



TRADEMARKS IN GREECE

Trademarks Law 4679/2020

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The new Trademarks Law 4679/2020 implements the Directive 2015/2436/EC (approximation of the laws of the Member States relating to trademarks) and the Directive 2004/48/EC (enforcement of intellectual property rights), replacing the previous Trademark Law 4072/2012.

We hereunder summarize the changes;

1. New types of Trademarks (Article 2)

The Law introduces new types of trademarks, such as position, sound, shape, pattern, motion, multimedia and hologram marks, providing the specifications for their registration. Guarantee and certification trademarks are regulated in articles 56-70.

2. Abolishment of the ex officio examination of relative grounds for refusal (Article 5)

The ex officio examination of relative grounds for refusal by the Examiners of the Greek Trademark Office is abolished; the Examiners will notify third parties which, in their view, could have an interest to oppose the application.

3. Acts which the proprietor may prohibit (Article 7)

The law lists in more detail the acts the proprietor can prohibit. The trademark registration confers to its proprietor the right to prohibit the use of an identical or similar sign for identical or similar goods that is liable to cause confusion and in particular to prohibit the following:

- affixing the sign to the goods or to the packaging
- offering of the goods or putting them on the market or stocking them for those purposes or offering or supplying services thereunder with the sign
- importing or exporting the goods under the sign
- using the sign as a trade or company name or part of a trade or company name
- using the sign on business papers and in advertising, including social media
- using the sign in illegitimate comparative advertising

The list is not exhaustive.

In paragraph 5 the Law introduces a special provision that empowers the proprietor to prevent third parties from bringing goods in the course of trade into Greece, when such goods, packaging included, come from third countries and bear without authorization a trademark which is identical to the trademark registered for such goods or which cannot be distinguished in its essential aspects from that trademark. This applies regardless of the Customs status of the infringing products.

4. Prohibition of preparatory acts in relation to the use of packaging or other means (Article 8)

The proprietor can prohibit preparatory acts, in the course of trade, in relation to the use of packaging or other means and in particular to prohibit:

- The affixing of a sign identical with or similar to a trademark on packaging, labels, tags, security

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- or authenticity features or devices, or any other means to which the mark may be affixed
- the offering or placing on the market or stocking for those purposes or importing or exporting packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark is affixed.

5. Reproduction of trademarks in dictionaries (Article 9)

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The proprietor can request that the reproduction of the trademark in a dictionary, encyclopedia or similar reference work is accompanied by an indication that it is a registered trademark.

6. The right to prohibit the use of a trademark registered in the name of an agent or representative without the proprietor's consent (Article 10)

If the trademark is filed in the name of the proprietor's representative without authorization, the proprietor can;

- Appeal against the use of the trademark
- File a lawsuit requesting the assignment of the trademark
- Apply for the invalidation of the trademark

7. Introduction of a cooling-off period in opposition proceedings (Articles 25- 27)

The new law introduces the concept of the cooling-off period. The parties have to file a joint request at the hearing and a minimum period of two months is granted in order to explore the possibility of a friendly settlement.

8. Proof of use (Article 28)

The objection of the proof of use has to be raised at the hearing of the opposition otherwise it will be inadmissible. The claimant is granted at least 30 calendar days in order to submit material proving the use of the earlier mark along with a supporting writ. The defendant is granted at least 25 calendar days starting on the day after the aforementioned deadline expired in order to evaluate the proof material and submit a writ. Within 3 calendar days following the expiration of the second deadline, both parties submit their rebuttals. The Administrative Trademark Committee can rely on facts that are so well-known, that no doubt remains that they are true.

9. Mediation Proceedings (Article 31)

In light of the Mediation Law 4640/2019, the trademark disputes can be submitted to mediation.

10. New defense grounds in infringement proceedings (Articles 38, 40 and 42)

The law regulates two new defense grounds in trademark infringement proceedings that are brought before Civil Courts;

- the counterclaim for revocation or invalidity
- the objection of non-use of the earlier mark that form the grounds of the claim.

The claim for revocation or invalidity can only be brought as a counterclaim and the defendant has to notify the Trademarks Registry the latest by the date of the court hearing, otherwise the action is inadmissible. Additionally, once the infringement action has been filed by the claimant, the defendant can no longer challenge the validity of the trademark by filing a separate action before the Trademarks

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Registry. If the action has been filed before the filing of the civil claim, the court has the discretion to suspend the proceedings brought before it, ordering provisional measures. The defendant has the same right in interim injunction proceedings.

Regarding the objection of non-use of the earlier mark, the defendant has the right within 30 days from the date the civil claim was served to file before the competent court and serve to the claimant a special claim, requesting that the latter proves use of the earlier mark. The defendant has the same right in interim injunction proceedings, where he can submit the objection orally.

The burden of proof in revocation proceedings is put on the proprietor of the contested trademark (Article 50).

11. Publication of decisions, on social media (Article 46)

The proprietor can request to have the full court decision or parts thereof published on social media.

12. Jurisdiction of Civil Courts in appeal proceedings relating to invalidation/revocation (Article 47)

The Civil Courts have jurisdiction in appeals regarding the invalidation and the revocation of the trademarks, while the Administrative Courts retain the jurisdiction over the appeals on other decisions issued by the Trademarks Committee.

13. Changes in fees (Article 87)

The law brings adjustments to the official fees.

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