

## MARKS, COLLECTIVE MARKS AND TRADE NAMES

---

**Article 30** – Definitions of Marks, Collective Marks and Trade Names are as follows:

- a) “Mark” means any visible sign capable of distinguishing the goods or services of legal entities or of natural persons.
- b) “Collective Mark” means any visible sign designated as such in the application for registration and capable of distinguishing the origin or any other characteristics, including the quality, of goods or services of natural persons or of legal entities which use the sign under the control of the registered owner of the Collective Mark;
- c) “Trade Name” means the name or designation identifying and distinguishing a natural person or a legal entity.

**Article 31** – The exclusive right to use a Mark shall belong to the person who registers his Mark in accordance with the provisions of this Act.

**Article 32** – A Mark is not registrable in the following cases:

- a) If it is not capable of distinguishing the goods or service of one enterprise from those belonging to another enterprise.
- b) If it is contrary to Rules of Sharia, public order or morality.
- c) If it is likely to mislead the public or trade centers, in particular as regards the geographical origin of the goods or services concerned or their nature or characteristics.
- d) If it is identical with, or is an imitation of or contains as an element, an armorial bearing, flag or other emblem, a name or abbreviation or initials of the name of, or official sign or hallmark adopted by, any State, intergovernmental organization created under an international convention, unless authorized by the competent authority of that State or organization.
- e) If it is identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in Iran for identical or similar goods or services of another enterprise.
- f) If an identical or similar mark has been registered or become well know for services that are not similar provided that customarily there is a connection between the use of the mark and the owner of the well know mark and that its registration is likely to damage interests of the owner of the well-know mark.
- g) If it is identical with a mark registered in the name of a different proprietor with an earlier filing date or a priority right concerning the same goods or services or for goods and services that, due to connection or resemblance, is likely to deceive or cause confusion.

**Article 33** – The application for registration of a Mark shall be filed with the Industrial Property Office together with a reproduction of the Mark and a list of goods or services for which registration is requested, under the applicable class (es) of the International Classification. The applicant shall pay the prescribed application fees.

**Article 34** – If the application contains a declaration claiming priority rights under the Paris Convention for Protection of Industrial Property, of an earlier application filed by the applicant or his predecessor in title in any State party to the said Convention, provisions of Article 9 shall apply.

**Article 35** – The applicant may withdraw the application at any time while the application has not matured to registration.

**Article 36** – The Industrial Property Office shall examine the application to determine if it complies with the requirements of the present Act and, if finds it registrable, shall allow publication of the application.

**Article 37** – Any interested party may, within a maximum period of thirty day running from the publication date, lodge an opposition on the grounds that the requirements of the Article 30(a) and 32 of the present Act are not fulfilled. In this case,

1. The Industrial Property Office shall serve a copy of such opposition on the applicant, and shall allow the applicant to state his response within a period of twenty days. If the applicant insists on his application, he shall send to the Industrial Property Office a counterstatement together with the grounds on which he relies for his application. Otherwise, the application will be deemed to have been withdrawn.

2. If the applicant sends a counter-statement, the Industrial Property Office shall furnish a copy thereof to the person filing the opposition and, after taking into consideration the statements of the parties, and provisions of the present Act, shall decide whether to register or otherwise reject the Mark.

**Article 38** – After an application is published and until the registration of the Mark, the applicant has the same rights as he would have if the Mark had been registered; However, if the applicant lodges an action against an act that has been performed after publication of the application and if the defendant proves that at the time of performing the said act, the Mark had not been legally registrable, the defendant's defense shall be heard and appropriate decision will be made regarding registration or rejection of the Mark.

**Article 39** – If the Industrial Property Office finds that the conditions referred to in the present Act are duly fulfilled, the said Office shall register the Mark, issue the notice of registration of the Mark and issue to the applicant a Certificate of Registration.

**Article 40** – Rights Conferred by Registration, Duration and Renewal of Registration shall be as follows:

- a) The use of any Mark registered in Iran by any person other than the registered owner shall require the consent of the latter.
- b) The registered owner of a Mark shall have the right to institute court proceedings against any person who infringes the Mark by using, without his agreement, the Mark as aforesaid or who performs acts which make it likely that infringement will occur. This right shall extend to the use of a

Mark similar to the registered Mark and the use thereof in relation to similar goods and services that shall cause confusion.

c) The rights conferred by registration of a Mark shall not extend to acts in respect of goods and services which have been imported into Iran and put on the Iranian market by the registered owner or with his consent.

d) The validity of registration of a Mark shall be ten years from the filing date of its application for registration. This period may, at the request of its owner, be renewed for consecutive periods of ten years, upon payment of the prescribed fees. A grace period of six months running from the expiration date of the said period shall be allowed for the late payment of the renewal fee on payment of the prescribed fine.

**Article 41** – Any interested person may request the court to cancel the registration of a Mark. In this case, the said person must prove that the provisions of Article 30(a) and Article 32 of the present Act have not been fulfilled.

Any cancellation of a registration of a Mark shall be effective as of the date of registration, and a notice to that effect shall be published as soon as possible.

Any interested person may request the court to invalidate the registration, if he establishes that, the owner of a registered Mark, or a person authorized by him, has not used the said Mark for a period of at least three full years running from the date of registration up to one month prior to filing the request. However, if it is established that use of the Mark has been prevented due to Force Majeure, the registration shall not be invalidated.

**Article 42** – Subject to provisions of the present Article, and Article 43, provisions of Article 31 to 41 of the present Act shall apply to Collective Marks as well.

The application for a Collective Mark, shall contain a reference to indicate that the Mark applied is a Collective Mark, and shall be accompanied by a copy of the regulations governing the use of the Collective Mark. The registered owner of a Collective Mark shall notify the Industrial Property Office of any changes made in respect of the regulations referred to the previous sentence hereof.

**Article 43** – In addition to the grounds provided in Article 41, the court shall invalidate the registration of a Collective Mark if the claimant proves that the registered owner uses the Mark on his own, or that he uses or permits its use in contravention of the regulations referred to in Article 42, or that he uses or permits its use in a manner liable to deceive trade circles or the public as to the origin or any other common characteristics of the goods or services concerned.

**Article 44** – Any License Contract concerning the use of registration of a Mark, or an application thereof, must provide for effective control by the licensor of the quality of goods or services of the licensee. Otherwise, or if such control is not effectively carried out, the License Contract shall not be valid.

**Article 45** – The registration of a Collective Mark or an application thereof, may not be subject of a License Contract.

**Article 46** – A name or designation, the nature or manner of use of which is contrary to Rules of Sharia, public order or morality and or if it is liable to deceive trade circles or the public as to the nature of the enterprise identified by that name, may not be used as a Trade Name.

**Article 47** – Subject to any laws or regulations providing for obligatory registration of Trade Names, such Names shall be protected, even without registration, against any illegal act committed by third parties.

Any use of the Trade Name by a third party, whether as a Trade Name, a Mark or a Collective Mark, or any use thereof likely to mislead the public, shall be deemed unlawful.