

**Republic of Moldova**  
**State Agency on Intellectual Property**

## **LAW ON TRADEMARKS AND APPELLATIONS OF ORIGIN**

**No. 588 -XIII of September 22, 1995**  
(*Monitorul Oficial* No. 8-9 of 08.02.1996)

**Amended by:** the Law No. 1009-XIII of October 22, 1996  
(*Monitorul Oficial* No.80 of 12.12.1996);

the Law No. 1079-XIV of June 23, 2000  
(*Monitorul Oficial* No. 154-156 of 14.12.2000);

the Law No. 65-XV of April 12, 2001  
(*Monitorul Oficial* No. 55-56 of 24.05.2001);

the Law No. 1446-XV of November 8, 2002  
(*Monitorul Oficial* No. 190-197 of 31.12.2002);

the Law No. 469-XV of November 21, 2003  
(*Monitorul Oficial* No. 1-5 of 01.01.2004);

the Law No. 205-XVI of July 28, 2005  
(*Monitorul Oficial* No. 126-128/613 of 23.09.2005).



Chişinău \* 2006

## TABLE OF CONTENTS

### **Chapter I: General Provisions**

Art. 1. Legal Rule .....	6
Art. 2. Trademarks .....	6
Art. 3. Appellations of Origin and Geographical Indications .....	7
Art. 4. Legal Protection of Trademarks and Appellations of Origin .....	8
Art. 5. Registration Certificates for Trademarks and Appellations of Origin .....	9
Art. 6. Exclusive Rights in Trademarks .....	9
Art. 7. Grounds for Refusal of the Application to Register a Trademark, an Appellation of Origin or a Geographical Indication and of the Application for Recognition of the Mark as Well-Known ..	10

### **Chapter II: Registration of Trademarks and Appellations of Origin**

Art. 8. Application for Registration of a Trademark or an Appellation of Origin and the Application for Recognition of the Mark as Well-Known.....	14
Art. 9. Filing Date of the Application .....	18
Art. 10. Priority of Trademark .....	18
Art. 11. Examination of Application .....	19
Art. 12. Formal Examination .....	20
Art. 13. Substantive Examination .....	20

Editorial Committee: Ștefan Novac (Chairman), Ion Daniliuc,  
Andrei Moisei, Maria Rojnevschi, Svetlana Munteanu,  
Constantin Buga (translation)

Editor: Liliana Vieru, Nadia Buga  
Computer editing: Rodica Birnaz

Format: A5  
Printing sheets: 2,25  
Published by the AGEPI  
© AGEPI, 2006

Art. 14. Opposition to Decision on Application .....	21
Art. 15. Withdrawal of Application .....	21
Art. 16. Publication of the Application for Registration of a Trademark or an Appellation of Origin and the Application for Recognition of the Mark as Well-Known .....	21
Art. 17. Opposition to Registration of a Trademark or an Appellation of Origin and to Recognition of the Mark as Well-Known .....	22
Art. 18. Registration and Issue of Registration Certificates for Trademarks and Appellations of Origin .....	22
Art. 19. Publication of Notice of Registration .....	23
Art. 20. Term of Registration .....	23
Art. 21. Amendments .....	24

### **Chapter III: Exploitation of Trademarks and Appellations of Origin.**

#### Transfer of Trademarks

Art. 22. Exploitation of Trademarks and Appellations of Origin .....	24
Art. 23. Warning Notice .....	26
Art. 24. Transfer of Rights in Trademarks .....	26
Art. 25. Liability for Unlawful Exploitation of Trademarks and Appellations of Origin .....	27

### **Chapter IV: Termination of Legal Protection of Trade- marks and Appellations of Origin**

Art. 26. Cancellation of Registration .....	28
---	----

Art. 27. Removal from the Register .....	29
--	----

### **Chapter V: Final Provisions**

Art. 28. Hearing Litigation in Relation to this Law .....	30
Art. 29. Tasks of the Agency in the Protection of Trademarks and Appellations of Origin .....	30
Art. 30. Fees .....	31
Art. 31. Registration of Trademarks and Appellations of Origin Abroad .....	31
Art. 32. Rights of Foreign and Natural Legal Persons .....	32
Art. 33. International Treaties .....	32

### **Chapter VI: Transitional Provisions (Art. 34-37) .....**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Article 1. Legal Rule**

The relationships that arise in connection with the registration, legal protection and use of trademarks and appellations of origin (geographical indications) shall be governed by this Law and by other legislative instruments.

#### **Article 2. Trademarks**

(1) Product trademarks and service trademarks (hereinafter referred to as “trademark”) mean the signs or combinations of signs capable of graphic representation that enable the goods and services of one natural or legal person to be distinguished from the goods and services of the same type of other natural or legal persons.

(2) Signs, in particular words (including personal names), letters, numerals, figurative elements and combinations of colours as well as a combination of such signs visually perceptible shall be eligible for registration as trademarks. Figurative elements of a mark may consist of graphic representations, plane or three-dimensional forms (in relief), which have a distinct configuration.

(3) A trademark may be registered in black and white or in colour.

(4) Trademarks may be individual or collective. An individual mark is a mark that belongs to a specific natural or legal person. A collective mark is the mark intended to distinguish the goods manufactured or sold, or services provided by a union, an economic grouping or any other association (hereinafter “association”) of natural or legal persons from the goods and services of the same type of other natural or legal persons.

(5) The conformity mark (certification mark), applied or issued under a certification system, which indicates with a sufficient degree of certainty that the product, the method or service in question complies with a standard or other particular legislative act, shall enjoy legal protection under this law.

(6) A well-known mark is the mark known in the relevant sector of the public on the territory of the Republic of Moldova including the knowledge in the Republic of Moldova which has been obtained as a result of the promotion of the trademark, on the date on which an application for registration of a trademark was filed or on the priority date invoked in the application. The present law shall afford protection to well-known marks.

(7) Shall not be recognized as well-known the mark, that became well-known in the relevant sector of the public after the priority date of an identical or similar mark claimed for identical goods on other applicant’s name.

#### **Article 3. Appellations of Origin and Geographical Indications**

(1) Appellation of origin are the designations - current or historical - of a country, a region or a locality (hereinafter “geographical area”) used to designate a product whose natural properties derive essentially or exclusively from the natural and/or human factors specific to that geographical area.

(2) A geographical indication is the indication which identifies a good as originating in the territory of a State, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good are essentially attributable to its geographical origin.

(3) It shall be rejected or invalidated, *ex officio* or at the request of the interested party, the registration of a trademark containing a geographical indication, for goods not originating in the territory indicated, if

the use of such a geographical indication in the trademark is likely to mislead the consumer as to the true origin of the goods.

(4) The use, in the designation or presentation of a product, of any method indicating or suggesting that the goods originate in a geographical area other than the true place of origin, in a manner which misleads the consumer as to the true origin of the goods, shall be prohibited, and any such use shall constitute an act of unfair competition in the sense of Article 10 bis of the Paris Convention for the Protection of Industrial Property.

(5) The use of a geographical indication which, although literally true as to the territory, region or locality of origin of goods, indicates that the goods originate in other territory, region or locality, shall be prohibited by law.

(6) Homonymous geographical indications may be used when they are differentiated from each other, accompanied for instance by figurative elements with a clear indication of the true origin, ensuring an equitable treatment for the manufacturers in question and preventing the consumer from being misled.

#### **Article 4. Legal Protection of Trademarks and Appellations of Origin**

(1) The legal protection of trademarks and appellations of origin shall be afforded on the basis of registration with the State Agency on Intellectual Property (hereinafter "Agency") carried out in accordance with this Law, except for the well-known trademarks protected without registration under article 6bis of the Paris Convention for the Protection of Industrial Property.

(2) Legal protection of the trademark and appellation of origin of goods shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights, as well as those matters affecting the use of intellectual property rights.

(3) One natural or legal person may own several trademarks.

(4) An appellation of origin may be registered by one or more natural or legal persons conducting business activities in the corresponding geographical area.

(5) Where a trademark already registered for certain goods and services is recognized on the territory of the Republic of Moldova as well-known, the legal protection of the well-known mark shall also extend to other goods or services, provided that the use by another person of an identical or similar mark for the said goods or services would indicate a connection with the owner of the trademark recognized as well known in the Republic of Moldova and would likely to damage his interests.

#### **Article 5. Registration Certificates for Trademarks and Appellations of Origin**

(1) A registration certificate shall be issued for each trademark or appellation of origin that is registered.

(2) A registration certificate for trademark attests the priority date of the trademark and the exclusive right of the owner in the trademark for the goods and services entered on the certificate.

(3) A registration certificate for an appellation of origin shall attest to the right to use that appellation.

#### **Article 6. Exclusive Rights in the Trademark\***

(1) The owner of a registered trademark shall enjoy throughout the term of validity of the trademark an exclusive right to dispose of and exploit his trademark and the right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would

result in a likelihood of confusion. In case of use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

(2) Rights laid down in paragraph (1) shall not prejudice any of the existing prior rights, nor shall they affect the possibility of making rights available on the basis of use.

(3) The exclusive right shall not extend to those elements of the trademark which under the present law, may not be registered independently as trademarks, such as descriptive terms, provided that these elements are used in good faith, taking into account the legitimate interests of third parties.

(4) The exclusive right shall not extend to the trademarks, lawfully owned and used, until January 1, 1992, by two or more legal persons. Further use of the mentioned trademarks by these legal persons or their successors in rights shall not be considered as infringement of the owner's right of the registered trademark.

(5) The trademarks existed and used legally, until January 1, 1992, by two or more legal persons, are declared as state property. The Government in the special regulations determines the order of their use.

(6) The nature of the goods or services to which a trademark is to be applied shall in no case constitute an obstacle to registration and protection of the trademark.

**Article 7. Grounds for Refusal of the Application to Register a Trademark, an Appellation of Origin or a Geographical Indication and of the Application for Recognition of the Mark as Well-Known**

(1) Trademarks may not be registered and afforded protection if:

1) do not meet the conditions under article 2 paragraph (1);

2) are exclusively composed of signs or indications which do not possess a distinctive character, especially those including only:

a) signs and indications which have become generic or usual designation;

b) signs representing separate letters and/or figures, lacking a special graphic representation, as well as simple lines and basic geometrical figures, of one color;

c) signs or indications, which may be used in trade for designation of the type, quality, quantity, properties, purpose or value of goods or services, or the place and time of the manufacture of goods or services, as well as headquarters of the manufactures or any other characteristics thereof;

d) signs constituting a geographical indication.

(2) Signs may not be registered as trademarks or elements of trademarks if they:

a) are deceitful or liable to mislead the consumer as to the goods or services or to the manufacturer or provider of services;

b) reproduce or imitate armorial bearings, flags or emblems of States official or historical names of States or the abbreviation of such names, full or abbreviated names of international intergovernmental organizations, official signs or hallmarks of control, warranty or testing, or decorations or other honorary signs. Such signs may appear in a trademark as non-protected elements on condition that elements on condition that they do not occupy a predominant place therein and subject to the decision of the competent body or of the owner of the sign. The competent bodies of the Republic of Moldova are: the Parliament – concerning the use of reproductions or imitations of the State Armorial Bearing and the Flag of the Republic of Moldova; the Government - concerning the use of the State official or historical names; the ministries or departments – concerning the use of official signs or hallmarks of control, warranty or testing, approved by the respective ministry or department;

c) contain geographical indications identifying wines and spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or when the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like;

d) which contain a geographical indication identifying wines and spirits or which consist of such a geographical indication, in cases when such wines or spirits do not have this origin.

e) are contrary to *ordre public* or morality.

(3) Signs may not be registered as trademarks if they reproduce:

a) trade names (or parts of such names) that are well-known in the Republic of Moldova unless they belong to the person who is seeking registration of the trademark;

b) industrial designs in which the rights belong in the Republic of Moldova to other persons;

c) the names of scientific, literary or artistic works that are well-known in the Republic of Moldova or characters taken from such works, quotations from such works, or works of art or parts of such works, without the consent of the owners of copyright in those works or of their successors in title;

d) surnames, forenames, pseudonyms or names derived therefrom, as also portraits or likenesses of known persons, without the consent of such persons, of their heirs or of the competent body on the protection of valuable works of the respective State.

(4) Signs may not be registered as trademarks if they are identical or similar, to the point of misleading:

a) to registered trademarks or trademarks for which an application for registration has been made at an earlier date on behalf of another person for goods or services of the same type;

b) to the trademarks recognized as well-known in the Republic of Moldova, protected without registration;

c) to appellations of origin, protected under this law, except where they are included as non-protected elements in a trademark for which registration is sought on behalf of a person authorised to use such appellation and following the provisions under paragraph (2) subparagraph c) of the present article;

d) to certification marks registered under the established procedure.

(5) Signs, legally owned and used, until January 1, 1992, by two or more legal persons, including their successors in right, shall not be allowed to be registered as trademarks or elements of trademarks for marking goods of the same type (homogenous, similar).

(6) The signs composed solely of product shape shall not be registered as three-dimensional marks, if:

a) it results from the nature of the product, in other words it is the indispensable of the manufacture or distribution of the product;

b) it is necessary for obtaining a technical result, when there is no alternative for manufacturing this product;

c) it refers to the essential value of the product.

(7) The fact that a trademark has been used prior to the filing of an application shall not constitute grounds for refusal if registration of the trademark is sought on behalf of the person who has been using it.

(8) If a trademark, prior to the national regulatory filing, was used during manufacture and marketing of the goods and provision of services for at least five years, having acquired a distinctive character, and is well known to consumers of the Republic of Moldova, the application for the registration of such a trademark may not be rejected under paragraph (1), except where the trademark consists only of a geographical indication.

(9) Trademarks, subject to paragraphs (3) and (4), which are considered similar, may be registered with the deliberate consent of the right holder to register such marks.

(10) The registration of a trademark or the right to possess a trademark shall not be denied or invalidated on the basis that such a trademark is identical with, or similar to a geographical indication where the trademark has been applied for registered in good faith, or where rights to the trademark have been acquired through use in good faith prior to the protection of the geographical indication in its country of origin.

(11) Any sign which, in spite of representing or including the designation of the geographical area, is publicly used on the territory of the Republic of Moldova for designating a product of a certain type which to not refer to the place of manufacture, shall not be deemed as appellation of origin of the product.

(12) Registration shall be refused and protection shall not be granted to appellations of origin which:

- a) do not comply with the conditions specified in Article 3, paragraph (1);
- b) are no longer protected;
- c) are no longer used in the said country;
- d) are false;
- e) are likely to mislead the consumer;
- f) are contrary to *ordre public* or morality.

(13) The application for recognition of the mark as well-known may be rejected if:

- a) it does not comply with the conditions specified in Article 8, paragraph (11);
- b) the trademark which has become an common name;
- c) the trademark is contrary to *ordre public* or morality.

## CHAPTER II

### REGISTRATION OF TRADEMARKS AND APPELLATIONS OF ORIGIN

#### **Article 8. Application for Registration of a Trademark or an Appellation of Origin and the Application for Recognition of the Mark as Well-Known**

(1) Natural and legal persons domiciled in the Republic of Moldova and legal entities having their headquarters therein (national) entitled to

the protection of a trademark may act either directly or through a professional representative, authorized by a power of attorney.

(2) Foreign natural and legal persons domiciled and having their headquarters therein shall act with the Agency through a professional representative in industrial property, except where international treaties to which the Republic of Moldova is party provide otherwise.

(3) The activity of professional representatives in industrial property shall be subject to the regulations approved by the Government.

(4) An application may concern only one trademark or appellation of origin.

(5) The request shall contain:

- a) a petition for registration;
- b) the surname, forenames (or designation), address and signature of the applicant;
- c) the surname, forename, address and signature of the representative in industrial property if the application has been filed through a representative in industrial property;
- d) a reproduction of the trademark or appellation of origin for which protection is sought and its description;
- e) a list of the goods or services for which registration of the trademark is sought, grouped in accordance with the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- f) the list of products, for designation of which the registration of appellation of origin is sought;
- g) indication of the place of manufacture of the product, for designation of which the registration of the appellation of origin is sought (limits of geographical area);
- h) a description of the special properties of the product, for designation of which the registration of an appellation of origin is sought.”

i) a claim by the applicant to priority for the trademark under the conventions to which the Republic of Moldova is party;

j) a statement of the colour or colours of the trademark if the applicant wishes to obtain protection for the trademark in colour.

(6) The application shall be accompanied by:

a) the statute of the collective mark, including the list of the members of the association authorized to use the collective mark signed by them; the purpose of registration of the collective mark and the conditions of its use; the list of goods or services, together with their common features, whether qualitative or other, that are to be designated by the mark, together with the penalties applicable to violations of the conditions of use of the collective mark. In the event that one of the members of the association is issued the title of the protection, his relations with the other members of the association and their rights in the collective mark shall be governed by a special agreement;

b) in the case of a foreign applicant, a document proving his entitlement to the appellation of origin concerned in the country of origin of the product;

c) a power of attorney, if the application is filed through a representative in industrial property;

d) where applicable, documents attesting to the priority date of the mark;

e) a document proving payment of the prescribed fee;

f) for the registration of an appellation of origin - a certified attestation ascertaining that the applicant is situated within the geographical area stated and that he manufactures the product in that area and that the special properties of the product are determined by natural and/or human factors, typical of the geographical area indicated;

g) for the registration of the certification mark - the authorization or the document confirming the legal display of the certification activity or, if necessary, a proof that the certification mark has been registered in the country of origin.

h) the decision of the competent authority or the consent of the owner of signs specified in Article 7, paragraph (2), letter b), as the case stands.

(7) The request for registration of a trademark or an appellation of origin shall be filed in the Moldovan language. Other documents contained in the application may be filed in the national language or in other languages. If they are filed in another language, the applicant shall be required to provide a translation into the national language within two months of the filing date of the application. Natural persons that have filed the application documents in Russian, shall not be obliged to submit the translation of the documents thereof into Moldovan.

(8) The applicant shall be entirely responsible under legislation in force for the legitimacy and correctness of the materials filed with respect to the registration of a trademark or of an appellation of origin.

(9) The application for recognition of the mark as well-known may be filed with the Appeal Board of the Agency by natural or legal persons either directly or through a representative, authorized by a power of attorney.

(10) The application for recognition of the mark as well-known may concern only one trademark.

(11) The application for recognition of the mark as well-known mark shall contain:

(a) the surname, forename, address and signature of the applicant in case of a natural person, or the name, legal address and signature of the representative, in case of a legal person;

(b) the surname, forename, address and signature of the representative if the application has been filed through that;

(c) the reproduction and the description of the trademark;

(d) the indication of the date from which the recognition of the mark as well-known is sought.

(12) The application shall be accompanied by:

(a) documents containing information on the owner or user of the trademark;

(b) documents demonstrating the recognition of the mark as well-known within a certain sector of the public;

(c) the list of goods or services for which the trademark is used, as well as the list of other respective actions concerning that use;

(d) document confirming the beginning and the period of trademark use;

(e) a power of attorney, if the application is filed through a representative;

(f) a document proving payment of the fee, if it is so prescribed

### **Article 9. Filing Date of the Application**

(1) The filing date of the application shall be the date on which the Agency receives a request satisfying the conditions set out in Article 8(5) and a document proving payment of the prescribed fee.

(2) The documents referred to in Article 8, paragraph (6), in subparagraphs a) to c), f) and g) may be filed with the Agency within two months of the filing date of the application. If, on expiry of that time limit, the applicant has not submitted those documents or has not filed a request for extension of the time limit, the application shall be deemed to have been withdrawn.

### **Article 10. Priority of Trademark**

(1) The priority of a trademark shall be determined by the filing date of the application.

(2) The priority of a trademark may be determined by the filing date of a first application of which such mark was the subject made in

a State party to the Paris Convention for the Protection of Industrial Property (convention priority) on condition that an application be filed with the Agency within six months of such date. These periods shall start from the date of filing the first application and the date of filing shall not be included in the period.

(3) The priority of a trademark appearing on articles shown at an international exhibition held on the territory of a State party to the Paris Convention for the Protection of Industrial Property (exhibition priority) may be determined in accordance with the date as from which the article concerned was presented to the public at such exhibition, on condition that an application is filed with the Agency within six months of such date. Exhibition priority may not extend the period of convention priority.

(4) An applicant who wishes to claim convention priority or exhibition priority shall state such fact when filing the application or within two months of the date of receipt of the application by the Agency and shall submit the necessary documents to prove that his claim is justified within three months, at the latest, after the date of receipt of the application by the Agency. Documents justifying the claim of the priority date shall be accompanied by a certificate from the same authority showing the date of filing, and by a translation into the national language.

(5) The priority of a trademark may be determined by the date of an international registration made under international agreements to which the Republic of Moldova is party.

### **Article 11. Examination of Application**

(1) The Agency shall subject applications to an examination which shall consist of a formal examination and a substantive examination of the sign for which protection is sought.

(2) Between the date of receipt of the application and the date on which a decision is taken on the application, the applicant shall have the possibility, on payment of a fee, of supplementing, detailing or correcting the documents in the application, without essentially modifying the trademark or the appellation of origin themselves.

(3) A request that lists more than one product or service may be divided, by the applicant himself or at his request, into a number of applications between which the goods and services listed in the initial application shall be divided. Divisional applications shall continue to enjoy the filing date of the initial application and the priority date of the trademark concerned by that application. Goods or services may only be added to the list referred to in Article 8(5)(e) by filing a new application.

#### **Article 12. Formal Examination**

(1) Within one month from the date of receipt of the application, the Agency shall carry out a formal examination of the application during which it shall check that the documents referred to in Article 8(5) and (6) have been submitted and meet the required conditions.

(2) Depending on the outcome of the formal examination, the Agency shall notify the applicant either that his application will be prosecuted or that it is rejected.

(3) If the documents in the application do not meet the formal requirements laid down in Article 8(5), the applicant shall be invited to make the necessary changes within a period of two months as from receipt of the notification. If the applicant fails within that time to supply the elements requested or to submit a reasoned request for extension of the time limit, the application shall be deemed not to have been filed.

#### **Article 13. Substantive Examination**

(1) The substantive examination shall be carried out within nine months of the date of the decision to prosecute the application. During the examination, compliance with the requirements of Article 7 shall be checked and the priority date of the trademark determined, if not determined during the formal examination.

(2) Depending on the outcome of the substantive examination, the Agency shall decide to publish the application or to reject it and shall notify its decision to the applicant.

#### **Article 14. Opposition to Decision concerning the Application**

(1) If the applicant disagrees with the decision given at the outcome of the formal examination or of the substantive examination, he may, within three months of the date of receipt of the decision, appeal against such decision to the Appeals Board of the Agency, which shall take a decision within three months.

(2) If the applicant disagrees with the decision taken by the Appeals Board of the Agency, he shall have the faculty of instituting legal proceedings against that decision within three months of the date of receipt of the decision.

#### **Article 15. Withdrawal of Application**

(1) An application may be withdrawn by the applicant at any time during prosecution.

(2) An application relating to a collective mark may only be withdrawn with the agreement of all the legal persons entitled to use the mark.

**Article 16. Publication of the Application for Registration of a Trademark or an Appellation of Origin and the Application for Recognition of the Mark as Well-Known**

Within three months from the date on which it has been taken the decision to publish the application for registration of a trademark or an appellation of origin and within one month from the date of filing of the application for recognition of the mark as well-known, the Agency shall publish in the Official Bulletin of Industrial Property (hereinafter "Official Bulletin") the data concerning the application for registration of a trademark or an appellation of origin and concerning the application for recognition of the mark as well-known mark. The content of the published data shall be determined by the Agency.

**Article 17. Opposition to Registration of a Trademark or an Appellation of Origin and to Recognition of the Mark as Well-Known**

(1) Any person may oppose, within three months that follow the date of publication of the data concerning the registration of a trademark or an appellation of origin, or concerning the recognition of a mark as well-known, before the Appeal Board of the Agency against the registration of a trademark or an appellation of origin, or against the recognition of a mark as well-known.

(2) If opposition is filed against registration or against recognition of a mark as well-known, the Agency shall notify the applicant thereof within 10 days.

(3) Opposition to registration or to recognition of a mark as well-known shall be examined within the three months that follow the date on which it has been filed. The decision that is taken shall be notified within 10 days both to the applicant and to the person who has filed the opposition.

(4) The decision of the Appeals Board of the Agency may be appealed to the court within six months of the date on which it was given.

**Article 18. Registration and Issue of Registration Certificates for Trademarks and Appellations of Origin**

(1) If no opposition has been filed against registration or if any opposition filed has been rejected, the Agency shall register the trademark or appellation of origin and enter it in the National Register of Trademarks or in the National Register of Appellations of Origin (hereinafter "Register").

(2) The following elements shall be recorded in the Register: a reproduction of the trademark or the designation that constitutes the appellation of origin, particulars of its owner, the priority date of the trademark, the list of goods and services for which the mark is registered, the special properties of the product for which the appellation of origin is registered, other data relating to the registration of the trademark or appellation of origin and all subsequent amendments to the aforementioned data.

(3) The Agency shall issue a registration certificate within three months of the date on which the trademark or appellation of origin is entered in the Register.

(4) The Agency shall lay down the form of the registration certificate and the list of elements to be shown on it.

(5) If a decision of recognition of a mark as well-known has been taken, the Agency shall register the well-known mark in the National Register of Well-Known Marks.

**Article 19. Publication of Notice of Registration**

(1) The data relating to the registration of the trademark or appellation of origin that has been entered in the Register in accordance

with Article 18 shall be published by the Agency in the Official Bulletin within three months of the date of the decision to register.

(2) The data relating to the recognition of the mark as well-known that has been entered in the National Register of Well-Known Marks shall be published by the Agency in the Official Bulletin within three months of the date of the decision concerning the recognition of the mark as well-known.

### **Article 20. Term of Registration**

(1) The registration of a trademark shall subsist for 10 years as from the filing date of the application.

(2) The term of a trademark registration may be extended, at the request of the owner of the trademark, for an unlimited number of 10-year periods against payment of a fee. The request for renewal of a registration shall be submitted during the final year of its term of validity. On payment of an additional fee, the owner of a trademark may request renewal of the term of the registration during an additional period of six months following its expiry.

(3) The Agency shall enter in the Register each renewal of a registration.

(4) The registration of an appellation of origin shall subsist for an indefinite term.

(5) The protection of a well-known mark shall subsist for an indefinite term.

### **Article 21. Amendments**

(1) The holder of a registration certificate shall be required to communicate to the Agency any change in the data concerning the registration of a trademark or an appellation of origin.

(2) The Agency shall enter in the Register and publish any amendment within three months of the date on which it was communicated to it.

## **CHAPTER III**

### **EXPLOITATION OF TRADEMARKS AND APPELLATIONS OF ORIGIN. TRANSFER OF TRADEMARKS**

#### **Article 22. Exploitation of Trademarks and Appellations of Origin**

(1) The exploitation of a trademark or an appellation of origin shall mean its use on goods for which the trademark or appellation of origin has been registered, or on the packaging and/or as packaging of such goods, by the owner or by a person having acquired a right of exploitation under a licensing contract. Use of a trademark or appellation of origin in advertising, in printed matter, on business paper, firms, on signs and on articles shown at exhibitions and fairs that take place on the territory of the Republic of Moldova as well as the use by another person, when subject to the control of its owner, shall also be deemed to constitute exploitation. Use shall be allowed of a trademark identifying the undertaking producing the goods or services along with, but without linking it to, the trademark distinguishing the specific goods or services in question of that undertaking.

(2) It shall not be prevented the continued use of similar geographical indications in connection with goods or services of any natural persons or legal entity of the Republic of Moldova or its domiciliaries who have used that geographical indication in a continuous manner with regard to wines and spirits on the territory of the Republic of Moldova for at least 10 years before April 15, 1994, if the geographical indications were used in good faith.

(3) Geographical indications of products and services for which the relevant indication has an identical significance with the customary dictionary term, which is deemed as common name of those products

or services on the territory of the Republic of Moldova or geographical indications of viticultural products for which the relevant indication is identical with the customary name of a sort of grapes on the territory of the Republic of Moldova shall not be subject to this Law.

(4) Any opposition in connection with the use or registration of a product mark, containing a geographical indication, may be presented within 5 years after the adverse use of the protected indication has become known in the Republic of Moldova or after the date of registration trademark in the Republic of Moldova, provided that that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became known in the Republic of Moldova, provided that the geographical indication is not used or registered in bad faith;

(5) Any person shall have the right to use, in the course of trade, his name or the name of his predecessor in business, except where such name is used in such a manner as to mislead the public.

### **Article 23. Warning Notice**

The owner of a trademark registration certificate may accompany the mark by a warning notice in the form of a letter R within a circle or by wording giving notification of the fact that the trademark is registered in the Republic of Moldova.

### **Article 24. Transfer of Rights in Trademarks**

(1) Rights deriving from filing a trademark application or from the registration of the trademark may be transferred in whole or in part.

(2) Rights may be transferred under an assignment contract, exclusive or nonexclusive license, or through succession, legal or testamentary inheritance. Compulsory licensing of trademarks shall not be

permitted and the owner of the registered trademark shall have the right to assign the trademark with or without the transfer of the business to which the trademark belongs.

(3) Rights transferred under paragraph (2) shall also have effect for third parties and shall determine the alteration of the legal status of the trademark immediately as the contract is registered with the Agency.

(4) No person may assign rights in a collective mark to third parties without the consent of all members of the association.

(5) A licensing contract shall be required to contain a clause in accordance with which the quality of the products of the licensee shall not be less than that of the products of the licensor and in accordance with which the latter shall verify that this condition is complied with.

(6) Any provisions containing exclusive grantback conditions, conditions containing challenges to validity and coercive package licensing as well as any other conditions limiting fair competition based on professional principles shall not be included in license contracts.

### **Article 25. Liability for Unlawful Exploitation of Trademarks and Appellations of Origin**

(1) The unlawful use of a registered trademark or appellation of origin, or of a sign similar to it, to distinguish goods or services for which the trademark or the appellation of origin has been registered, or for goods or services of the same type, manufacture, use, importation, offering for sale, selling and any other way of marketing or storing for such purposes shall incur civil, penal or administrative liability laid down by the legislation in force.

(2) A person found guilty shall be sentenced to a fine and required to pay the injured party compensatory monetary sum for violating his rights, including lost of profit and the expenses which include appropriate attorney's fees.

(3) Any product, including its packaging, shall be deemed as counterfeit, if it bears, without authorization, a product mark identical with the registered product mark which is valid for the products in question or which may not be distinguished in its essential characteristics from the registered product mark and therefore violates the rights of the owner of the registered trademark under the legislation in force.

(4) Products on hand under a counterfeit trademark or appellation of origin that infringe owner's rights shall be, without compensation of any sort, disposed of outside the channels of commerce so as to avoid any prejudices of the owner's rights, and the trademarks and appellations of origin illegally used shall be removed from the products in question, even if this may cause the destruction of these products.

(5) The infringed side may request that materials and implements the predominant use of which has been in the creation of the infringing goods be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements. In considering such requests, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

(6) In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.

(7) The injured party shall be entitled to have the judicial decision published at the cost of the guilty party in order to restore his business reputation.

(8) Actions of public authorities and officials in respect of the administration of any law pertaining to the protection of or enforcement of intellectual property rights shall not constitute infringement of intellectual property rights, where such actions are taken or intended in good faith in the course of the administration of that law.

## **CHAPTER IV**

### **TERMINATION OF LEGAL PROTECTION OF TRADEMARKS AND APPELLATIONS OF ORIGIN**

#### **Article 26. Cancellation of Registration**

(1) The registration of a trademark or appellation of origin may be cancelled in whole or in part anytime during its term of validity, provided that:

a) it has been effected in infringement of this Law;

b) its use is misleading as to the origin of the goods;

c) the conditions creating the specific nature of the geographical area concerned have disappeared;

d) the product no longer possesses the special properties specified in the Register;

e) other well-grounded reasons arised.

(2) On request, the registration may be cancelled after an uninterrupted period of at least five years of non-use, unless valid reasons based on the existence of obstacles to such use are shown by the trademark owner. Circumstances arising independently of the will of the owner of the trademark which constitute an obstacle to the use of the trademark, such as import restrictions or other government requirements for goods or services protected by the trademark, shall be recognized as valid reasons for non-use.

(3) Any person may submit to the Appeals Board of the Agency a request for cancellation of a registration.

(4) A request for cancellation of a registration shall be prosecuted within three months of its date of receipt and shall be notified to the holder of the registration within 10 days of that date.

(5) The decision of the Appeals Board of the Agency may be appealed from to the courts.

(6) If a collective mark is used for products which do not possess common characteristics, whether qualitative or other, the effects of its registration may be terminated prematurely, in whole or in part, by decision of an arbitration body.

(7) Any person within five years from the date of trademark registration may request the Appeals Board of the Agency to cancel its registration on the ground of existence in the Republic of Moldova of a well-known trademark. Shall not be established any time limit for filing an request for cancellation of a registration or for prohibiting the use of a trademarks, registered or used in bad faith.

#### **Article 27. Removal from the Register**

(1) The Agency shall remove from the Register a trademark or an appellation of origin in the following cases:

- a) the term of validity under Article 20 has lapsed;
- b) the owner of the registration certificate has filed with the Agency a request to that effect;
- c) the registration has been invalidated under Article 26;
- d) the legal person that is the holder of the registration certificate has ceased to exist.

(2) The Agency shall publish a notice of removal of the registration in the Official Bulletin.

## **CHAPTER V FINAL PROVISIONS**

### **Article 28. Hearing Litigation in Relation to this Law**

Litigation related to the application of this Law that concerns

- a) the issue of a registration certificate for a trademark or an appellation of origin,
- b) the infringement of exclusive rights in a trademark,
- c) premature termination of the effects of a registration or invalidation of a registration;
- d) the conclusion and implementation of a contract assigning rights in a trademark or a licensing contract;
- e) the non-use of a trademark within 5 years of the date of registration with the Agency;
- f) the abusive use of an appellation of origin shall be heard by the competent judicial organ or arbitration body in accordance with the provisions established by the law.

### **Article 29. Tasks of the Agency in the Protection of Trademarks and Appellations of Origin**

The Agency shall undertake, in the field of protection of trademarks and appellations of origin, the following tasks: it shall receive the applications for registration of trademarks and appellations of origin and shall examine them; it shall effect the official registration of trademarks and appellations of origin; it shall issue the registration certificates; it shall carry out the examination of international marks under the Madrid Agreement Concerning the International Registration of Marks or under the Protocol Related to the Madrid Agreement; it shall update and maintain the national collection of trademarks and appellations of origin; it shall

publish official notices and shall publish the Official Bulletin; it shall maintain the Register, draw up and improve the regulatory texts; it shall represent the Republic of Moldova in relations with intergovernmental organizations active in the field of industrial property and shall participate in international cooperation in that field.

### **Article 30. Fees**

The filing of an application for registration of a trademark or appellation of origin and the carrying out of other legal acts relating to the examination of applications and the legal protection of trademarks and appellations of origin shall be subject to the levying of fees. Acts whose accomplishment shall be subject to the payment of fees together with the amounts of the fees and the time limits for paying them shall be established by the Government.

### **Article 31. Registration of Trademarks and Appellations of Origin Abroad**

(1) Any natural or legal person of the Republic of Moldova shall be entitled to have a trademark or an appellation of origin registered abroad.

(2) An application for registration of a trademark abroad under the Madrid Agreement Concerning the International Registration of Marks or under the Protocol Related to the Madrid Agreement shall be filed through the intermediary of the Agency.

(3) The costs incurred in registering a trademark or an appellation of origin abroad shall be borne by the applicant or by any other natural or legal person who has agreed to do so.

### **Article 32. Rights of Foreign and Natural Legal Persons**

(1) Foreign and natural legal persons shall enjoy the rights afforded by this Law in the same way as natural and legal persons of the Republic of Moldova in accordance with the international treaties to which the Republic of Moldova is party or according to the principle of reciprocity.

(2) A trademark registered in the Republic of Moldova under the Madrid Agreement Concerning the International Registration of Marks or under the Protocol Related to the Madrid Agreement shall enjoy the same protection as a trademark registered under this Law.

### **Article 33. International Treaties**

If an international treaty to which the Republic of Moldova is party lays down rules that differ from those set out in this Law, the provisions of such international treaty shall prevail.

## **CHAPTER VI**

### **TRANSITIONAL PROVISIONS**

#### **Article 34**

This Law shall enter into force three months after the date of its publication.

#### **Article 35**

Until the legislation has been adapted to this Law, the hitherto applicable provisions shall continue to apply except where they conflict with those of this Law.

**Article 36**

It is hereby provided that:

– this Law shall apply to legal relationships that arise after its entry into force;

– applications for the registration of trademarks and appellations of origin that are pending on the date of entry into force of this Law shall be prosecuted in accordance with the procedure set up by this Law. However, those criteria for protection stipulated by the applicable law on the date the application was filed shall be applied;

– trademark registration certificates issued by the Agency prior to the entry into force of this Law shall be assimilated from a legal point of view to trademark registration certificates issued in application of this Law.

**Article 37**

Prior to the expiry of three months, the Government:

– shall submit to Parliament proposals to adapt the current legislation to this Law;

– shall adapt its regulatory texts to this Law;

– shall have its ministries and departments revise or cancel any of their regulatory texts that conflict with this Law;

– shall draw up and promulgate on the basis of this Law the regulatory texts relating to its application.

*Adopted:* September 22, 1995, No. 588-XIII

*Published in:* Monitorul Oficial al Republicii Moldova, No. 8-9 of February 8, 1996

*Entry into force:* May 8, 1996.

**Amended by:** the Law No. 1009-XIII on Amending and Abrogation of Various Laws

*Adopted:* October 22, 1996

*Published in:* Monitorul Oficial al Republicii Moldova, No. 80 of December 12, 1996

*Entry into force:* December 12, 1996

**Amended by:** the Law No. 1079-XIV on Amending Various Laws

*Adopted:* June 23, 2000

*Published in:* Monitorul Oficial al Republicii Moldova, No. 154 - 156 of December 14, 2000

*Entry into force:* December 14, 2000

**Amended by:** the Law No. 65-XV on completing the Law no. 588-XIII of September 22, 1995 on trademarks and appellations of origin

*Adopted:* April 12, 2001

*Published in:* Monitorul Oficial al Republicii Moldova, No. 55-56 of May 24, 2001

*Entry into force:* May 24, 2001

**Amended by:** the Law No. 1446-XV on Amending and Completing of Various Laws

*Adopted:* November 8, 2002

*Published in:* Monitorul Oficial al Republicii Moldova, No. 190-197 of December 31, 2002

*Entry into force:* December 31, 2002

**Amended by:** the Law No. 469-XV on Amending and Completing of Various Laws

*Adopted:* November 21, 2003

*Published in:* Monitorul Oficial al Republicii Moldova, No. 1-5 of January 1, 2004

*Entry into force:* January 1, 2004

**Amended by:** The Law No. 205-XVI on Amending and Completing of Various Laws

*Adopted:* July 28, 2005

*Published in:* Monitorul Oficial al Republicii Moldova, No. 126-128/613 of September 23, 2005

*Entry into force:* September 23, 2005

---

\* Concerning the trademarks - state property the following documents have been adopted:

The Decision of the Government of the Republic of Moldova No. 852 of August 16, 2001 regarding the order of use of the state property trademarks (*Monitorul Oficial* No. 100-101 of August 18, 2001);

The Regulations regarding the order of use of the state property trademarks (*Monitorul Oficial* No. 100-101 of August 18, 2001);

The Decision of the Government of the Republic of Moldova No. 1080 of October 8, 2001 regarding the approval of the List of state property trademarks (*Monitorul Oficial* No. 124-125 of October 12, 2001);

The List of state property trademarks, lawfully owned and used, until January 1, 1992, by two or more legal persons (*Monitorul Oficial* No. 124-125 of October 12, 2001).