.

Article 38. Invalidation of Collective Mark's Registration Due to Absolute Grounds for Registration Refusal

Except for the grounds defined in Article 28 of this Law, a collective mark registration can be considered annulled if it has been registered in breach of the requirements of Article 33 of this Law. If the grounds for invalidation relate to the collective mark regulations, the registration shall not be considered canceled if within 2 months from the day, when a collective mark holder learnt about the necessity to make amendments, the holder amends the regulations in such a way, that the grounds for invalidation ceases.

Chapter VI. Protection of Trademarks Under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

Article 39. Application for International Registration of Trademark

1. This Law applies to the trademarks, which are to be secured in accordance with the Madrid Protocol, unless otherwise provided by this Protocol or present Chapter of this Law.

2. The application for the international registration of trademark shall be filed with Sakpatenti in accordance with Article 3 of the Madrid Protocol.

3. The application shall be completed by English translation of the list of goods grouped in accordance with International Classificator.

Article 40. Record of International Registration

1. If the international registration is conducted on the basis of the application filed with Sakpatenti, the date of the international registration and number shall be recorded in the application data.

2. If the international registration is conducted on the basis of the registration of application at Sakpatenti, the date of the international registration and number shall

be recorded in the Register.

3. If the international registration is conducted under point 1 of this Article, the date of the international registration and number shall be recorded in the Register after the registration of the trademark at Sakpatenti.

Article 41. Examination of Application for the International Registration of Trademark

1. On the application for the international registration of trademark only the substantive examination shall be conducted in accordance with Article 14 of this Law.

2. The terms “refusal on registration”, “cancellation of the registration” and “invalidation of the registration” used in Articles 14, 27, 28, 37 and 38 for the application for the international registration of trademarks shall be replaced by the terms “refusal on protection” and “invalidation of protection”.

Article 42. Publication and Appeal

1. The data of the international registration of trademark shall be published in the Gazette of the International Bureau of the World Intellectual Property Organization (WIPO).

2. On basis of the substantive examination on the international registration of the trademark the date of the international registration and the number are published in the Bulletin within one month from taking the decision.

3. The opposition term provided for by point 4 of Article 16 of this Law shall be calculated from the day of publishing the date and the number of the international registration of trademark in the Bulletin.

Article 43. Invalidation of Protection Due to the Non-Use

If in result to the non-use of trademark there exists basis for invalidation of the protection provided for by point 2 of Article 27 subpoint “a”, the date of the international registration shall be changed by the date, when the term defined by point 2 of Article 5 of the Madrid Protocol is expiring.

Article 44. Transformation of International Registration into National Application

1. In accordance with Article 9 quinquies of the Madrid Protocol at filing of national application on basis of the canceled international registration, together with the application the applicant shall present the document certified by the International Bureau of WIPO confirming that the international registration before cancellation covered Georgia.

2. If for the day of filing of the application with Sakpatenti the terms defined by point 2 of Article 5 of the Madrid Protocol have expired and the decision on refusal for the protection has not been taken, the trademark is registered in accordance with this Law without the examination and publication.

Chapter VII. Enforcement of Exclusive Rights on Trademark

Article 45. Responsibility for the Infringement of the Exclusive Rights on Trademark

1. The infringement of the exclusive rights to the trademark results in the responsibility pursuant to rule defined by the legislation of Georgia.

2. In the case of the exclusive rights infringement the holder of the trademark can appeal to the court and demand:

- a) the prevention of acts infringing his rights;
- b) the compensation of damages;
- c) destruction of all those labels, pictures, imprints, packaging, packaging materials and advertisements containing the registered trademark, representing its copy or imitation;
- d) destruction of the plates, matrices and clichés prepared for making the trademark and if separation of the trademark from the goods is impossible - the destruction of the goods.

Chapter VIII. Transitional Provisions

Article 46. Applications Filed and Certificates Granted prior Enforcement of this Law

1. The applications for registration of the trademarks filed before this Law enters into force, are considered in accordance with the Resolution No 304 of the Cabinet of Ministers of Georgia "On Approval and Enactment of the Statute on Trademarks" of March 16, 1992.

2. The certificate granted for registered trademarks before enactment of this Law will remain in force after the enactment of this Law.

Chapter IX. Final Provisions

Article 47. Annulled Normative Acts

The following shall be considered annulled upon enactment of this Law:

- a) Resolution No 304 of the Cabinet of Ministers of Georgia of March 16, 1992 "On Approval and Enactment of the Statute on Trademarks".
- b) Resolution No 483 "On Additional Measures for Regulation of the Trademarks Use in Georgia" approved by the Cabinet of Ministers of Georgia on June 25, 1993.

Article 48. Enactment of the Law

To enact this Law immediately after 3 months from its publication

President of Georgia
Eduard Shevardnadze
Tbilisi

February 5, 1999
No. 1795 – IIs