



MARKET CONTROL: GREECE – BULGARIA

PROMOTING:
"STANDARDISATION / CERTIFICATION / MARKET CONTROL"
IN THE INTERREGIONAL AREAS OF THE INTERREG
COMMUNITY INITIATIVE OPERATIONAL PROGRAM

Info Day

**Brands and standards– a guarantee for
successful business**



European Territorial Cooperation Programme
Greece-Bulgaria 2007-2013
INVESTING IN OUR FUTURE

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What is a mark and how to keep it?

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Law on Marks and Geographical Indications

- Enter into force on 15.12.1999, lastly amended – 9th March 2010 (Enter into force on 10.03.2011)
 - Regulates:
- Conditions and order on registration of marks and geographical indications;
- rights, conferred by the registration;
- Protection of the rights;

FIELD OF APPLICATION

- Bulgarian natural persons and legal entities;
- Foreign citizens and legal entities from member states, parties in international treaties, where Republic of Bulgaria is party as well;
- Foreign citizens and legal entities from another countries by the conditions of reciprocity;

What is mark?

- Sign, which sets apart the goods of one individual from the competitive goods of another individual
- can be represented graphically

Types of marks

- word

Helmex

- figurative



- combined



TYPES OF MARKS

- 3 dimensional



- sound



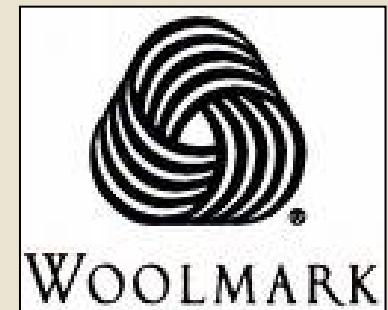
Collective marks

- Owner— partnership **legal entity**
- The mark distinguishes the goods and services of the **members** of the partnership
- It is used **only by the members** of the partnership under certain **rules**
- **Cannot be transferred**
- **The use** is not allowed to persons, which **are not members** of the partnership



Certification marks

- **Verifies characteristics of goods/services**
- **Cannot be** used by the **owner** for their goods or services
- **It is used** by **other** persons for their goods and services, with **permission** and under the **control** of the owner



Function of the mark

- Indication of origin (manufacturer or merchant)
- Advertising function
- Guarantee for quality
- Valuable intangible asset
- Direct source of income
- Pledge for ensuring of income

How to acquire the right on the mark?

- Through registration
- Filing an application
- verification of conformity with article 11
- oppositional production
- Taking of decision for registration

Prerequisites for registration

- Not to have absolute grounds for refusal (art. 11, paragraph 1)
- The mark should not interfere with other rights (relative grounds for refusal)

Who has the right to apply a brand?

Any natural person or legal entity
companies and sole traders registered
under the Commerce Act

Foundations, associations, non-profit
organisations, cooperatives, political
parties, the state

Content of the exclusive right on the mark

- Right to use
- Right to prohibit third parties to use a sign, identical or similar to the mark, for identification of identical or similar goods or services
- right to dispose

Right to Use

- Using the mark on goods or their packaging
- Merchandising goods that have the mark on them
- Storage of goods for sale or merchandising
- Offering or delivering services branded with the mark
- Importing or exporting goods branded with the mark
- Using the mark on commercial papers or advertisements

Right to Dispose

- **Establishing either an exclusive or non-exclusive license to use the mark**
- **Making deals to sell, donate, exchange the mark**
- **Providing the mark as collateral so that a pledge could be made on the mark**
- **The disposal actions may oppose to third parties if they are registered in the State Register of the Patent Office**

Limitations on Exclusive Rights

- The proprietor of a mark cannot prohibit to a third party to earnestly use within commercial activity:
 - Their name and address
 - Instructions related to the characteristics of the goods and services
 - The mark, when it is necessary to indicate the purpose of the goods and the services, and especially if they are accessories or spare parts

Depletion of the Exclusive Right

- exclusive right to a mark does not extend to the use of goods merchandised on the market in the EEA by the proprietor or with their consent

Opposing Subsequent Use

- Changes regarding the goods
- Changes regarding the packaging of goods
- Repackaging

Duration of Registration

- 10 years from the date of filing/
applying
- Possibility for renewing the registration
innumerable times – paying a fee for
continuing the registration every 10
years

Suspension of Registration

- After the date of expiry, when no renewal has been made
- After the proprietor cancels the registration – with a written declaration (if the mark is jointly owned by a couple of proprietors, the cancellation by one of them does not affect the rights of the others)
- After terminating the legal entity without succession

Suspension of Registration

- The rights over a mark, in which a GI (geographical indication) is included, are revoked when:
 - **The legal protection over the GIs is terminated**
 - **The registration of GIs is deleted**
 - **The registration as GI user by the mark's owner is cancelled**

Deleting the Registration of a Mark

- The registration of the mark does not comply with Article 2, Article 11 and Article 12
- The mark has been registered on behalf of an agent or representative of the owner without their consent
- The applicant was acting in bad faith when filing the application, which is established by a valid court decision

Deleting the Registration of a Mark

- The use of a trade mark may be prohibited by virtue of an earlier right of a third party, which may be protected by another law, in particular:
 - name and portrait right
 - copyright
 - the right of a collector/ breeder upon the name of a sort (plants) or kind (animals)
 - industrial property right
- The mark consists of or contains the company name of another person, that is registered and used in Bulgaria before the date of application for registration and is related to identical or similar goods or services

Cancelling Mark Registration

- When the mark has not been used;
- As a result from the proprietor's use or lack of use, the mark has become a common marking for the product or service for which it has been registered;
- The mark is being used in such a way that it misleads the consumers about the nature, quality or geographical origin of the goods or services;

Tools for Protection against Infringement of Trademarks and Geographical Indications

- Civil Protection – through filing infringement claims to SCC
- Administrative and Criminal Defense - through signaling the Patent Office
- Measures for Border Control



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