

NEW GREEK LAW ON TRADEMARKS

Greece recently (20-03-2020) implemented Directive (EU) 2015/2436 by way of the Greek Law No 4679/2020. Although there was some delay in its implementation, bearing in mind that the deadline was for January 2019, one has to happily note that the Greek legislature provided for a retroactive effect as of January 14th, 2019 regarding the vast majority of the relevant (and most important) provisions of the abovementioned Law.

MOST SIGNIFICANT PROVISIONS:

- > There are several types of trademarks available: word marks, figurative marks, shape marks, position marks, pattern marks, color marks, sound marks, motion marks, multimedia marks, hologram marks. Their description should agree with their representation. In case there is no such agreement, the representation prevails, since the description should not extend the scope of the mark as represented.
- > Unlike the law on trademarks previously applicable, the new Law on trademarks also provides for certification marks.
- > Ex officio examination on relative grounds has been abolished. Although the proprietors of earlier TM registrations now bear the burden to monitor the database of the Greek TM registry for new TM filings regarding potential opposition proceedings, the new Law expressly provides that the Examiner, while examining the TM Application on absolute grounds, also notifies proprietors of earlier TM registrations that in his/her view they may constitute an obstacle to the registration of the TM Application under examination.
- > Provided that the ex officio examination is clear, the Examiner has to issue a Decision allowing the trademarks to be registered within 50 days from the filing of the corresponding TM Application. This in essence means that the trademark's registration is obtained within a maximum of 140 - 142 days as per its filing date, provided that the TM Application concerned is not opposed and taking into account that there is a 3-month deadline for filing an opposition, starting from the next day of said filing.
- > Non-use defense at its best. Such an objection may be raised not only in the context of opposition/invalidity action proceedings but also in the context of main infringement action proceedings, as well as in injunction proceedings. Moreover, non-use of an earlier trademark may be claimed either by way of an invalidity action before the Trademarks' Administrative Commission or of a counter action in either main infringement action proceedings or injunction proceedings. Peculiarly, in the latter case, if the counter action is accepted, the earlier trade mark is not cancelled. It seems that the counter action has the same effect as a mere objection of non-use.
- > Enhanced dual competence of the Greek courts. Up to now, Greek Administrative courts were to review all Decisions of the Trademarks' Administrative Commission, including the rulings in opposition/invalidity action proceedings, while the Greek Civil Courts (specialized divisions in Athens and Thessaloniki) were to rule upon infringement actions and to grant injunctions. Under the new Law, jurisdiction to review the Decisions of the Trademarks' Administrative Commission in invalidity action proceedings shifts to the Single Bench Civil Court of First Instance in Athens.

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- > There is a cooling-off period in opposition proceedings of at least 2 months, provided that a mutual request by the parties to that end is raised. However, no opt-out option is available during the cooling off period.
- > Mediation. Although mediation in trademark infringement actions is mandatory according to the Law on Mediation currently applicable in Greece, mediation in both opposition and invalidity action proceedings before the Trademarks' Administrative Commission is optional according to the new Law on Trademarks.