

DECREE
No. 97 of 20th February 2004
implementing the Act on Trade Marks

The Industrial Property Office stipulates according to Section 53 of the Act No. 441/2003 Coll., on trade marks and on changes of the Act No. 6/2002 Coll., on courts, judges, lay judges and state administration of courts and on changes of some other Acts (Act on Courts and Judges), as amended by later regulations, (Trade Mark Act), (hereafter referred to as the „Act“):

PART ONE
TRADE MARKS

Section 1
Trade mark application
(To Section 19 of the Act)

(1) A trade mark application (hereafter referred to as the “application”) shall also state:

- a) the information whether a sign is to be entered in the Register of trade marks (hereafter referred to as the “Register”) in normal script or in graphical form, or whether it concerns a figurative designation and/or a three-dimensional designation; if the designation contains the data in another script than the Roman alphabet, the applicant shall provide transcription of this data into the Roman alphabet,
- b) the information whether a sign is created only by colour or by combination of colours including the name or number of colours stating the name of the used pattern book of colours.

(2) Unless the sign applied for registration is in normal script, the applicant shall attach three representations of the designation, size A8 to A4, which are able to reproduce the sign clearly and in all details; if the application is filed in electronic form signed electronically according to special legal regulation¹, the applicant shall attach one representation.

(3) In the application, the Industrial Property Office (hereafter referred to as the “Office”) shall mark the date of its filing and assign the file number.

(4) Unless the administrative fee according to Section 19 paragraph 3 of the Act is paid within the set period, the Office shall inform the applicant that the application is considered not filed for that reason.

¹ Act No. 227/2000 Coll., on electronic signature, as amended by later regulations.

Section 2
Observations
(To Section 24 of the Act)

Observations relating to the application shall contain:

- a) the first name and surname, address of permanent residence or, as appropriate, address for service of a natural person or a business corporation or, as appropriate, another name and seat of a legal entity (hereafter referred to as “data on identity”), which applied the observations,
- b) the data about the application file number, including the data on identity of the applicant (hereafter referred to as the “data on the application”),
- c) factual justification of observations,
- d) signature.

Section 3
Opposition
(To Section 25 of the Act)

(1) Opposition against registration of a trade mark in the Register shall contain:

- a) the data on identity of a person, who files opposition (hereafter referred to as the “opponent”),
- b) the data on the application, against which opposition is directed,
- c) identification of goods or services, to which opposition relates, or the information that opposition related to all goods or services mentioned in the application,
- d) factual justification of opposition,
- e) what the opponent claims,
- f) signature.

(2) The opponent shall prove justification of his filing by evidences enabling discussions about each of opposition.

(3) Opposition, including evidences, shall be submitted in two copies.

Section 4
Amendment of an application or a registered trade mark
(To Section 27 par. 2 and 4 of the Act)

The request for amendment of an application or a registered trade mark shall contain:

- a) the data on the application or the data on the application file number or the registration number and the data on identity of the trade mark proprietor (hereafter referred to as the “data on the trade mark”),
- b) required amendment,
- c) signature.

Section 5
Division of an application
(To Section 27 par. 5 of the Act)

The request for division of an application shall contain:

- a) the data on the application,
- b) the information, how the applicant requires to divide the application together with the list of goods or services, which are the subject matter of the divided application, stating the order of classes according to international classification², together with the respective class number, and stating the priority date for each of divided applications,
- c) signature.

Section 6
Change of the proprietor
(To Section 15 and 16 of the Act)

(1) The request for entry of a change of the trade mark proprietor in the Register shall contain:

- a) the data on the application or the data on the trade mark,
- b) the data on identity of the trade mark assignee,
- c) the information, whether the trade mark is assigned or whether it devolves for all goods or services, for which it is registered, or only for some of them stated in the order of classes according to international classification², together with the respective class number,
- d) signature.

(2) In case of assignment of a trade mark, the request shall be accompanied by the contract of assignment, or by an extract from the contract of assignment, or, as appropriate, by another document evidencing the change of the trade mark proprietor; in case of transfer, the request shall be accompanied by a document on the trade mark transfer. If the document on

² Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks dated 15 June 1957, revised in Stockholm on 14 July 1967 and in Geneva on 13 May 1977, published under No. 118/1979 Coll., as amended by the Decree No. 77/1985 Coll.

assignment or, as appropriate, transfer of a trade mark is made in another than Czech language, the Office may ask for its translation.

(3) In the request for registration of assignment or transfer of the application, provisions of paragraphs 1 and 2 shall apply *mutatis mutandis*.

(4) The request for entry of a change of the trade mark proprietor according to Section 16 shall be accompanied by the final and conclusive decision of the court in the case of a change of the trade mark proprietor.

Section 7
Other rights
(To Section 17 of the Act)

(1) The request for entry of a security in the trade mark, enforcement of a decision or execution, bankruptcy proceedings or compulsory settlement proceedings in the Register shall contain:

- a) the data on the trade mark,
- b) the data on identity of the entitled person,
- c) signature.

(2) The request for registration of a security in the trade mark shall be accompanied by the security agreement, decision of court or administrative office.

(3) The request for registration of enforcement of a decision or execution shall be accompanied by the final and conclusive decision of court, administrative office, or by the writ of execution.

(4) The request for registration of bankruptcy proceedings or compulsory settlement proceedings shall be accompanied by the court decision.

(5) If the document evidencing other rights is submitted in another than the Czech language, the Office may ask for its translation.

Section 8
Licence
(To Section 18 of the Act)

(1) The request for entry of a licence agreement in the Register shall contain:

- a) the data on the trade mark,
- b) the data on identity of the licensor,
- c) the data on identity of the licensee,
- d) identification of goods or services, to which the licence agreement relates, or the information that the licence agreement relates to all goods or services,
- e) the information, whether the licence is exclusive or non-exclusive,
- f) signature.

(2) The request for entry of the licence agreement in the Register shall be accompanied by the licence agreement or another document evidencing the grant of the licence. If the licence agreement or another document is in another than the Czech language, the Office may ask for their translation.

Section 9
Renewal of registration of a trade mark
(To Section 29 of the Act)

(1) The request for renewal of registration of a trade mark shall contain:

- a) the data on the trade mark,
- b) signature.

(2) If the request for renewal of registration of a trade mark includes the request for limitation of the list of goods or services, for which the trade mark is to be renewed, the trade mark proprietor shall be obliged to state the enumeration of goods or services, to which the list is limited, or the list of goods or services, which are to be deleted from the list.

Section 10
Proposal for revocation or declaration of invalidity
(To Section 34 of the Act)

(1) The proposal for revocation or declaration of invalidity shall contain:

- a) the data on the trade mark,
- b) the data on identity of the proponent,
- c) identification of goods or services, to which the proposal for revocation or declaration of invalidity of a trade mark relates, or the information that the proposal relates to all goods or services,
- d) factual justification of the proposal,
- e) what the proponent claims,
- f) signature.

(2) Proposal for revocation or declaration of invalidity, including evidences, shall be submitted in two copies.

(3) The proponent shall prove justification of the proposal for revocation or declaration of invalidity by evidences enabling discussions about the proposal.

Section 11
Register
(To Section 44 of the Act)

(1) The Register shall contain:

- a) the application file number,
- b) the trade mark registration number,
- c) the date of filing of the application,
- d) the date of origination of the priority right,

- e) the date of publication of the application in the Official Journal or, in case of conversion of a Community trade mark into a national trade mark, the date of its publication in the Official Journal of the Office for Harmonization in the Internal Market (Trade marks and Designs),
- f) the date of entry of the trade mark in the Register,
- g) the wording or representation of the trade mark; if the trade mark contains the data in another script than the Roman alphabet and the applicant stated this data in the application, transcription of this data into the Roman alphabet,
- h) the information, whether the trade mark is created only by colour or by combination of colours, including the name or number of colours, stating the name of the used pattern book of colours,
- i) classes of figurative elements of the trade mark³,
- j) the data on identity of the trade mark proprietor,
- k) the type of the trade mark,
- l) goods or services, for which the trade mark is registered, ordered by classes of international classification², together with the respective class number,
- m) limitation of the scope of protection,
- n) assignments or transfers of the trade mark, including the data on identity of the acquirer,
- o) other rights to the trade mark and the data on identity of the entitled person,
- p) licence agreements to the trade mark and the data on identity of the licensee,
- q) dates of trade mark registration renewals,
- r) the data on identity of members or partners of a legal entity or participants in an association of persons entitled to use a collective trade mark,
- s) the data on identity of a representative of the applicant or the proprietor,
- t) revocation of the trade mark, declaration of invalidity of the trade mark or another termination of rights to the trade mark, including waiver of a right to the trade mark,
- u) other relevant data determined by the Office.

(2) The Register is made accessible in electronic form also through the public administration portal.

Section 12

Request for international registration

(To Section 47 of the Act)

(1) If a trade mark is entered in the Register, the request for international registration of a trade mark shall contain:

- a) the data on the trade mark,
- b) the wording or representation of the trade mark, which is identical with the wording or representation stated in the Register; if the trade mark is submitted for registration in another script than the Roman alphabet or if it contains other than Arabic or Roman numerals, its transcription into the Roman alphabet, which shall be governed by rules

³ Vienna Agreement Establishing the International Classification of Figurative Elements of Marks dated 12 June 1973, completed on 1.10.1985.

- of the French or English pronunciation according to the type of the international application⁴, and transcription into Arabic numerals shall be performed,
- c) the data on identity of the applicant, which must correspond with the data on identity of the trade mark proprietor entered in the Register, or the data on the representative,
 - d) the list of goods or services, which may not be longer than the list of goods or services, for which the trade mark is entered in the Register, in exact translation into the French or English language according to the type of the international application⁴, ordered by classes of international classification, together with the respective number of this classification,
 - e) the list of contracting parties of the international treaty⁴, for which protection is required,
 - f) the method of payment of fees for international registration according to the international treaty⁴, the data on identity of the payer or, as appropriate, the number of confirmation from the World Intellectual Property Organization with the seat in Geneva (hereafter referred to as the “International Bureau”) about payment that has already been made,
 - g) if the trade mark is submitted for registration in the colour version, enumeration of used colours in French or English according to the type of the international application⁴; if the trade mark is created only by colour or by combination of colours, the information about this fact,
 - h) signature,
 - i) other elements required by the international treaty⁴.

(2) Unless the trade mark has already been entered in the Register, the request for international registration of a trade mark shall contain the data on the application, the date of its filing with the Office and the data stated in paragraph 1 letter b) to i).

(3) If the request for international registration of a trade mark is in another than normal script, the applicant shall attach three representations of the trade mark submitted for registration, whose minimum size shall be 15 x 15 mm and the maximum size 80 x 80 mm. The sign submitted for registration, including the colour version, must be identical with the sign stated in the application or with the trade mark entered in the Register.

Section 13

Request for entry of changes relating to international registration in the international Register of trade marks

(To Section 47 of the Act)

The request relating to each individual change shall contain:

- a) the number of the international trade mark,
- b) the file number of the international trade mark provided that it was assigned,

⁴ Madrid Agreement Concerning the International Registration of Marks dated 14 April 1891, revised in Brussels on 14 December 1900, in Washington on 2 June 1911, in Hague on 6 November 1925, in London on 2 June 1934, in Nice on 15 June 1957 and in Stockholm on 14 July 1967, published under No. 65/1975 Coll., as amended by regulation No. 78/1985 Coll., and Protocol to Madrid Agreement Concerning the International Registration of Marks negotiated in Madrid on 27 June 1989, published under No. 248/1996 Coll.

- c) the data on identity of the international trade mark proprietor,
- d) the information about the required transaction,
- e) the method of payment of fees for transaction according to the international treaty⁴, the data on identity of the payer or, as appropriate, the number of confirmation from the International Bureau about payment that has already been made,
- f) other elements required by the international treaty⁴,
- g) signature.

Section 14

Community trade mark

(To Section 49 and Section 50 par. 1 letter d) of the Act)

(1) The costs for delivery of the Community trade mark application⁵ to the Office for Harmonization in the Internal Market (Trade marks and Designs) are set in amount of 500.- CZK.

(2) If the request for commencement of the national procedure for conversion of a Community trade mark application or a Community trade mark into a national trade mark application is in another than verbal version, the applicant shall attach three representations of the trade mark submitted for registration, which are able to reproduce the trade mark clearly and in all details, size A8 to A4; if the request is filed in electronic form signed electronically according to special legal regulation¹, the applicant shall attach one representation.

PART TWO ENTRY INTO FORCE

Section 15

This regulation shall enter into force on 1 April 2004, except for provisions of Section 14, which shall come into force on the date of entering in force of the treaty on accession of the Czech Republic to the European Union.

⁵ Council Regulation (EC) No. 40/94 of 20 December 1993, on the Community trade mark; Council Regulation (EC) No. 3288/1994 of 22 December 1994; and Council Regulation (EC) No. 1992/2003 of 27.10.2003.