

**WORLD TRADE ORGANIZATION**

**ORGANISATION MONDIALE DU COMMERCE**

**ORGANIZACIÓN MUNDIAL DEL COMERCIO**

**IP/N/1/SVK/T/3**

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

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

**Slovak Republic**

By means of a communication from the Permanent Mission of the Slovak Republic, dated 21 March 1997, the Slovak Republic has notified the new Trademark Law of the Slovak Republic, No. 55 of 6 February 1997, under Article 63.2 of the Agreement.<sup>2</sup>

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

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

**République slovaque**

Par une communication de la Mission permanente de la République slovaque datée du 21 mars 1997, la République slovaque a notifié, au titre de l'article 63:2 de l'Accord, la nouvelle Loi n° 55 du 6 février 1997 sur les marques.<sup>2</sup>

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

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

**República Eslovaca**

Mediante una comunicación de la Misión Permanente de la República Eslovaca, de fecha 21 de marzo de 1997, la República Eslovaca ha notificado su nueva Ley de Marcas de Fábrica o de Comercio, N° 55, de 6 de febrero de 1997, de conformidad con el párrafo 2 del artículo 63 del Acuerdo.<sup>2</sup>

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

<sup>2</sup>With regard to the laws referred to in Article 45 and 46 of this Law, reference is made to documents IP/N/1/SVK/T/1 and 2, and IP/N/1/SVK/I/1/Pour les lois mentionnées aux articles 45 et 46 de cette loi, voir les documents IP/N/1/SVK/T/1 et 2 et IP/N/1/SVK/I/1/Respecto de las leyes mencionadas en los artículos 45 y 46 de esta Ley, se hace referencia a los documentos IP/N/1/SVK/T/1 y 2 e IP/N/1/SVK/I/1.

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## LAW

of 6th February 1997

### on Trademarks

National Council of the Slovak Republic has adopted the following Law:

#### PART I GENERAL PROVISIONS

##### § 1 Trademark

(1) A trademark is a sign consisting of words, including names of persons, letters, numerals, drawings, shapes of products or of their packaging, or their mutual combinations, as well as combinations of colours, affording a distinctive nature to goods or services of various manufacturers and suppliers, registered in the Register of Trademarks (hereinafter referred to as "the Register").

(2) A collective trademark is a sign referred to in subparagraph 1 thereof, which is capable of distinguishing products and services, originated by members of a legal entity established for the purpose of protection of their interests or for other purposes (hereinafter referred to only as "association of entrepreneurs,"<sup>1)</sup> from goods and/or services provided by other entrepreneurs and which is registered in the Register.

##### § 2

(1) The following shall be excluded from registration:

- a) signs which cannot be graphically represented,
- b) signs which have no distinctive capacity,
- c) signs consisting exclusively of indications or elements that serve in the trade to designate the kind, quality, quantity, purpose, value, geographical origin or other characteristics of goods or services, or, if appropriate, time of production of goods or of rendering of services,

- d) signs consisting exclusively of marks or indications commonly used in the language or practices of the trade.
- e) signs consisting exclusively of the shape of goods or of their packaging related to the nature of goods or which is necessary to obtain a technical result, or gives essential utility value to the goods,
- f) signs which may be misleading to the public, mainly with regard to the nature, quality or geographical origin of the goods or services,
- g) signs whose use would be contrary to public order or morals,
- h) signs whose use would be contrary to the obligations of the Slovak Republic under international treaties,
- i) signs containing a sign of a great symbolic value, especially a religious symbol.

(2) The signs referred to in subparagraph 1 (b) to (d) may be accepted and registered in the Register if a person or a legal entity filing an application for registration proves the use of the mark in the trade at least one year prior the date of filing of the application for the entry in the Register (hereinafter referred to only as "application"), such sign has become distinctive in relation to the goods or services for which registration is requested.

### § 3

The following may not be recognised as the trademark:

- a) signs identical with the trademark with the priority right and which has been registered for another holder for identical or similar goods or services,
- b) signs identical with another applicant's registration of a trademark for identical or similar goods or services with the priority right
- c) signs identical with a trademark registered for identical or similar goods or services that has expired under § 15 (1) (a) if the application was filed within two years preceding the expiration date of the trademark; this provision shall not apply if the application was filed by the person who at the time of the expiration of the trademark thereof has been registered as the holder of the trademark or its legal successor,
- d) signs in which any of its elements are identical with a trademark or an indication for which an application was filed pursuant to (a) to (c) and there exist a likelihood of confusion or association with the earlier trademark.

### § 4

Those signs cannot be recognised where the Industrial Property Office of the Slovak Republic (hereinafter referred to only as " the Office"), on the grounds of opposition filed pursuant to § 9 , ascertains that they are:

- a) misleadingly similar to a trademark with the priority right if the trademark has been registered for identical or similar goods or services,
- b) misleadingly similar to a sign with the priority right if the sign has been registered for identical or similar goods or services,

- c) identical with or misleadingly similar to a mark which, before filing of the application, had become well-known according to the international treaty <sup>2)</sup> through its use in the Slovak Republic for goods or services provided by its holder (hereinafter referred to only as "well-known mark"), and if the use of such sign for goods or services would show association between the thus-marked goods or services and the holder of the well-known mark, and if the interests of its holder should be infringed by such use,
- d) identical with or misleadingly similar to an unregistered sign which, by having been used during at least two years prior to filing of the application, had become characteristic for identical or similar goods or services in the Slovak Republic,
- e) identical with or misleadingly similar to the trade name or its essential part, registered in the Register of Companies or a similar register for an entrepreneur with identical or similar goods or services prior to the date of filing of the application,
- f) identical with or misleadingly similar to the forename and surname or an assumed name or a likeness of a person if the entry of this sign in the Register could interfere with the rights to individual protection,
- g) identical with or misleadingly similar to the subject matter of other industrial property right with the priority right,
- h) identical with or misleadingly similar to an author's work created prior to filing of an application where by using such sign the author's copyrights should be affected.

## PART II

### PROCEDURE FOR THE MATTERS CONCERNING A TRADEMARK

#### § 5

#### Application for the Registration of a Trademark

- (1) Registration proceedings shall begin with the filing of the application with the Office.
- (2) The application may be filed by a person or a legal entity (hereinafter referred to only as "applicant") for goods or services that are, at the filing date, the subject of their economic activity.
- (3) An application shall contain:
  - a) a request for the entry of the sign in the Register, name, surname and domicile address in case of a natural person, and name or trade name and headquarters if the applicant is a legal entity,
  - b) a wording or representation of the sign; in case of a three-dimensional sign its surface representation,
  - c) list of the goods or services in respect of which the registration is requested.
- (4) Goods or services included in the list under subparagraph 2 (c) shall be classified in accordance with the international treaty. <sup>3)</sup>
- (5) The application can be filed only for one sign.

#### § 6

- (1) By filing the application with the Office, where the application contains a request for the registration of the sign as a trademark with the information identifying the applicant, which complies with the conditions laid down in § 5 (2) (b) and (c), the applicant shall enjoy the priority right asserted against any person who subsequently files an application for registration of a trademark identical or confusingly similar to that mark for the goods or services of the same kind.
- (2) The priority right, based on the international treaty, also applies to services; the applicant must claim this right in the application and proof of this right must be furnished within the period of three months as from filing of the application; failing that the right of priority shall not be recognised.
- (3) The priority right under subparagraph 2 can be applied only to one application.

## § 7

- (1) Upon the request of the applicant the Office shall permit alteration of the application where it concerns the forename, surname or name, or the trade name, headquarters, domicile and business address if a change occurred after filing of the application and the amendment of the application for registration makes the statement shown therein to comply with reality without affecting the general nature of the trademark. No other changes in the application for registration of the trademark shall be authorised.
- (2) After filing of the application the applicant may restrict the list of goods or services for which the trademark is to be registered; such restriction cannot be withdrawn.
- (3) Prior to the entry of the trademark in the Register the applicant is entitled to split the application containing more than one kind of goods or services to separate applications. The priority right of the original application shall be maintained also for the separate applications, provided they only include the goods or services listed in the original application.
- (4) By written agreement the applicant may assign his right arising from the application for the goods or services which are listed in the application, or for part of them, to another natural person or legal entity if these goods or services constitute the subject of his economic activity as of the date of the agreement.

## § 8

### Examination and Publication of the Application

- (1) The Office shall conduct an examination whether the application complies with the conditions laid down by this Law.
- (2) Where the application does not satisfy the registration conditions specified by law the Office shall invite the applicant to remedy the deficiencies within a prescribed period of time. If the applicant fails to remedy those deficiencies within the prescribed period of time, the Office shall suspend the procedure. The applicant must be advised in advance about this by the invitation asking to remedy the defects.
- (3) If the application does not comply with registration conditions laid down by law the Office shall refuse the application. Before taking this decision the Office shall require from the applicant the statement concerning the reasons on the basis of which the application is refused.

- (4) The provision of subparagraph 3 is not applicable if the trademark that is to be registered in the Register does not satisfy, as of the day of filing, the conditions under § 2 (1) (b) to (d), and if the applicant subsequently proves after filing of the application that the sign, having been used in the trade for at least one year, had become common for his goods or services in respect of which it is registered. The date of filing shall be deemed the day when the documents complying with reality were delivered to the Office.
- (5) If the application was not refused pursuant to subparagraph 3 and if it satisfies the specified conditions, the Office shall publish the application in the Gazette of the Industrial Property Office of the Slovak Republic (hereinafter referred to only as "Gazette").

## § 9

### Opposition against the Entry in the Register

- (1) After publishing the application in the Gazette, a person, affected due to reasons stated in § 4, may, within the period of three months from the publication, file at the Office notice of opposition against the entry of the mark in the Register. The opposition must be supported by documents justifying the subject matter of the opposition.
- (2) The time limit for filing of opposition against the registration of the registration of the trademark in the Register may not be extended.

## § 10

- (1) The Office shall examine whether the opposition has been filed by an authorised person pursuant to § 9 (1), and whether the opposition is justified and supported by evidence enabling its examination.
- (2) The Office shall suspend the opposition procedure if the opposition has been filed with delay or by an unauthorised person, and if it is not justified or supported by evidence which would enable its examination. The Office shall advise the person who has filed the opposition about the procedure having been suspended.
- (3) If the opposition procedure has not been suspended pursuant to subparagraph 2 the Office shall advise the applicant of the opposition filed pursuant to § 9 and invites him to make a statement related to the opposition within the prescribed period of time.
- (4) If the applicant fails to make a statement regarding the opposition within the prescribed period of time pursuant to subparagraph 3 the Office shall suspend the application proceedings. The applicant must be, however, warned about this in the invitation to make a statement.

## § 11

- (1) The Office shall examine, on the basis of the justified opposition with regard to which the applicant made a statement, whether the submitted application for registration in the Register is registrable as referred to in § 4.
- (2) If the Office ascertains, pursuant to subparagraph 1, that the submitted application for registration is not registrable it will be rejected by the decision of the Office and this decision shall be delivered in writing both to the applicant and the opponent.

**§ 12****Registration of a Trademark**

- (1) If the requirements for registration of a trademark in the Register laid down by this Law are satisfied the Office shall enter the trademark in the Register.
- (2) By entering the trademark in the Register the applicant acquires the trademark rights and becomes the holder of the trademark and the Office shall issue a certificate of registration.
- (3) The Office shall publish the registration of the trademark in the Gazette.

**§ 13****Term of Protection**

- (1) The term of protection for a registered trademark, unless the trademark has expired pursuant to § 15, is ten years from filing of the application with the Office (§ 5 (1)).
- (2) At the request of the trademark holder requesting renewal of a registration submitted at the earliest during the final year of the protection period and at the latest within six months of its expiry (hereinafter referred to only as "application for registration renewal") the term of protection of the trademark shall be extended for additional ten years.

**§ 14****Amendment of a Trademark**

At the request of the trademark holder the Office shall permit amendment of the trademark where it concerns the forename, surname or name, or trade name or headquarters, domicile, trade establishment if this change occurred after the entry of the trademark in the Register and if this change serves to adapt the particulars shown therein to reality without affecting the general nature of the trademark.

**§ 15****Termination of a Trademark**

- (1) A trademark is terminated:
  - a) on the expiry of the term of protection, unless an application for registration renewal was filed in due time,
  - b) on the day of the declaration of renunciation to the right made by the holder of the trademark presented to the Office, this statement has no legal effects if rights of a third party hinders the declaration of renunciation.
  - c) where the holder of the trademark loses his legal personality, unless the right in the trademark has been assigned or transferred to a new holder,
  - d) by cancellation of the trademark from the Register pursuant to § 16 and 17 on the decision by the Office.

- (2) A trademark which is the subject to the rights of a third party will cease to exist pursuant to subparagraph 1 (b) on the day when the trademark holder provides proof of termination of these rights or, the approval of the authorised persons with the cancellation of the trademark.
- (3) The Office enters the termination of a trademark in the Register.

## § 16

### Cancellation of a Trademark

- (1) The Office shall cancel the registration of a trademark if it ascertains at the request of a third party or ex-officio that the trademark was registered contrary to the provisions laid down by law for registration of trademarks.
- (2) The cancellation pursuant to subparagraph 1 shall not be effected if the trademark has been registered contrary to § 2 (1) (b) to (d) but its holder proves that the commercial use of the mark began at least one year prior the opening of the cancellation proceedings, and the mark has become distinctive for the goods or services of the holder for which the trademark has been registered.
- (3) The Office shall cancel the registration of a trademark if in the proceedings instituted by a third party it ascertains that the trademark has not been put to genuine use in the Slovak Republic for at least five consecutive years preceding the institution of the cancellation proceedings and the trademark holder has not given proper reasons for non-use.
- (4) The Office shall cancel a misleading trademark from the Register if during the proceedings instituted by a holder of a trademark with the earlier priority right it ascertains that the contested trademark has been registered for identical or similar goods or services.  
The Office shall not cancel the registration if the holder of a trademark with the earlier priority right has stood for five years the use of the contested trademark in the Slovak Republic.
- (5) The Office shall cancel an identical or a misleading trademark from the Register, regardless of the goods or services for which it has been registered, if in the proceedings instituted at the request of the holder of a well-known mark it ascertains that the use of the contested trademark is liable to cause confusion with thus marked goods or services and the holder of the well-known trademark and his interests could be infringed by such use. The Office shall not cancel the registration if the holder of a well-known trademark has stood for five years the use of the contested trademark in the Slovak Republic.
- (6) The Office shall cancel a trademark from the Register if in the proceedings instituted by a third party it ascertains that the trademark, as a result of use or failure to use by its holder, has lost its distinctive capacity because in the trade relations it has become a general designation for goods or services for which it has been registered.
- (7) If the reasons for cancellation of a trademark from the Register refer solely to one part of the goods or services for which the trademark has been registered, the Office shall cancel the trademark for those goods or services.
- (8) The cancellation of a trademark from the Register pursuant to § 1 to 6 may also be effected after the termination of the right in the trademark pursuant to § 15 (1) (a) to c) if the claimant proves legal interest.



**§ 17**

(1) The Office shall cancel a trademark from the Register on the grounds of the court decision according to which the trademark:

- a) containing the forename and surname or a likeness of a natural person, or his assumed name, violates the rights to individual's protection.
- b) containing the name or trade name of a natural person or a legal entity, registered in the Companies Register or a similar register prior to filing of the application, interferes with his reputation,
- c) interferes with previous copyrights.

(2) The cancellation shall be effected at the request of an authorised person within six months from the date when the court decision becomes final.

(3) The Office shall cancel the registration of an identical or a misleading trademark on the basis of a court decision according to which the use of such trademark is unfair competition because it takes an unfair benefit from the distinctive capacity or the reputation of a world-known trademark or it infringes such trademark. The cancellation shall be effected at the request of the holder of the world-known trademark within 6 months since the date of the valid court decision.

(4) The cancellation of a trademark from the Register pursuant to § 1 and 2 thereof may also be effected after the termination of the trademark pursuant to § 15 (1) (a) to (c) if the claimant proves legal interest.

**§ 18**

In case of cancellation of a trademark from the Register pursuant to § 16 (1) the registration of this trademark in the Register shall be deemed to have never occurred; otherwise the cancellation shall be effective from the date of instituting the cancellation proceedings.

**§ 19**

Together with the institution of the cancellation proceedings concerning the cancellation of a trademark from the Register pursuant to § 16 the claimant is requested to deposit a sum of 2 500 Sk. The Office will refund the deposit if in the proceedings it shall be proved that the institution of the cancellation proceedings has been filed with proper reason.

**§ 20****Specific Provision Concerning Collective Trademarks**

(1) An association of entrepreneurs, as an applicant, can file the application for the registration of a collective trademark.

(2) Together with the application in addition to the formalities referred to in § 5 (2) and (3), the following must be attached:

- a) the written contract between all the members of the association in which the conditions of the use of the collective trademark are laid down, including the sanctions for their infringement,

- b) a list of members of the association of entrepreneurs who are entitled to use the collective trademark and the address of their headquarters.
- (3) The proceedings concerning the collective trademark are governed by the provisions of § 15 to 19, as appropriate.

### § 21

- (1) The members of an association of entrepreneurs registered in the Register have the exclusive right to mark their goods or services with the collective trademark for which it is registered or to use it in connection with these goods and/or services.
- (2) At the request of the holder of a collective trademark supported with an agreement amending the original association agreement, the Office shall enter the change regarding the list of the members of the association of entrepreneurs in the Register.
- (3) At the request of the members of an association of entrepreneurs, the Office will issue an extract to each of the members of the association registered in the Register.
- (4) At the request the Office shall permit the inspection of the association agreement.

### § 22

A collective trademark may not be assigned to another holder and may not be licensed or given as lien.

### § 23

The Office shall cancel a collective trademark from the Register, except in the cases referred to in § 16 and 17 thereof, if the members of the association of entrepreneurs seriously violate the agreement on the use of the collective trademark.

## **PART III RIGHTS AND OBLIGATIONS IN TRADEMARKS**

### § 24

#### **Rights of Trademark Holders**

- (1) A trademark holder has the exclusive right to affix his goods or services with the trademark for which it is registered or use it in connection with those goods or services.
- (2) A trademark holder is authorised to use the "®" mark with the trademark.

## § 25

- (1) Without the authorisation of the trademark holder no one may use a sign which is identical with or misleadingly similar to his trademark for identical or similar goods and/or services for which the trademark has been registered. Accordingly, no one may use this sign in connection with these goods or services, in particular, affix it on goods or their packaging, offer or introduce on the market thus marked goods or packaging, or store them for this purpose, import or export goods or their packaging with this mark or use this mark in the trade, correspondence or advertising.
- (2) The trademark holder is entitled to require information about the origin of goods or documents accompanying the goods or services from everybody intending to introduce on the market goods or services which are marked with a sign identical with or misleadingly similar to his trademark. The trademark holder shall prove his rights by presenting the registration certificate or an extract from the Register.
- (3) The trademark holder is authorised to require from the publisher of a publication where his trademark is reproduced to publish a statement about his rights in this trademark, including the registration number of the trademark.

## § 26

- (1) The trademark holder may request from any one to refrain from the use of the trademark or sign confusingly similar to his mark or sign for identical or similar goods or services and may request that the thus marked items be withdrawn from market.
- (2) The holder of a well-known trademark registered in the Register may enforce his rights under subparagraph 1 thereof regardless of identity or similarity of the goods or services if the use of the well-known mark on other goods or services would refer to the association between thus marked goods or services, and the holder of the well-known mark and the interest of this holder could be infringed by such use.
- (3) If the violation of the trademark rights resulted in a damage, the injured party is entitled to his damage be compensated. If such violation should result in a damage non referring to the property the injured party is entitled to claim reasonable satisfaction which may have a form of pecuniary settlement.
- (4) Disputes arising from legal situations in respect of trademarks shall be heard and decided by the courts.

## § 27

### Limitations of Trademark Rights

- (1) The holder of a trademark or a well-known mark is not permitted to claim his rights under § 24 to 26 if the trademark or the well-known mark have not been used in the Slovak Republic during five consecutive years preceding the date of the rights approval and the holder fails to give proper reasons for non-use.
- (2) The trademark holder has no right to prohibit to a third party to use the trademark on the goods which have been introduced on the market marked with such trademark by the holder himself or with his consent. This provision does not apply if, after having brought the goods on the market, an essential change or deterioration of the state or properties of the goods occurred without the holder's fault.

§ 28

**Obligations in Trademarks**

- (1) The trademark holder shall be required to use the trademark, in particular on goods and on their packaging or commercial documents; in promotional, advertising and publicity materials, in strict compliance with the form in which it was entered in the Register, or in the form differing only in elements that do not change its distinctive capacity. The use of a trademark by a third party on the basis of an agreement is considered as the use of the trademark by its holder.
- (2) The trademark holder is bound to tolerate:
  - a) if a third party uses, in commercial relations, the forename surname, address or indication concerning the kind, quality, quantity, purpose, value, geographical origin, date of production of goods or services provision, or other characteristics of goods or services despite the fact that they are identical with or misleadingly similar to the holder's trademark; only if the indications thereof are used in accordance with practices of the trade and good morals of economic competition,
  - b) if a third party uses, in commercial relations, a sign identical with or misleadingly similar to the holder's trademark if it is necessary for the designation of the purpose of the goods, mainly of their accessories or spare parts, or kind of services provided, where it is used in compliance with practices of the trade and good morals of economic competition,
  - c) the use, in the same extent, of an identical or misleading unregistered sign by the holder if this sign, by having been used in commercial relations in the Slovak Republic for at least two years before filing of the application, had become common for identical or similar goods or services of their holder.

§ 29

**Assignment and Transfer of Trademarks**

- (1) The holder of a trademark may assign his rights in the trademark by a written contract to a natural person or a legal entity for all or part of the goods or services for which it has been registered.
- (2) A trademark is assigned to a new holder in cases given by special provisions.<sup>4)</sup>
- (3) The contract on the assignment of the trademark and on transfer of a trademark enters into force on the day of its entry in the Register. The application must be filed by the assignee.
- (4) The assignment or the transfer of a trademark is not permitted where it may result in misleading of the consumer. In such cases the Office shall refuse the application for the entry of the assignment or the transfer of the trademark in the Register.

§ 30

**License**

- (1) The right to use a trademark may be granted under the licensing contract<sup>5)</sup> in respect of all or part of the goods or services for which the trademark has been registered.
- (2) The licensing contract enters into force on the day of its entry in the Register. This entry must be requested by the trademark holder.

(3) The licensing contract may not be concluded where it would be liable to mislead the consumers. In such cases the Office shall refuse the application for the entry of the licensing contract in the Register.

### § 31

#### Lien on a Trademark

(1) A trademark is lienable.<sup>6)</sup>

(2) The right of lien on a trademark enters into force on the day of its entry in the Register. The entry of the trademark lien must be requested by the lienholder. Together with the application for the entry of the right of lien in the Register the lienee is obliged to submit to the Office the lien agreement with officially certified signatures of the parties.

### § 32

#### Transfer of a Trademark

If a trademark is registered in a country which is the member country of the International Convention<sup>7)</sup> and it has been registered in the Slovak Republic in favour of a commercial representative, an agent or a commission agent of the trademark holder (hereinafter referred to only as "agent") without the consent of the trademark holder, the trademark holder is entitled to request the court to take the decision in the trademark transfer. The Office shall enter the transfer of the trademark in the Register at the request of an authorised trademark holder.

### § 33

#### Specific Rights and Obligations in Collective Trademarks

(1) Unless otherwise provided by Law the holder of a collective trademark has rights and obligations with respect to that mark in the extend as referred to in § 24 to 32.

(2) The members of an association of entrepreneurs have the rights under subparagraph 1 thereof to the extent provided in the association agreement.

(3) The members of an association of entrepreneurs in pursuing their economic activities are entitled to mark goods or services also with their registered trademark, or with the mark which they have the right to use on the basis of the licensing contract.

**PART IV**  
**RELATIONS WITH FOREIGN COUNTRIES,**  
**INTERNATIONAL REGISTRATION OF TRADEMARKS**

**§ 34**

**Relations with Foreign Countries**

- (1) The provisions of international treaties, agreements and conventions by which the Slovak Republic is bound, are not affected by this Law.
- (2) Persons and legal entities which do not have their residence or headquarters in the Slovak Republic have the same rights and obligations as domestic applicants or trademark holders.
- (3) Persons and legal entities that do not have their residence or headquarters in the Slovak Republic must be represented in the trademarks procedure by an authorised representative.<sup>8)</sup>

**§ 35**

**International Registration of Trademarks**

- (1) Persons and legal entities having their residence or headquarters in the Slovak Republic are entitled to apply, with the Office, for the international registration of a trademark, or amendments in registration of international registration of a trademark in accordance with the International Convention.<sup>9)</sup>
- (2) The applicant requesting international registration of a trademark or the registration of changes with regard to international registration of a trademark as referred to in § 1, is obliged to pay fees in accordance with the International Convention.<sup>9)</sup> The Office shall publish the fees provided by the International Convention in the Gazette.

**§ 36**

- (1) The international registration of a trademark including the request for affording protection in the Slovak Republic has the same effects as the entry of the trademark in the Register performed by the Office.
- (2) The time limit for filing the opposition against protection to an internationally registered trademark begins on the first day of the month following the month in which the trademark was published in the Bulletin of the WIPO International Bureau.
- (3) If an internationally registered trademark has been refused protection in the Slovak Republic, it is deemed to have never been registered in the Slovak Republic.

**PART V**  
**COMMON, TRANSITIONAL AND FINAL PROVISIONS**

**§ 37**

**Common Provisions**

Unless otherwise provided by Law the proceedings concerning trademarks shall be governed by general provisions on administrative proceedings.<sup>10)</sup>

**§ 38**

- (1) The applicant, or the holder of the trademark shall be the parties to the proceedings concerning trademarks or collective trademarks.
- (2) The authorised person who has filed notice of opposition against the entry of a trademark in the Register pursuant to § 9, the person authorised pursuant to § 32 and the person requesting cancellation of a trademark from the Register shall also be the parties to the proceedings.

**§ 39**

- (1) All requests addressed to the Office shall be in a written form in the official language.
- (2) A request shall concern only one trademark or one collective trademark. In case of the request for permission to change the indications referring to the person of the holder of a trademark or a collective trademark, an application for registration of assignment or transfer of a trademark, an application for registration of a representative or of a change in the representative, or an application for correction of a error in the application, in the Register or in the Gazette, one application may concern more trademarks of the same holder.
- (3) The provision of subparagraph 2 thereof will also apply to identical requests concerning more applications of the same trademark holder.

**§ 40**

- (1) During the proceedings concerning trademarks the Office may, upon the request, excuse a failure to comply with the time limit caused by justified reasons, provided that the party to the proceedings files the request within two months from the day when the impediment causing the failure to comply ceased to exist, and the remedy is effected within the said two months period.
- (2) The request according to subparagraph 1 thereof must contain the matters which justify excusing of the failure to comply with the time limit and the date when the reason for failure ceased to exist.
- (3) The failure to comply with the time limit for filing of the opposition, the time limit for declaring the priority claim, the time limit for filing of an application requesting the cancellation of a trademark from the Register pursuant to § 17 (1) and (2) and the time limit for filing of an application for registration renewal, shall not be excused.

(4) During the proceedings concerning trademarks no failure to comply with time limit for performing an act after the period of one year from the date when the act was to be performed shall be excused.

(5) The rights acquired in a good faith by a third party during the period running from the expiry of the time limit not complied with up to acceptance of justification for failure to comply shall not be affected.

(6) If the party to the proceedings concerning trademarks who submitted the proposal for the institution of the proceedings fails to comply with the invitation of the Office requesting to remove deficiencies or to amend the filing within the prescribed period of time, the Office shall suspend the proceedings; the party of the proceedings must be warned to this effect in advance. The Office shall also suspend the proceedings at the request of the person who submitted the proposal ; the proposal for suspending the proceedings may not be withdrawn.

#### § 41

Upon the request, the Office may permit a third party to inspect the file if this party proves a legal interest.

#### § 42

The appeal against the decision of the Office (with the exception of the decision by which the failure to comply with the time limit pursuant to § 40 is excused), may be lodged within one month from the delivery of the decision.

#### § 43

(1) The Office keeps the Register wherein important data concerning trademarks are entered. The Register is public and open to inspection.

(2) The Office publishes the Gazette wherein applications for trademarks and collective trademarks pursuant to § 8 (5), entries and renewals of registrations of trademarks and changes in data concerning trademarks which have been performed after the entry of the trademark in the Register, are published.

#### § 44

##### Provision of Authorisation

The Office shall regulate by means of the generally binding Decree:

- a) the detailed procedure for filing of applications and partial applications for registration of trademarks,
- b) the detailed formalities of the contract concerning the use of a collective trademark,
- c) the detailed formalities concerning the documents proving the distinctive nature of a trademark,
- d) the indications of the application for registration of a trademark published in the Gazette,
- e) the detailed procedure for filing of the opposition against the entry of a sign in the Register as a trademark,



- f) the data entered in the Register and published in the Gazette after the registration of a trademark,
- g) the detailed formalities of the certificate, the duplicate, the extract from the Register and the certificate of the priority right,
- h) the detailed formalities of applications requesting the entry of amendments in the Register,
- i) the detailed formalities concerning the request for cancellation of the trademark from the Register
- j) the detailed procedure for filing applications for renewal of trademark registration,
- k) the details on keeping of records concerning trademark applications and registered trademarks,
- l) the details concerning correction of errors,
- m) the detailed procedure for filing of applications for registration of international trademarks and applications for the entry of changes in the International Register of Marks.

#### § 45

#### Transitional Provisions

- (1) The proceedings on applications of trademarks, that are pending as of the date of this Law entering into force, will be pursued in accordance with this Law, where the applicant shall be requested to amend his application in compliance with the provisions laid down by this Law within a prescribed period of time.
- (2) The rights and relations in trademarks registered in the Register prior to the entry into force of this Law shall be governed by the provisions of this Law. The rights and relations as well as the claims arising thereof prior to the entry into force of this Law shall be exercised according to the regulations valid at the time of their establishment.
- (3) The holder of a trademark which was declared well-known by the Office pursuant to the valid regulations, may request the cancellation from the Register of identical or misleadingly similar trademarks under the conditions referred to in § 23 (3) of the Law No. 174/1988 Coll. on Trademarks within the validity period of the trademark; but at the latest within ten years from the entry into force of this Law. Within this period the holder of a well-known trademark may also file the opposition against the entry of an identical or misleadingly similar sign in the Register pursuant to § 9, regardless of the goods or the services for which the opposed sign is filed for registration.

#### § 46

#### Provision of Repeal

The following regulations shall be repealed:

- 1. Law No. 174/1988 Coll. on Trademarks,
- 2. Decree of the Invention and Discovery Office No. 187/1988 Coll. on Proceedings in Re Trademarks",
- 3. Article II. of the Law of the National Council of the Slovak Republic No. 90/1993 Coll. on Measures in the Field of Industrial Property Law.

§ 47  
Effectiveness

This Law shall enter into force on 1st March 1997.

President of the Slovak Republic

Chairman of the National Council of the Slovak Republic

Prime Minister of the Slovak Republic

Notes:

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- 1) e.g. § 56 and the following of the Commercial Code.
  - 2) Article 6bis of the Paris Convention on the Industrial Property Protection from March 20, 1883, revised in Brussels on December 14, 1900; in Washington, D.C. on June 2, 1911; in Haag on November 6, 1925; in London on June 2, 1911; in Lisbon on October 31, 1959 and in Stockholm on June 14, 1967, promulgated by the Decree of the Minister of Foreign Affairs No. 64/1975 Coll. and amended by the Decree of the Minister of Foreign Affairs No. 81/1985 Coll.
  - 3) The Nice Convention on International Classification of Goods and Services for the Purposes of Mark Registration from June 15, 1957; revised in Stockholm on July 14, 1967 and in Gent on May 13, 1977, promulgated by the Decree of the Minister of Foreign Affairs No. 118/1979 Coll. and amended by the Decree of the Minister of Foreign Affairs No. 77/1985 Coll.
  - 4) e.g. § 69 and 259 of the Commercial Code, § 460 to 487 of the Civil Code, § 12 to 17 of the Act No. 111/1990 Coll. on State Owned Enterprise as amended
  - 5) § 508 and following of the Civil Code
  - 6) § 151a and following of the Civil Code  
§ 297 and following of the Commercial Code
  - 7) Paris Convention on the Industrial Property Protection from March 20, 1883, revised in Brussels on December 14, 1900; in Washington, D.C. on June 2, 1911; in Haag on November 6, 1925; in London on June 2, 1911; in Lisbon on October 31, 1959 and in Stockholm on June 14, 1967, promulgated by the Decree of the Minister of Foreign Affairs No. 64/1975 Coll. and amended by the Decree of the Minister of Foreign Affairs No. 81/1985 Coll.
  - 8) § 40 of the Act No. 237 Coll. on Patent Representatives amended by article IV of the Act of the National Council of the Slovak Republic No. 90/1993 Coll. on Measures in the Field of Industrial Property Law.
  - 9) Madrid Convention on International Registration of Manufacturing or Trademarks from April 14, 1891; revised in Brussels on December 14, 1900; in Washington, D.C. on June 2, 1911; in Haag on November 6, 1925; in London on June 2, 1934; in Nice on June 15, 1957 and in Stockholm on July 14, 1967 promulgated by the Decree of the Minister of Foreign Affairs No. 65/1975 Coll. amended by the Decree of the Minister of Foreign Affairs No. 78/1985 Coll.
  - 10) Act No. 71/1967 Coll. On Administrative Proceedings (the Administrative Code).