

REGULATION
on the Drafting, Filing and Examination of Applications for the Registration of Marks
and Geographical Indications

(Published in State Gazette (SG) No. 9/01.02.2000; amended, No.14/14 February 2006;
amended, No. 73/11 September 2007)

Chapter I - GENERAL PROVISIONS

Art.1. This Regulation governs the procedures of drafting, filing and examination at the Patent Office of applications for the registration of marks and geographical indications, hereinafter referred to as “the applications”.

Art.2 (1) (*amended, SG No. 73/2007*) Applications for the registration of marks or geographical indications shall be filed with the Patent Office directly or by post or by facsimile or electronic copy communicating means.

(2) (*amended, SG No. 73/2007*) If an application is filed by facsimile or electronic copy communicating means, the original copy thereof shall be received at the Patent Office within one month following receipt of the facsimile.

(3) (*suppl. SG No. 14/2006*) An application shall be filed in one type-written or printed copy, using the respective standard form of the Patent Office.

Art.3 (1) (*amended, SG No. 14/2006*) If the applicant is a natural person, the application shall contain an indication of his full name, the State he is a national of or the State he has a permanent residence in, and his address.

(2) If the applicant is a legal person, the application shall contain an indication of the registered name and kind thereof in accordance with the judicial registration, the State under the law of which the registration has been effected, and the address.

(3) If the applicants are more than one, the data of paragraphs (1) and (2) shall be indicated with regard to each applicant.

Art.4 (1) The application shall be signed by the applicant or by his industrial property representative, hereinafter referred to as “the representative”. Where the applicant is a legal person, the application shall be signed by the legal representative thereof.

(2) If the applicant is a legal person or a private trader, a seal shall be affixed to the application too.

Art.5 (1) Where there is a representative or a patent specialist authorized under paragraph (3) of the Regulation on Industrial Property Representatives adopted by Ordinance No.137/1993 of the Council of Ministers (Publ. State Gazette No. 65/1993, amend. No. 86/1994 and No. 41/1997), the application shall be accompanied by a power of attorney.

(2) The power of attorney shall contain data identifying the applicant as per Art. 3, data on the representative as per Art. 6, the application incoming number and date and/or data on the mark or geographical indication, as well as an indication of the actions that the representative is authorized to perform. If the authorized person is a patent specialist, the power of attorney shall contain also an indication of the date and number of the labor contract.

(3) If there is more than one applicant in a mark registration application, one of them being a Bulgarian natural or legal person, the authorization of a representative shall not be mandatory. In such cases a correspondence address in the Republic of Bulgaria shall be given.

(4) Applicants may file the power of attorney using the standard form of the Patent Office or any other form.

(5) If the power of attorney is in a language other than Bulgarian, it shall be legalized at the Consular Department of the Ministry of Foreign Affairs of the Republic of Bulgaria, except for cases where no legalization is required on the basis of reciprocity.

(6) If the power of attorney authorizes the representative with regard to several applications, a copy thereof shall be furnished for each application. The fact of such copies being true copies of the original power of attorney shall be certified by the representative's signature.

(7) (*new, SG No. 73/2007*) If a second industrial property representative is authorized in the course of the examination process, any correspondence shall be conducted with both representatives, unless there is an explicit revocation of the power of the first representative.

(8) (*former paragraph 7, SG No. 73/2007*) If the representative is re-authorized, the authorization shall be furnished proving that the person who has authorized the representative has the power to do so. This document or a certified copy thereof as per paragraph (6) shall be attached to the representative's power of attorney.

(9) (*former paragraph 8, SG No. 73/2007*) The Patent Office shall be duly informed in writing of any intention to revoke authorization.

(10) (*former paragraph 9, SG No. 73/2007*) A special authorization is required for withdrawal of the application.

Art.6. The application shall contain an indication of the full name and address of the appointed representative, if any.

Art.7 (1) The application may contain still another correspondence address in the Republic of Bulgaria.

(2) If the applicants are more than one, they may give a common correspondence address. If no common address is given, all correspondence shall be sent to the address of the applicant first named in the application.

Art.8 (1) (*amended, SG No. 73/2007*) The filing, examination and publication fees shall be paid on filing of the application or within the time limit referred to in Art. 18(2) or Art. 32(2).

(2) The fees for registration, user entry, certificate issue and publication shall be paid within the time limit referred to in Art. 25(1) or Art. 39(1) and (2).

(3) (*new, SG No. 73/2007*) The fee for advancement of the substantive examination shall be paid on filing of an advancement request.

(4) (*former paragraph 3, SG No. 73/2007*) Payment of fees may be effected either by cash or by bank payment.

(5) (*former paragraph 4, SG No. 73/2007*) A document certifying payment of the prescribed fees shall be furnished, which shall contain an indication of:

(i) (*amended, SG No. 73/2007*) data on the applicant and the representative;

(ii) data on the mark or geographical indication, for which registration is sought;

(iii) the items of the Tariff of Fees collected by the Patent Office by virtue of Art. 4 of the Law on Marks and Geographical Indications, for which payment was effected.

Art.9 (1) Any correspondence addressed to the Patent Office shall contain the incoming number of the application it relates to, and the signature of the applicant or his representative.

(2) Correspondence sent as a facsimile shall be considered to have been received, provided that the original copy thereof is received at the Patent Office within one month following receipt of the facsimile.

(3) If the correspondence contains a term for the applicant to react, such correspondence shall be sent with an advice of delivery certifying the date of receipt thereof.

Chapter II - MARKS

Section I – Application

Art.10 (1) An application shall contain:

- (i) request for registration;
 - (ii) data identifying the applicant;
 - (iii) data identifying the representative, if any;
 - (iv) correspondence address, if any;
 - (v) claim of priority, if any;
 - (vi) indication to the effect that the mark is a three-dimensional or sound mark;
 - (vii) claim of color, if any;
 - (viii) representation of the mark;
 - (ix) (*new, SG No. 14/2006*) description of the mark and/or indication of its word elements and the manner of drawing them – with Cyrillic or Latin letters;
 - (x) (*former item (ix), SG No. 14/2006*) list of the goods and/or services and their classes under the International Classification;
 - (xi) (*former item (ix), SG No. 14/2006*) signature.
- (2) The application shall be accompanied by:
- 1. power of attorney;
 - 2. priority document;
 - 3. document certifying payment of fees;
 - 4. further copies of the mark representation;
 - 5. rules for the use of collective or certification marks, where the application relates to such a mark.

Art.11 (1) Where Convention priority is claimed, the application shall contain an indication of the date and number of the first application and the country in which it was filed.

(2) Where exhibition priority is claimed, the application shall contain an indication of the date of the display and the country in which the exhibition was held.

Art.12 (1) Where there is a claim of colour or colours, the application shall contain a description of the colour or colours, as well as of the parts of the mark each colour relates to.

(2) The colours as described shall correspond to the colours in the mark representation.

Art.13 (1) The representation of the mark shall be black-and-white, clear and capable of reproduction, and shall be sized 7/7 cm.

(2) Where colour is claimed, the mark representation shall be in colour.

(3) Where the mark is three-dimensional, the representation shall display its three-dimensional character. If one view is incapable of giving an idea of the overall form, the representation shall comprise still other views.

Art.14 (1) The list of goods and/or services shall contain an indication of the names of the goods and/or services for which registration is requested, such goods and/or services being grouped in accordance with the International Classification classes.

(2) Each group of goods and/or services shall be preceded by the number of the respective International Classification class. The list of goods and/or services shall be presented in an ascending order of classes.

(3) Goods and/or services shall be described in terms as close to the International Classification terminology as possible.

Art.15 (1) The priority document referred to in Art. 34(2)(v) of the Law on Marks and Geographical Indications represents a copy of the first application, said copy being certified by the competent authority of the respective State.

(2) The document referred to in Art. 34(4)(iv) of the Law on Marks and Geographical Indications represents a document issued by the exhibition officials and certifying participation in the exhibition. The document shall contain also an indication of the mark borne by the displayed goods.

Art.16 (1) The application shall be accompanied by two black-and-white copies of the mark representation.

(2) Where there is a claim of colour, the application shall be accompanied further by two colour copies of the mark representation.

Section II - Examination

Art.17(1) (*amended, SG No. 73/2007*) Every application shall be checked for compliance with the provisions of Art. 33 of the Law on Marks and Geographical Indications for the purpose of according it a filing date.

(2) Where the application meets the requirements of paragraph (1), its incoming number and filing date shall be recorded in the incoming register of mark applications and then marked on the application itself.

(3) Where an application meeting the requirements of paragraph (1) is filed as a facsimile, and the original copy is received after expiry of the term referred to in Art. 2(2), the date on which the original copy is received at the Patent Office shall be considered to be the filing date.

(4) Where the application documents are filed in a language other than Bulgarian, and the Bulgarian translation thereof is not filed within the period of three months as prescribed by Art. 33(2) of the Law on Marks and Geographical Indications, the filing date of the application shall be the date on which the translation is received at the Patent Office, provided that the requirements of paragraph (1) are met.

Art.17a (*new, SG No. 14/2006*) (1) An application with an accorded filing date shall be checked as to whether it is accompanied by the document certifying payment of fees according to Art. 32(6) of the Law on Marks and Geographical Indications.

(2) Where the document referred to in paragraph (1) is not furnished, the applicant shall be given three months to correct the deficiency.

(3) In case of failure to pay the fees within the term prescribed in paragraph (2), the application shall be considered withdrawn.

Art.18 (1) (*new, SG No. 14/2006*) Within two months after the document certifying payment of fees is furnished, the application shall be examined as to whether:

(i) the applicant meets the requirements of Art. 2 of the Law on Marks and Geographical Indications;

(ii) the application meets the requirements of Art. 32(2) of the Law on Marks and Geographical Indications;

(iii) the rules for the use of a collective or certification mark meet the requirements of Art. 29(2), respectively Art. 30(2) of the Law on Marks and Geographical Indications;

(iv) the application meets the requirements of Articles 10 to 16;

(v) the list of goods and/or services and the classes meet the requirements of Art. 14.

(2) In case of deficiencies, the applicant shall be notified accordingly and allowed three months within which to remedy them.

(3) (*amended, SG No. 73/2007*) Where the application is divided within the term referred to in paragraph (2), a divisional application shall be filed and filing, examination and publication fees shall be paid. The subject-matter of the divisional application may not extend beyond the content of the original application.

(4) Where it is established that the goods and/or services are incorrectly grouped or classified, they shall be regrouped or reclassified, and the applicant shall pay fees for any new class within the term under paragraph (2).

(5) Where the goods and/or services are obscure or described in obscure terms, the applicant shall explain, specify and correct them without extending beyond the scope of the goods and/or services applied for.

(6) (*new, SG No. 14/2006*) Where priority is claimed and no priority document is furnished within the term under Art. 34 of the Law on Marks and Geographical Indications or no priority

fee is paid or the priority document does not satisfy the requirements of Art. 15, the applicant shall be informed that the application priority date shall be the date of filing it with the Patent Office.

(7) (*former paragraph 6, SG No. 14/2006*) If the applicant fails to respond or remedy the deficiencies within the period provided for in paragraph (2), or makes an ill-founded objection, the examiner shall take a decision to discontinue the proceedings.

(8) (*new, SG No. 73/2007*) Where no power of attorney is furnished within the term under paragraph (2), or the power of attorney does not satisfy the requirements of Art. 5(2) and the applicant is a person having permanent address or seat in the Republic of Bulgaria, the proceedings in the application shall continue, any correspondence being conducted with the applicant directly.

Art. 18a. (*new, SG No. 14/2006*) (1) Any application that meets the formal regularity requirements shall be published in the Official Bulletin of the Patent Office within one month following the formal examination thereof.

(2) Any person may object to the registration of a mark within two months after the publication on the grounds of Articles 11 and 12 of the Law on Marks and Geographical Indications.

Art. 18b. (*new, SG No. 73/2007*) Data concerning the Bulletin number in which the publication was effected as well as the publication date shall be recorded in the file of the mark.

Art.19. (*amended, SG No. 14/2006*) (*Suppl. SG No. 73/2007*) Within one year following expiry of the term under Art. 18(2), any application, regardless of whether there is an objection against it, shall be subjected to substantive examination according to the order of publication thereof.

(2) The examination process shall cover the following stages:

- (i) search of the objection, if any;
- (ii) search of the mark under Art. 11 of the Law on Marks and Geographical Indications;
- (iii) search of the mark under Art. 12 and Art. 31(3) of the Law on Marks and Geographical Indications;
- (iv) analysis of the search results;
- (v) notification of rejection, if reasoned;
- (vi) decision on the application;
- (vii) notifying the person who lodged the objection of the opinion on the objection, if requested.

Art. 19a. (*new, SG No. 73/2007*) (1) The substantive examination may be advanced at the applicant's request and on payment of the fee referred to in Art.8(3).

(2) The substantive examination under paragraph (1) shall be conducted according to the order of receipt of the request.

(3) The substantive examination shall start at least one month after expiry of the later of the two terms, respectively the term under Art. 36b(1) of the Law on Marks and Geographical Indications and the six-month term following the priority date of the application.

Art.20. (*suppl. SG No. 73/2007*) Search under Art. 11 of the Law on Marks and Geographical Indications shall be conducted on the basis of:

1. coats of arms, flags or other emblems, full or abbreviated official names of States or intergovernmental organizations;
2. official Bulgarian or international control and warranty signs and stamps;
3. (*deleted, SG No. 14/2006*);
4. list and catalogue kept by the Ministry of Culture of historical and cultural monuments of the Republic of Bulgaria;
5. (*deleted, SG No. 14/2006*);

6. lists kept by the World Health Organization of the recommended free names of pharmaceutical substances;
7. vocabularies, encyclopaedia and other reference books.

Art.21. *(amended, SG No. 73/2007)* Search under Articles 12 and 31(3) of the Law on Marks and Geographical Indications shall be carried out in the files of: marks and geographical indications applied for or registered via the national route; international mark registrations under the Madrid Agreement and the Protocol in which the Republic of Bulgaria is a designated country; appellations of origin registered under the Lisbon Agreement; geographical indications and designations of origin applied for or registered under Council Regulation (EC) No. 510/2006; Community mark applications and registrations; well-known marks and marks with a reputation in the territory of the Republic of Bulgaria that are recorded in the Register.

Art.22. The analysis shall include assessment of the meaning of the mark, of the drawings or figures, and a comparison of the mark applied for with those found as a result of the search.

Art.23 (1) Where the search results analysis proves inadmissibility of registration with regard to all or part of the goods and/or services, a notice of rejection shall be sent to the applicant.
(2) The notice shall contain all reasons for the rejection, and the applicant shall be allowed three months within which to object.

Art.24 *((deleted, SG No. 14/2006)).*

Art.25 (1) Where, as a result of the examination as to substance, the mark is found to comply with the provisions of the Law on Marks and Geographical Indications, the applicant shall be notified accordingly and allowed one month to pay the fees for registration, certificate issue and publication.

(2) If the prescribed fees are paid within the term referred to in paragraph (1), a decision shall be taken to register the mark, said decision containing also the registration number of the mark as recorded in the State Register of Marks.

(3) In case of failure to pay the prescribed fees within the term referred to in paragraph (1), the application shall be deemed to be withdrawn.

(4) A decision to reject registration shall be taken if, as a result of the examination, registration is found inadmissible and, within the term under Art. 23(2), the applicant:

(i) fails to respond;

(ii) makes an ill-founded objection;

(iii) fails to produce evidence of acquired distinctness under Art. 11(2) of the Law on Marks and Geographical Indications;

iv) fails to furnish the consent of the relevant competent authority under Art. 11(3) of the Law on Marks and Geographical Indications;

(v) does not renounce the exclusive right in an element under Art. 37(3) of the Law on Marks and Geographical Indications;

(vi) does not furnish the consent of the holder of the prior mark under Art. 12(4) of the Law on Marks and Geographical Indications;

(vii) does not restrict the list of goods and/or services.

(5) The decision referred to in paragraphs (2) or (4) shall be taken by the state examiner carrying out the examination as to substance.

(6) The decisions under paragraph (4) shall be taken within one month following expiry of the term referred to in Art. 23(2)

Chapter III - GEOGRAPHICAL INDICATIONS

Section I - Application

Art.26 (1) An application for the registration of a geographical indication and/or user entry shall contain:

- (i) registration and/or user entry request form;
- (ii) data identifying the applicant and/or the user;
- (iii) data identifying the representative, if any;
- (iv) correspondence address, if any;
- (v) the appellation of origin or the indication of source;
- (vi) designation of the goods;
- (vii) designation of the geographical locality borders;
- (viii) description of the goods;
- (ix) data on the registration of the geographical indication in the country of origin;
- (x) signature;

(2) The application shall be accompanied by:

- (i) the documents referred to in Art. 60(4) and/or Art. 63(3) of the Law on Marks and Geographical Indications;
- (ii) copy of the document by virtue of which the geographical indication enjoys protection in the country of origin;
- (iii) power of attorney;
- (iv) document certifying payment of the prescribed fees.

Art.27. The application shall contain an indication of the appellation of origin or of the indication of source for which registration is sought. This is the name of the country or of the region or locality in that country, and the generic name or the name of the line of the goods may be added thereto.

Art.28. The application shall contain a concrete indication of the goods the geographical indication relates to.

Art.29 (1) A geographical locality means the country, the region or the particular locality in that country.

(2) The application shall contain a description of the borders of the geographical locality, and it shall be accompanied by a map or a plot with the borders marked therein.

Art.30 (1) The description of the goods shall comprise:

- (i) data on the basic physical, chemical, microbiological and/or organoleptic characteristics of the goods and, where appropriate, of the raw materials;
- (ii) a description of the traditional local method of production of the goods;
- (iii) the characteristics of the goods indicating their relationship with the geographical environment or geographical origin.

(2) Where the application is for the registration of an appellation of origin, the effect shall be describe of the natural and human factors on the properties or peculiarities of the goods.

Art.31. Where the applicant is a foreign person, the application shall contain data on the registration of the geographical indication in the country of origin.

Section II - Examination

Art.32 (1) (*amended, SG No. 73/2007*) The incoming number and the filing date of each application shall be recorded in the incoming register of geographical indications, said number and date being marked on the application itself.

(2) Every application shall be examined for compliance with the provisions of Articles 60 or 63 of the Law on Marks and Geographical Indications and Articles 26 to 31 of this Regulation. In deficiencies are ascertained, the applicant shall be notified accordingly and allowed three months within which to remedy them.

(3) If the applicant fails to remedy the deficiencies within the period under paragraph (2), the state examiner shall take a decision to discontinue the proceedings.

Art.33. *(amended, SG No. 73/2007)* Examination as to substance shall cover the following stages:

- (i) search of the geographical indication applied for under Art. 51 of the Law on Marks and Geographical Indications;
- (ii) search of the geographical indication applied for under Art. 52 of the Law on Marks and Geographical Indications;
- (iii) analysis of the search results;
- (iv) notice of rejection, if reasoned;
- (v) decision on the application.

Art.34. The search as to whether the geographical indication represents an appellation of origin or an indication of source shall be carried out on the basis of the documents referred to in Articles 60(4) and 63(3) of the Law on Marks and Geographical Indications and Art. 26(2)(ii) of this Regulation.

Art.35. *(amended, SG No. 73/2007)* Search under Art. 52 of the Law on Marks and Geographical Indications shall be carried out in the files of: geographical indications, marks, plant varieties and animal breeds applied for or registered via the national route; appellations of origin registered under the Lisbon Agreement; international mark registrations under the Madrid Agreement and the Protocol; Community mark applications or registrations.

Art.36. The analysis of the search results shall be based on a comparison between the geographical indication applied for and the materials found as a result of the search.

Art.37 (1) Where the search results analysis proves inadmissibility of registration of the geographical indication applied for, a notice of rejection of registration shall be sent to the applicant.

(2) The notice under paragraph (1) shall contain all reasons for the rejection, and the applicant shall be allowed three months within which to object.

Art.38 (1) The proceedings in the application shall be discontinued at the request of the applicant, where there is a petition for the termination or invalidation of the registration of a geographical indication, or a petition for the revocation, invalidation or termination under Art. 23(1)(iii) of the Law on Marks and Geographical Indications of the registration of the cited earlier mark, or a petition for the invalidation of a plant variety or animal breed certificate.

(2) The request under paragraph (1) shall contain the incoming number of the application with regard to which discontinuation is requested, as well as the incoming number and date of the petition referred to in paragraph (1).

(3) The proceedings in the application shall be resumed at the request of the applicant on entry into effect of the decision on the respective petition, or on recording the discontinuation in the respective state register.

Art.39 (1) Where the geographical indication is found to comply with the provisions of the Law on Marks and Geographical Indications, the applicant shall be notified accordingly and allowed one month to pay the fees for registration, user entry, certificate issue and publication.

(2) Where the user entry application is found to comply with the provisions of the Law on Marks and Geographical Indications, the applicant shall be notified accordingly and allowed one month to pay the user entry, certificate issue and publication fees.

(3) If the prescribed fees are paid within the term under paragraphs (1) and (2), a decision shall be taken to effect the registration and/or the user entry, such decision containing also

the registration number of the geographical indication as recorded in the State Register of Geographical Indications.

(4) In case of failure to pay the prescribed fees within the one-month term, the application shall be deemed to be withdrawn.

(5) A decision to reject registration or user entry shall be taken if, as a result of the examination, the registration is found inadmissible and, within the term under Art. 37(2), the applicant fails to respond or makes an unfounded objection.

(6) The decision referred to in paragraphs (3) or (5) shall be taken by the state examiner carrying out the examination as to substance.

(7) The decision referred to in paragraph (5) shall be taken within one month following expiry of the term under Art. 37(2).

Chapter IV - INTERNATIONAL REGISTRATION

Art.40 (*amended, SG No. 73/2007*) (1) Within a period of two months following publication of the international registration in the Bulletin of the World Intellectual Property Organization, any person may lodge an objection against admitting its effect in the territory of the Republic of Bulgaria, subject to the provisions of Article 36b (2) and (3) of the Law on Marks and Geographical Indications.

(2) Examination as to substance under Articles 19(2) to 22 shall be carried out with regard to all international mark registrations designating the Republic of Bulgaria.

(3) Where the search results analysis shows inadmissibility of the international registration effect in the territory of the Republic of Bulgaria, a preliminary rejection shall be communicated in accordance with Art. 5 of the Madrid Agreement or Art. 5 of the Protocol.

(4) A decision to reject registration shall be taken if, as a result of the examination, registration is found inadmissible and, within the term under Art. 23(2), the applicant, through an industrial property representative authorized by him, fails to respond or makes an unfounded objection.

(5) Decisions under paragraphs (3) and (4) shall be taken by the state examiner carrying out the examination as to substance.

(6) Decisions under paragraph (4) shall be taken within one month following expiry of the term referred to in Art. 23(2).

(7) After entry into effect of the final decision on the international registration, a declaration confirming or withdrawing the preliminary rejection shall be sent to the International Bureau of the World Intellectual Property Organization.

Art.41 (1) Substitution of the national mark registration for the international registration shall be carried out at the request of the international registration holder filed with the Patent Office.

(2) The request under paragraph (1) shall contain:

- (i) the international registration number and data on the mark;
- (ii) the national registration number and data on the mark;
- (iii) data identifying the holder of the national and international registrations;
- (iv) a list of the goods and/or services for which substitution is requested.

(3) The request shall be accompanied by a document certifying payment of the prescribed fee.

(4) Substitution shall be allowed provided that identity is established between the marks, the list of goods and/or services and the holder.

(5) The Patent Office shall notify the International Bureau and the representative of the substitution effected.

Art.42 (1) (*suppl. SG No. 73/2007*) Applications for the international registration of national marks shall be filed with the Patent Office in French or in English, using the respective standard form of the International Bureau.

(2) (*suppl. SG No. 73/2007*) An application under paragraph (1) shall contain data that is identical with the national registration or application, and it shall relate to the same mark and to identical goods and/or services. Restriction of the list of goods and/or services in the application shall be permitted.

(3) The Patent Office shall check the application for compliance with the requirements of paragraph (2).

(4) The applicant shall pay a fee for the check and for forwarding the international registration application to the International Bureau.

Art.43 (1) (*amended, SG No. 73/2007*) Appellations of origin registered under the Lisbon Agreement shall be subjected to substantive examination under Art. 35.

(2) Article 38 shall apply in cases of discontinuation of the proceedings.

Art.44 (1) (*suppl. SG No. 73/2007*) Applications for the registration of registered Bulgarian appellations of origin shall be filed with the Patent Office in French or in English, using the respective standard form of the International Bureau.

(2) The application shall contain data identical with the national registration, and it shall relate to the same appellation of origin and to the same goods.

(3) The provisions of Art. 42(3) and (4) shall apply to appellations of origin too.

Chapter I – COMMUNITY MARK (*new, SG No. 73/2007*)

Art. 45 (*new, SG No. 73/2007*) All Community mark applications sent by the Office for Harmonization in the Internal Market (Marks and Designs) shall be examined by the Patent Office under Art. 19(2)(iii) and shall be forwarded back, subject to the provisions of Art. 39 of Regulation (EC) No 40/94 on the Community trade mark.

Art. 46 (*new, SG No. 73/2007*) (1) Where a Community mark is applied for through the Patent Office, the application shall be filed with the Patent Office either directly or by post, and shall be accompanied by a document certifying payment of the forwarding fee.

(2) The Patent Office shall put the receipt date on the application, insert Arabic page numbers, and notify the applicant of the receipt date, the kind and number of documents, and the date of forwarding the application.

Art. 47 (*new, SG No. 73/2007*) (1) Any Community mark registration or Community mark application transformed into a national application shall be recorded in the incoming mark applications register kept by the Patent Office under an incoming number and a date that is the same as the Community mark application date.

(2) Any application under paragraph (1) shall be examined for compliance with the requirements of Art. 72c (2) of the Law on Marks and Geographical Indications.

(3) Where it is established that the requirements of Art. 72c (2) of the Law on Marks and Geographical Indications are not satisfied, the transformation procedure shall be terminated.

(4) Where it is established that the national mark transformation of the Community mark meets the requirements of Art. 72c (2) of the Law on Marks and Geographical Indications, a check shall be conducted to establish whether:

(i) the application satisfies the requirements of Art. 32(2) of the Law on Marks and Geographical Indications;

(ii) the rules concerning the use of collective or certification marks meet the requirements of Art. 29(2), respectively Art. 30(2) of the Law on Marks and Geographical Indications;

(iii) a local industrial property representative is authorized, if the applicant has no permanent address or seat in the Republic of Bulgaria, as well as whether there is a power of attorney attached;

(iv) the list of goods and/or services complies with the requirements of Art. 14.

(5) If deficiencies are established as a result of the check, the applicant shall be notified correspondingly and allowed three months to eliminate them.

(6) Where the application is divided within the term referred to in paragraph (5), a divisional application shall be filed and filing, publication and examination fees shall be paid. The subject-matter of the divisional application may not differ from that of the original application.

(7) Where it is established that the goods and/or services are incorrectly grouped or classified, they shall be regrouped or reclassified, and the applicant shall pay fees for any new class within the term under paragraph (5).

(8) Where the goods and/or services are obscure or described in obscure terms, the applicant shall explain, specify and correct them without extending beyond the scope of the goods and/or services applied for.

(9) If the applicant fails to respond or remedy the deficiencies within the period provided for in paragraph (5), or makes an ill-founded objection, the examiner shall take a decision to discontinue the proceedings.

Art. 48 (*new, SG No. 73/2007*) Any Community mark transformed into a national application that meets the formal regularity requirements shall be published in the Official Bulletin of the Patent Office within one month following the formal examination thereof. Any person may lodge an objection within the term referred to in Art. 18a (2).

Art. 49 (*new, SG No. 73/2007*) Within one year following expiry of the term under Art. 36b (1) of the Law on Marks and Geographical Indications, any Community mark transformed into a national application shall be subjected to substantive examination according to Art. 19(2) and Articles 20 to 25.

Additional Provision

§ 1. Depending on the sign, marks may be:

1. word - where consisting of words, including the names of persons, a combination of words, letters, numerals, or a combination of letters and numerals.
2. figure - where consisting of drawings or figures.
3. three-dimensional - where consisting of the shape or of the packaging of the goods.
4. a combination of colours - where consisting of two or more colours.
5. sound - where representing a melody that is graphically presented by notes.
6. combined - where representing a combination of word and/or figure elements and/or colours. A word mark presented in a specific graphical manner is considered combined too.

Final Provisions

§ 2. This Regulation shall be issued by virtue of § 15 of the Law on Marks and Geographical Indications.

§ 3. The implementation of this Regulation shall be assigned to the President of the Patent Office.

Final Provisions

of Decree No. 200 / 30.08.2007 on the Amendment of the Regulation on the Drafting, Filing and Examination of Applications for the Registration of Marks and Geographical Indications

(published in SG No. 73/2007)

§ 4. This Regulation shall apply also to applications for the registration of marks the formal or the substantive examination of which has not been finished until the day of entry into effect of the Regulation.