TRADEMARK LAW OF GEORGIA
CHAPTER I. GENERAL PROVISIONS

Article 1. PURPOSE OF THE LAW

The purpose of this Law is to regulate relations concerning the registration, protection and use of trademarks, service, collective and certification marks.

Law of Georgia of February 21, 2024 №4048 - website, 07.03.2024

Article 2. DEFINITION OF TERMS USED IN THE LAW

The terms used in the Law shall have the following meaning:

a) National Intellectual Property Center of Georgia "Sakpatenti" (hereinafter - Sakpatenti) - the legal entity of public law defined by the Patent Law of Georgia;

b) Paris Convention - the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883 (as revised at Stockholm on July 14, 1967, and as amended on September 28, 1979);

c) Madrid Protocol - the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, signed on June 27, 1989;

d) International Classification - the International Classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, adopted and signed on June 15, 1957 (as revised at Stockholm on July 14, 1967 and at Geneva May 13, 1977);

d[1]) the Convention on International Exhibitions - the Convention Relating to International Exhibitions, signed at Paris on November 22, 1928 (as revised on November 30, 1972);

e) Certificate - the document, granted under this Law in the name of the trademarkholder, certifying his/her exclusive rights;

f) Application - the package of documents, necessary for granting of a certificate, drawn up in accordance with the prescribed requirements;

g) Applicant - a natural person or legal entity applying for a certificate;

h) Priority - the privilege enjoyed by an application as compared with an application filed later;

i) Convention priority - the priority established under Article 4 of the Paris Convention;

j) Exhibition priority – the priority established under Article 11 of the Paris Convention;

k) Repealed;

l) Chamber of Appeals - the body functioning at "Sakpatenti", hearing disputes arising in connection with acquisition of rights in industrial property subject-matters;

m) Association - any association of producers, established under the legislation of Georgia or its country of origin;

n) Feature of a trademark not qualifying for protection - a part of a trademark to which the exclusive rights of the right holder do not apply.

o) Goods bearing a sign in violation of exclusive rights on a trademark - goods that contain (on which are imprinted) a sign identical or similar with a registered trademark, or has the shape identical or similar with a registered three-dimensional trademark, the manufacturing, importation to the territory of Georgia, storage, inclusion in the public circulation or storage/warehousing (temporary storage) or any other us of which causes infringement of exclusive rights of the holder of a registered trademark, regardless of the place of bearing the sign.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006 , Art. 3
Law of Georgia of June 28, 2010, №3159 -LHG I, №35, 12.07.2010, Art. 206
Law of Georgia of December 23, 2017 , №1922 - website, 11.01.2018
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 3. Trademark

1. A trademark is any sign or combination of signs which are entered in the Register of Trademarks, are formulated clearly and obviously and are capable of distinguishing the goods and/or service of one undertaking from the goods and/or service of another undertaking (hereinafter – the goods).
2. A sign of a combination of signs may be a word (words), name (names), letter (letters), numeral (numerals), sound (sounds), image, colour (colours), the shape of the goods or of their packaging.
3. A trademark is protected by means of its registration at Sakpatenti or on the basis of an international agreement.
4. A well-known trademark is protected in Georgia without registration, in accordance with Article 6bis of the Paris Convention.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006 , Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 4. ABSOLUTE GROUNDS FOR REFUSAL OF A TRADEMARK REGISTRATION

1. A trademark shall not be registered, if the relevant sign or combination of signs:

a) does not comply with requirements of Article 3 (1) of this Law;

b) is not distinctive with respect to the relevant goods;

c) is descriptive with respect f the goods for which its registration is requested, refers to only the kind, quality, quantity, feature, value, purpose, geographical origin, place or time of sale or other characteristic of the goods and/or is regarded as such;
d) is widely used as a generic term for goods of a particular type, or is a characteristic, commonly established term or sign or combination of signs in civil circulation of the goods for which its registration is requested;
e) is contrary to the public order and recognized moral principles;
f) is likely to deceive consumers as to the quality, feature, geographical origin and/or other characteristic of the goods;
g) fully or in any of its constituent elements coincides with a sign which is not subject to registration on the basis of Article 6ter of the Paris Convention and there is no permission of the relevant competent authority for its use, or fully or in any of its constituent elements coincides with the current/historical name of Georgia or its territorial unit and there is no consent of the Ministry of Culture of Georgia for its use;
h) fully or in any of its constituent elements coincides with the coat of arms, emblem, name or sign of an organization which is not protected in accordance with Article 6ter of the Paris Convention, but there is a public interest in the protection of this sign in Georgia and there is no consent of the owner of this sign and/or other competent authority for its use;
i) contains or in any of its constituent elements coincides with the name of a new plant variety which is protected in Georgia on the basis of the legislation of Georgia or international legislation and registration of a trademark is requested for the same or similar plant variety;
j) refers only to the shape or other characteristic of the goods which:
   j.a) is determined by the features of the goods;
   j.b) is necessary to achieve a technical result;
   j.c) adds substantial value to the goods.

2. The provisions of Paragraphs 1(b)-(d) and (f) of this Article shall not apply if, before making a decision on the trademark registration, through use in the course of trade the trademark has become a distinctive sign in relation to the goods indicated in the application.

Law of Georgia of December 20, 2005 № 2380 – LHGI, №1, 04.01.2006, Art. 3
Law of Georgia of November 25, 2015 №4556 - website, 08.12.2015
Law of Georgia of December 7, 2017 №1636 - *website, 14.12.2017*
Law of Georgia of July 5, 2018 №3054 - *website, 11.07.2018*
Law of Georgia of March 16, 2021 №387 - *website, 18.03.2021*
Law of Georgia of November 30, 2023 №3874 - *website, 15.12.2023*

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024
Law of Georgia of December 12, 2024 №108 – website, 28.12.2024

Article 5. RELATIVE GROUNDS FOR REFUSAL OF A TRADEMARK REGISTRATION

A trademark shall not be registered if it:

a) is identical to a trademark registered for the identical goods, having earlier priority;

b) is identical to a trademark, registered in the name of a third party, having earlier priority, and the relevant goods are so similar as to create a risk of confusion between these trademarks, including confusion based on association. This Subparagraph shall not apply if the applicant submits the written consent of the owner of the registered trademark(s) having earlier priority for the registration of the trademark;

c) is identical to a trademark, registered in the name of a third party, having earlier priority, and the relevant goods are identical or so similar as to create a risk of confusion between these trademarks, including confusion based on association . This Subparagraph shall not apply if the applicant submits the written consent of the owner of the registered trademark(s) having earlier priority for the registration of the trademark;

d) is identical to a design, registered in Georgia, having earlier priority, unless the registration of the trademark is requested by the holder of the exclusive right on this design. This Subparagraph shall not apply if the applicant submits the written consent of the owner of the registered design(s) having earlier priority for the registration of the trademark;

e) is a trademark towards which there is a ground provided for by Article 18(1) of the Law of Georgia "On Appellations of Origin and Geographical Indications of Goods";

f) includes the name, pseudonym, facsimile or portrait of a person, famous in Georgia before filing the application for registration of a trademark and there is no consent of this person or his/her heir for its use, and if it is historical and cultural property of Georgia - the consent of the Ministry of Culture of Georgia;

g) includes the full or abbreviated name or representation of a monument of cultural heritage of Georgia or a museum and there is no consent of the Ministry of Culture of Georgia for its use.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art.3
Law of Georgia of November 25, 2015 №4556 - *website, 08.12.2015*
Law of Georgia of December 7, 2017 №1636 – website, 14.12.2017
Law of Georgia of July 5, 2018 №3054 - *website, 11.07.2018*
Law of Georgia of March 16, 2021 №387 - *website, 18.03.2021*
Law of Georgia of September 21, 2023 №3494 – *website,* 10.10.2023

Law of Georgia of November 30, 2023 №3874 - *website, 15.12.2023*
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024
Law of Georgia of December 12, 2024 №108 – website, 28.12.2024

Article 6. EXCLUSIVE RIGHT

1. The holder's exclusive right on a trademark, protected by the registration, arises on the date of the registration of the trademark.

2. The holder of the exclusive right may prevent a third party from using in the course of trade without his/her consent a trademark which:

a) is identical and the goods are identical too;

b) is identical and the goods are so similar, that there is a risk of confusion between these marks, including confusion based on association;

c) is similar and the goods are identical or so similar that there is a risk of confusion of the marks, including confusion based on association;

d) is identical or similar and has a reputation in Georgia regardless of the identity or similarity of the goods, if the use of this mark unduly creates favourable conditions for a third party or damages the reputation or distinctiveness of the protected trademark.;

3. In the cases provided for in paragraph (2) of this Article, except other possible prohibitions, it is prohibited:

a) to print a trademark on goods or their packaging;

b) to offer, put on the market or store for that purpose, import or export the goods bearing the trademark, except where the act is performed with the goods bearing the sign affixed by the holder of the exclusive right in the trademark;

c) to offer or render services using the trademark;

d) to use the trademark for advertisements or business papers.

e) to use the trademark as a brand name or its part.

4. Without the permission of the trademark owner, a third party shall be prohibited to:

a) to affix a sign identical or similar to the trademark on packaging, label, tag or any other means on which the trademark can be affixed;

b) to offer for sale, put in the course of trade, sell, prepare for sale, store, import or export the packaging material, packaging, label, tag bearing a sign identical or similar to the trademark or any other means on which this trademark is affixed.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 7. SCOPE OF EXCLUSIVE RIGHTS

1. The holder of the exclusive right in a trademark shall not be authorized to prevent a third party from using the following as a trademark in the course of trade:

a) a proper name and/or address if the third person is a natural person;

b) a sign or combination of signs which is non-distinctive or refers to the kind, quality, quantity, feature, value, purpose, geographical origin, place or time of sale or other characteristic of the goods;

c) a protected trademark, if it is necessary for identification of the goods or referring to the goods, namely, for indicating the purpose of the goods, including when the goods bearing the trademark are used as a component or spare part.

2. The holder of the exclusive right in the trademark may not prevent a third party from using the protected trademark on goods that have been put on the market directly by the holder of the trademark or with his/her consent. This rule shall not apply where the features of the goods have changed, the quality has become worse or there are other important grounds for this prohibition.

3. The restrictions provided for in Paragraph 1 of this Article apply only in case when a third party uses the trademark in accordance with fair practice of implementation of entrepreneurial activity.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 8. PUBLICATION OF TRADEMARK IN REFERENCE LITERATURE

If the reproduction of a trademark in a dictionary, encyclopedia or other reference literature produces an impression that it represents a generic term with respect to the goods for which it is registered or its registration is sought, the publisher, at the request of the holder of the mark in question, shall indicate in the next edition of the reference literature that the published sign is a registered trademark.

CHAPTER II. ACQUISITION AND MAINTENANCE OF AN EXCLUSIVE RIGHT ON A TRADEMARK

Article 9. APPLICATION FOR A TRADEMARK REGISTRATION

1. An application for registration shall be filed with "Sakpatenti" by an applicant or his/her representative.
2. The application shall be filled out in the Georgian language in accordance with the established rule.
3. Repealed.
4. The application shall refer only to one trademark.
5. The application shall contain:

a) a request for trademark registration;

b) the full name and legal address of the applicant;

c) the representation of the trademark;

d) the list of the goods for which the registration is sought. It is permitted to submit the list of goods in a foreign language as an annex, provided that its Georgian translation is also submitted to "Sakpatenti" within one month from the application filing date;

e) the name and address of the representative, if the application is filed by a representative;

f) the signature of the applicant or the representative on the application.

6.The list of other data and documents necessary for examination, the terms and conditions for its filing shall be defined by the legislation of Georgia.

Law of Georgia of June 28, 2010 №3159 - LHG I, №35, 12.07.2010 , Art. 206

Article 10. DATE OF FILING THE APPLICATION WITH "SAKPATENTI"

The day on which an application is submitted to "Sakpatenti" shall be considered the filing date of the application, if the application complies with the requirements of Paragraphs (2) and (5) of Article (9) of this Law.

Article 11. PRIORITY

1. The priority of a trademark shall be established by the filing date of the application, provided that the prescribed fee for examination as to form of the application is paid no later than within 15 calendar days from filing the application.
2. Trademark priority may be established by the filing date of the first application in a contracting state of the Paris Convention (convention priority), provided that no more than 6 months have elapsed from that date to the filing date of the application with "Sakpatenti".

3. The priority of a trademark used on an exhibit displayed at an official or officially recognized international exhibition, defined by the "Convention on International Exhibitions", organized by a contracting state of the Paris Convention, shall be established by the first day of displaying the exhibit at the exhibition (exhibition priority), provided that no more than 6 months have elapsed from this day to the filing date of the relevant application with Sakpatenti. The exhibition priority and convention priority shall not extend the validity of each other.

4. An applicant wishing to benefit from the convention or exhibition priority shall notify thereof "Sakpatenti" within one month from the filing date of the application with "Sakpatenti" and within 3 months from the application filing shall submit the documents confirming his/her right for such a claim.

5. The fee payable under the rule governing claiming the convention or exhibition priority shall be paid within one month from the date of filing the application with "Sakpatenti".

5[1]. Different goods indicated in the application may be assigned different priorities.

6. If the same priority has been established for several trademarks, preference shall be given to the trademark the actual use of which on the territory of Georgia had started earlier.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 11[1]. Indication and Classification of Goods

1. Goods for which registration of a trademark is requested shall be classified according to the International Classification.
2. In the application the goods shall be indicated in such a way to make it possible to define precisely and obviously the scope of protection requested for the trademark.
3. In the application the general names of goods (including the general name used in the heading of the International Classification) may be indicated if these names meet the requirements of Paragraph 2 of this Article.
4. If the list of goods indicated in the application is vague and/or general, the applicant shall specify the list of goods in accordance with the requirements of Paragraph 2 of this Article within a reasonable time limit established by Sakpatenti. Otherwise, Sakpatenti shall make a decision to leave the application with respect to the mentioned goods unconsidered.
5. When indicating general names of goods in the application (including the general name used in the heading of the International Classification), the scope of the list of goods given in the application shall be determined according to the direct meaning of these names. The protection claimed for a trademark by general names of goods shall not apply to goods which are not covered by the content of these names.

6. If protection of a trademark is requested for goods included in more than one class of the International Classification, the relevant goods shall be grouped in the application according to classes and the number of the corresponding class shall be indicated.
7. Goods shall not be considered similar only on the ground that they are grouped in the same class of the International Classification. In addition, goods shall not be considered different only on the ground that these goods are grouped in different classes of the International Classification.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 12. EXAMINATION OF A TRADEMARK APPLICATION

1. "Sakpatenti" shall conduct examination as to form and substantive examination of the trademark application.

2. Sakpatenti is authorized to request from the applicant additional material necessary for examination. The additional material shall be submitted to Sakpatenti within the time limit determined by it, which shall not exceed 2 months. This time limit shall be counted from the day on which the relevant notification is delivered to the applicant. If this time limit is violated, Sakpatenti shall make a decision on the refusal to consider the application.

3. An application which contains two or more names of goods, at the request of the applicant, before the trademark registration can be divided into two or more applications by redistribution of the goods of the first application to each application, after payment of the fee prescribed by the established rule. The goods shall be distributed in the applications in such a way that there is no overlapping between the lists of goods indicated in the divisional applications. The divisional applications retain the filing date of the first application.

3^1. The applicant is entitled to request unification of two or more applications for identical trademarks filed for different goods. Upon unification of the applications, the goods indicated in each application shall retain the priority date of the respective application.

4. Information related to a trademark shall be public upon filing of the relevant application.

5. The applicant is entitled to:

a) request at any stage of the examination to suspend consideration of his/her application subject to payment of the prescribed fee. The total period of suspension shall not exceed 3 months;
b) familiarize with the material used during the examination and request its copy;
c) complement, amend, correct or specify the application material before the application priority is established. After establishing the priority, such changes shall be made only subject to payment of the prescribed fee, but no later than the registration of the trademark. In addition, in case of amending the trademark only such a minor change is allowed, which does not extend

the scope of its protection, whereas in case of amending the list of goods only its restriction or specification is allowed;

d) withdraw the application before the trademark registration.

e) renew the application proceedings upon payment of the prescribed fee. The renewal of the application proceedings is allowed if its termination occurred prior to the publication of the application data, according to Article 15 of this Law.

6. The rules of application drafting and filing, examination, appealing against a decision of examination, suspension, renewal and reinstatement of the procedural terms as well as other rules related to the trademark registration a are determined by the Instruction "On Procedures Related with Filing a Trademark Application and Registration", issued by the Chairman of Sakpatenti according to the rule established by the legislation of Georgia.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of October 26, 2010, №3743 - LHG I, № 62, 05.11.2010., Art. 383
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 13. EXAMINATION OF AN APPLICATION AS TO FORM

1. Examination of an application as to form shall be conducted within 1 months after the filing of the application, except for the following cases:

a) if the applicant claims convention priority or exhibition priority – examination of the application as to form shall be conducted within 10 days after expiration of the time limit stipulated in Article 11(4) of this Law;

b) if registration of a certification mark is requested, examination of the application as to form shall be conducted within 10 days after the expiration of the time limit stipulated in 38^2(1) of this Law;

c) if registration of a collective mark is requested, examination of the application as to form shall be conducted within 10 days after the expiration of the time limit stipulated Article 32(1) of this Law;

d) If a notification requesting additional material was sent to the applicant, examination shall be suspended until the receipt of a response to the notification, but no later than the time limit stipulated in Article 12(2) of this Law.

2. Examination as to form serves to ascertain whether the application is drafted in accordance with this Law.

3. If the application satisfies the requirements of Article 9(2) and (5) of this Law, a certificate on establishing the filing date, with the indication of the record number and the list of submitted documents, shall be issued in the name of the applicant. Otherwise, the applicant shall be notified of the substantiated refusal to accept the application.

4. If within 15 calendar days from the filing of the application, the fee prescribed for examination as to form by the established rule is not paid, or if the paid amount is less than that payable for filing one class of goods, Sakpatenti shall make a decision on the refusal to consider the application. If, within this time limit, an amount is paid which is less than that payable for filing the classes indicated in the application, but is enough for filing one class, examination shall be conducted for the classes selected by the applicant, or in case of absence of such a selection, for those first classes for which the paid fee is sufficient.

5. On the basis of the examination as to form, "Sakpatenti" shall take a decision on accepting the application for processing and establishing priority or on the refusal of the application processing, and shall notify the applicant.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 14. SUBSTANTIVE EXAMINATION

1. Substantive examination shall be carried out within 6 months from the completion of the examination of the application as to form.
2. Substantive examination serves to ascertain whether there are grounds for refusal of trademark registration, provided for by Articles 4 and 5 of this Law.
3. On the basis of the substantive examination, the applicant shall be sent a substantiated decision on the trademark registration or on the refusal of registration of the trademark for the entire list of goods or its part.

Law of Georgia of December 23, 2017 №1922 - website, 11.01.2018

Article 15. PUBLICATION

1. Within one month after taking a decision on the registration of a trademark based on substantive examination, "Sakpatenti" shall publish the application data in the Official Bulletin of the Industrial Property (hereinafter - the Bulletin).
2. If the applicant makes use of the right defined in Article 16 (2) of this Law "Sakpatenti" shall publish the application data in the Bulletin within one month after taking a relevant decision by the Chamber of Appeals.

2^1. If a decision on the refusal of the registration of a trademark for the entire list of goods or its part, taken after substantive examination, is replaced by a legally enforced positive decision of the court, "Sakpatenti" shall publish the trademark data in the Bulletin.

3. The following shall be published in the Bulletin: a representation of the trademark, the personal information and address of the holder, the list of goods, grouped according to the International Classification, for which the trademark registration is sought and the trademark priority.

4. From the date of publication of the trademark application until its registration the applicant shall be conventionally granted the same rights which would have been granted to him/her by the registration. If the registration is not implemented, these rights shall not be regarded as arisen.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of June 28, 2010 №3159 - LHG I, №35, 12.07.2010 , Art. 206

Article 15[1]. PROCEDURE OF ACCELERATED REGISTRATION OF A TRADEMARK

1. Unless otherwise specified by this Article, rules prescribed by Chapter II of this Law shall regulate the procedure of accelerated registration of a trademark.
2. An applicant is entitled, at the time of filing the application or at any time after its filing, but no later than 3 months after receiving the notification on the acceptance of the application for consideration, to request conducting accelerated examination of the application.
3. The application requesting accelerated examination shall be accompanied by all documents specified by Article 9 of this Law, the power of attorney, if any, and the fee prescribed for accelerated examination of a trademark application and trademark registration shall be paid.
4. If an applicant wishes to benefit from the priorities defined in Paragraphs (2) and (3) of Article 11 of this Law or Article 9[quinquies] of the Madrid Protocol, the application requesting accelerated examination shall be accompanied by a document certifying the right to claim priority and the fee prescribed for claiming priority shall be paid.
5. Within 3 days from requesting accelerated examination, "Sakpatenti" shall check whether the application meets the requirements of Paragraphs 3 and 4 of this Article. If the application materials lack any document provided for in Paragraphs 3 and 4 of this Article, the applicant shall submit this document within 15 days. Otherwise, "Sakpatenti" shall take a decision to refuse conducting accelerated examination and shall process the application according to the rule provided for in Chapter II of this Law.
6. If the application requesting accelerated examination meets the requirements of Paragraphs 3 and 4 of this Article, within 7 days "Sakpatenti" shall check whether there are grounds for refusal of the trademark registration according to Articles 4 and 5 of this Law and in case of taking a positive decision shall register the trademark in the Trademark Register, publish data on the registered trademark in the Bulletin and issue a certificate.
7. Within 3 months from the publication of the data on the trademark registration in the Bulletin any interested person shall be entitled to file an appeal with the Chamber of Appeals requesting cancellation of the registration on the grounds that the requirements of Articles 4 and 5 are violated.

8. If after the registration of a trademark through the accelerated procedure an application having earlier priority is filed with "Sakpatenti" and if there exists the ground for refusal of the trademark registration stipulated in Article 5 of this Law in relation to the trademark registered through the accelerated procedure, "Sakpatenti" shall take a decision on the cancellation of the accelerated registration of the trademark and shall publish it in the Bulletin.
9. The decision on the cancellation of the accelerated registration of the trademark, referred to in Paragraph 8 of this Article may be opposed according to the rule under Article 16 (2) of this Law.

Law of Georgia of June 28, 2010 №3159 - LHG I, №35, 12.07.2010 , Art. 206
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 16. APPELAING AGAINST EXAMINATION DECISION AT THE CHAMBER OF APPEALS

1. The applicant may appeal the decision of the examination as to form regarding refusal to consider the application at the Chamber of Appeals within 3 months from the date of making the decision.
2. An applicant can appeal against a decision of substantive examination to refuse the registration of the trademark in respect of the entire list of the goods or its part at the Chamber of Appeals within 3 months from taking the decision.
3. Repealed.
4. Within 3 months from the date of publication of the application data in the Bulletin, a decision on trademark registration may be appealed against at the Chamber of Appeals if:
   a) the trademark registration violates the requirements of Article 4 of this Law;
   b) the trademark registration violates the requirements of Article 5 of this Law;
   c) there is a ground provided for in Articles 28(1)(b)-(i) of this Law.

4^1. It is not admissible to appeal against a decision on a trademark registration on the basis of an enacted court decision at the Chamber of Appeals on the same request and ground.

4^2. In the case provided for in Paragraph 4 of this Article, an appeal may be filed with the Chamber of Appeals by:

a) any person on the grounds provided for in Subparagraph (a) of the same Paragraph and Article 5(g) of this Law;

b) the owner of the earlier right on the ground provided for in subparagraph (b) of the same paragraph, except the ground provided for in Article 5(G) of this Law;

c) the person specified in Article 28(3) of this Law on the grounds provided for in Subparagraph (c) of the same Paragraph.

4^3. At the request of the applicant, the owner of the earlier trademark who appeals against the decision on registration of a trademark made Sakpatenti, if more than 5 years have passed since the date of registration of the trademark envisaged by this decision, shall submit to the Chamber

of Appeals the evidence that during the last 5 years prior to filing the application for the trademark envisaged by the decision which is appealed against or the date of priority, the trademark was actually used in Georgia for the goods for which the trademark is registered and which is indicated by the owner of the earlier trademark as the ground for the appeal. In case of failure to submit evidence of actual use of the trademark or indication of a valid reason for its non-use, proceedings on the appeal shall be terminated. If the earlier trademark was used in relation to only a part of the registered goods, for the purposes of proceedings on the appeal, it shall be considered that the earlier trademark is registered only with respect to the relevant part of the goods.

5. The Chamber of Appeals shall hear the appeal within 3 months from the date of its filing.

6. The decision of the Chamber of Appeals may be appealed in a court.

Law of Georgia of December 20, 2005 № 2380 – LH G I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 17. TRADEMARK REGISTRATION

1. If within the period prescribed in Article 16 (4) of this Law an appeal is not filed with the Chamber of Appeals, or if on the basis of the appeal filed in accordance with Article 16 (4) the Chamber of Appeals takes a decision to register a trademark,

2. "Sakpatenti" shall register the trademark in the Trademark Register (hereinafter - the Register) and publish the data on the registered trademark in the Bulletin. The Register shall contain a representation of the trademark, the personal information of the holder, the trademark priority date, the trademark registration date, the list of goods, grouped according to the International Classification, for which the trademark is registered and other information regarding the registration.

3. Any interested person is authorized, after filing a proper request with "Sakpatenti", to familiarize with the Register data and request the issue of a certified excerpt from the Register.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 18. TRADEMARK CERTIFICATE

1. After the registration of the trademark in the Register, "Sakpatenti" shall issue a trademark certificate.

2. The certificate shall confirm the registration of a sign as a trademark, the trademark priority date, the holder's exclusive right in the trademark in question and its term of validity of the trademark registration.

Article 19. RECORDING OF AMENDMENTS IN THE REGISTER

1. Any amendments to the data, mandatory for the registration under Article 17 (2) of this Law shall be entered in the Register on the basis of a request of the trademark holder or his/her representative. In addition, in case of amending the trademark only such a minor change is allowed, which does not extend the scope of its protection, whereas in case of amending the list of goods only its restriction or specification is allowed. An amendment shall enter into force only after its registration.
2. Amendments entered in the Register shall be published in the following Bulletin.
3. Amendments shall also be entered in the certificate.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 19[1]. DIVISION OF A TRADEMARK

1. A trademark may be divided into two or more identical trademarks by assigning to them independent registration numbers, provided that there is no overlapping between the lists of the respective goods of the trademarks resulting from division.
2. If, in the case provided by the Paragraph 1 of this Article there is overlapping between the lists of the corresponding goods of the trademarks resulting from division, Sakpatenti shall set to the owner of the trademark a reasonable time limit for remedying the shortcoming. If the shortcoming is not eliminated within this time limit, Sakpatenti shall make a decision to refuse to uphold the corresponding request.
3. For division of a trademark a prescribed fee shall be paid. In case of failure to pay this fee, the request shall not be upheld.
4. A decision on division of a trademark shall enter into force from the day of entering the relevant data into the Register.
5. All fees paid prior to filing of an application for division of a trademark shall be deemed paid and all relevant requests shall be deemed submitted for each trademark resulting from division.
6. Trademarks resulting from division of a trademark shall retain the dates of filing and priority of the initial trademark application.
7. In case of payment of the prescribed fee, trademarks resulting from division may be united into one trademark.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 20. TERM OF VALIDITY OF THE TRADEMARK REGISTRATION

1. The term of validity of a trademark registration shall be 10 years from the date of registration of the trademark at "Sakpatenti".

2. The term of validity of a trademark registration may be extended indefinitely by consecutive periods of 10 years. "Sakpatenti" shall extend the term of validity of a trademark registration upon a request filed by the holder with "Sakpatenti", after payment of the prescribed fee. The request shall be filed with "Sakpatenti" and the fee shall be paid during the final year of the validity of the certificate.

3. A notice on the extension of the term of validity of a trademark registration shall be entered in the Register and the certificate, and shall be published in the Bulletin.

4. If the request for the extension of the term of validity of the trademark registration was not filed with "Sakpatenti" or the prescribed fee was not paid during the term determined in Paragraph 2 of this Article, the holder of the trademark is entitled to pay the above-mentioned fee within 6 months from the date of expiration of the term of validity of the trademark registration. If this deadline is failed to be met, the trademark registration is canceled from the date of expiration of the term of validity of the trademark registration without the right of its reinstatement, and the relevant notification shall be published in the Bulletin.

5. (Repealed - 21.09.2023, №3494).

6. If the registration is cancelled at the request of the trademark holder, the renewal of the registration is not allowed.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of September 21, 2023 №3494 – website, 10.10.2023

Article 21. Repealed

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 22. FEES

For examination as to form of an application, substantive examination, accelerated examination, claiming priority, appealing against an examination decision, trademark registration, registration of amendments, publication, issuing a certificate, issuing an excerpt from the Register, suspension, renewal and extension of the procedural time limits related to registration, division of a trademark, unification of trademarks resulting from division and other acts in relation to legal protection of a trademark, fees prescribed in accordance with the rule established by the legislation of Georgia shall be paid, the amount of which shall be determined by the resolution of the Government of Georgia.

Law of Georgia of June 28, 2010 №3159 - LHG I, №35, 12.07.2010 , Art. 206
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 23. (Repealed)

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

CHAPTER. III .USE OF A TRADEMARK AND TRANSFER OF RIGHTS DERIVING FROM TRADEMARK REGISTRATION

Article 24. USE OF A TRADEMARK

1. As the use of a trademark shall be considered the use of a trademark by the owner, as well as by a licensee and by a third party with the consent of the trademark owner.
2. (Repealed - 21.09.2023, №3494).
3. For the purposes of Paragraph 1 of this Article, as the use of a trademark shall also be considered:
   a) use of a registered trademark with slightly different elements which do not change the distinctive character of the trademark, regardless of whether the trademark is registered in the form in which it is used;
   b) affixation of a trademark on the goods intended for export on the territory of Georgia or on their packaging.
4. Use of a trademark in which a geographical indication or appellation of origin protected in Georgia is incorporated in the form of an element not qualifying for protection shall be allowed with the consent of the relevant competent authority.
5. The acts referred to in Paragraphs 1 and 3 of this Article shall be implemented to the extent that their implementation in the market be considered as actual use of the trademark.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of September 21, 2023 №3494 – website, 10.10.2023
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 25. TRANSFER OF RIGHTS DERIVING FROM A TRADEMARK REGISTRATION

1. The rights deriving from a trademark registration may be transferred to another natural person or legal entity according to the rule established by the legislation of Georgia.
2. The trademark may be transferred to another party with or without the enterprise.
3. The transfer of rights deriving from a trademark registration shall apply to the entire list of goods or its part.
4. The transfer of the enterprise shall imply the trademark transfer as well, unless otherwise provided in the transfer contract.

5. A contracts on a trademark transfer shall be executed in writing. The failure to use the written form shall cause the annulment of the contract.
6. (Repealed - 21.09.2023, №3494).
6^1. (Repealed - 21.09.2023, №3494).
6^2. If transfer of rights on a trademark concerns only a part of the list of registered goods, there shall not be overlapping between the lists of goods corresponding to the main trademark and the trademark partially transferred as a result of transfer of the trademark.
7. Upon the transfer of a trademark the relevant amendments shall be recorded in the Register and published in the Bulletin upon payment of the prescribed fees.
8. The new holder of the trademark may not exercise the rights deriving from the registration against a third party until the appropriate changes regarding transfer of the trademark are entered in the Register.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of September 21, 2023 №3494 – website, 10.10.2023
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 26. LICENCE AGREEMENTS

1. The right to the use of a trademark may be given by its holder (the licensor) to another person (the licensee) on the basis of a license agreement. The license agreement may be concluded in relation to the entire list of goods or their part.
2. The license shall be exclusive or simple.
3. If the character of the license is not specified in the agreement, the license shall be considered simple. In this case the licensor may use the trademark or enter into another license agreement.
4. An exclusive license does not allow the licensor to enter into another license agreement and use the trademark, unless otherwise provided in the agreement. The rights deriving from the exclusive license shall remain in force throughout the term of validity of the trademark registration, unless otherwise provided in the agreement.
5. The licensee is prohibited from assigning the rights deriving from the license agreement or from issuing a sublicense, unless it directly derives from the agreement.
6. In the case of infringement of the license agreement, the trademark holder is entitled to exercise his exclusive rights under this Law towards the licensee if the infringement relates to the term of the agreement, the form of the trademark use, the list of goods for which the license was issued, the territory on which the trademark may be used or the quality of goods.

7. The fact of conclusion of a license agreement for a trademark shall be registered at "Sakpatenti" and the relevant information shall be published in the Bulletin upon payment of the prescribed fee.

8. In case of infringement of rights on a trademark, the licensee shall bring an action only with the consent of the trademark owner. The holder of an exclusive license has the right to bring an action without the consent of the trademark owner, if the trademark owner fails to bring an action within a reasonable time after receiving the official notification.

9. The licensee is entitled, with a view to compensation for the damages caused to him/her, to engage in the court proceedings for infringement of the trademark rights.

10. The transfer or licensing of the trademark rights shall not cover a license issued earlier in the name of a third party.

11. (Repealed - 21.09.2023, №3494).

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of September 21, 2023 №3494 – website, 10.10.2023
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

CHAPTER IV. TERMINATION OF EXCLUSIVE RIGHTS ON A TRADEMARK

Article 27. GROUNDS FOR CANCELLATION OF A TRADEMARK REGISTRATION

1. "Sakpatenti" shall cancel a trademark registration:

a) at the request of the trademark owner. If a license agreement is registered for a trademark, cancellation of the trademark is allowed if the trademark owner submits evidence that before requesting the cancellation of the trademark he/she informed the licensee of such intention;

b) in the case of the death of the trademark holder (being a natural person), if he/she has no successor, or in the case of the liquidation of the trademark holder (being a legal entity), if a legatee is not appointed.

c) on the grounds of Article 15^1(8) of this Law.

2. The trademark registration shall be canceled by the court at the request of a third party, if:

a) the trademark was not actually used continuously during 5 years in relation to the goods for which this trademark is registered in Georgia. If the use of the trademark started or was resumed in the interval from the expiry of the above-mentioned 5-year period to the filing of a request to cancel the trademark registration, the cancellation of the trademark registration shall not be allowed;

b) the trademark has become a generic term for the goods for which it has been registered;

c) the use of the trademark by the trademark holder or with his/her consent is misleading consumers as to the kind, feature, quality, value, geographical origin or other characteristics of the goods.

3. Paragraph (2) (a) of this Law shall not apply, if the non-use of the trademark is caused by the circumstances arising independently of the will of the trademark holder. As such circumstances shall be considered e.g. import restrictions imposed on the goods protected by the trademark or other requirements established by the Government.

4. If there are grounds for cancellation of a trademark in respect of only a part of the registered list of goods, the registration shall be canceled only in respect of that part.

5. In the case of cancellation of the trademark registration for the entire list of goods or its part, appropriate amendments shall be entered in the Register and the relevant notification shall be published in the Bulletin.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of June 28, 2010 №3159 - LHG I, №35, 12.07.2010 , Art. 206
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 28. ANNULMENT OF A TRADEMARK REGISTRATION

1. A trademark registration may be annulled by the court at the request of a third party, if:

a) the trademark was registered in violation of requirements of Article 4 or 5 of this Law;
b) the trademark was registered with a dishonest intent;
c) the trademark was registered in a member state of the Paris Convention by a representative or agent of the trademark owner in his/her name, without the consent of the trademark owner and the representative or agent of the trademark owner fails to submit relevant argumentation;
d) the trademark contains the brand name for which the rights are originated before filing the application for the trademark registration, as a result of which likelihood of confusion arises;
e) the registration of the trademark and/or use of the trademark violates the copyright of a third party, originated before the priority date established for the trademark.
f) it is identical to a well-known trademark in Georgia before filing the application for the trademark registration or is so similar that there is likelihood of confusion between them, including confusion based on association. This rule shall also apply in the case when the list of goods is different, if the use of the trademark unduly creates unduly favourable conditions for its owner or damages the reputation or distinctiveness of a well-known trademark in Georgia;

g) the trademark is identical or similar to a trademark registered in the name of a third party, having earlier priority is, which has reputation in Georgia, and the use of the trademark unduly creates favourable conditions for the applicant or damages the reputation or distinctiveness of the protected trademark. This rule shall apply even when the list of goods is different;
h) in the trademark a distinctive sign is used, the rights to which originated before the date of filing the application for the trademark registration or the date of priority, and, according to the relevant legislation, the holder of the rights on this sign is entitled to prohibit the use of the trademark;
i) the use of a trademark may be prohibited based on Article 18 of the Civil Code of Georgia.

2. A trademark shall not be annulled if it is registered in violation of the requirements of Article 4(1)(b-d) and (f) of this Law, but this trademark as a result of use in the course of trade in relation to the goods for which it is registered became established as a distinctive sign.
3. Annulment of a trademark may be requested:
   a) any person, on the ground that the requirements of Article 4 or Article 5(g) of this Law are violated;
   b) only by the holder of the earlier right, on the ground that the requirements of Article 5 of this Law (except Subparagraph (g) of the same Article) are violated;
   c) only by the holder of the earlier right, if there is a ground provided for in Paragraphs 1(b-i) of this Article.
4. In the case provided for in Paragraph 1(c) of this Article, the plaintiff has the right to request instead of annulment of the trademark registration the transfer of the contested trademark registration to him/her.
5. If there is a ground for annulment of the registration of a trademark with respect to a part of the registered list of goods, its registration shall be annulled only with respect to that part.
6. In case of annulment of a trademark registration with respect to the entire list of goods or its part, appropriate amendments shall be entered in the Register and published in the Bulletin.
7. A trademark shall not be annulled, if prior to bringing an action or a counterclaim on annulment of the trademark the holder of the earlier right defined in Paragraphs 3(b) and (c) of this Article issued written consent for registration of the trademark.
8. If the holder of the earlier right defined in Paragraphs 3(b) and (c) of this Article, on the basis of the same Article, by bringing an action or a counterclaim, requested annulment of the trademark registration, he/she shall not have the right to apply to court again and request annulment of the trademark registration on the basis of other ground provided for

in the same Paragraphs, if he/she could have requested annulment of the trademark registration on the basis of the relevant ground within the first claim.

9. A person shall not have the right, on the basis of an earlier trademark, to request annulment of the trademark registration for the goods for which it is used, if he/she does not bring a relevant action before court within 5 years after the use of the contested trademark in Georgia became known to him/her. This rule shall not apply to when the contested trademark was registered with a dishonest intent.
10. In the case provided by Paragraph 9 of this Article, the owner of the contested trademark shall not have the right to request prohibition of the use of the earlier trademark, despite the fact that the owner of the earlier trademark lost the right to request annulment of the registration of the contested trademark.
11. In case of the request of the owner of the contested trademark, the owner of the earlier trademark, who requests annulment of the trademark registration, if more than 5 years passed from the date of registration of the earlier trademark, shall submit to court the evidence that during the last 5 years prior to filing the application for the contested trademark or the date of priority, the trademark was actually used for the goods for which the trademark is registered and which is indicated by the owner of the earlier trademark as the ground for the claim. In case of failure to submit evidence of actual use of the trademark or indication of a valid reason for its non-use, proceedings on the claim shall be terminated.
12. If, in the case provided for in Paragraph 11 of this Article, the earlier trademark was used for only a part of the registered goods, for the purposes of the dispute related to the annulment of the trademark registration, it shall be considered that the earlier trademark was registered only for the corresponding part of the goods.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 29. EFFECTS OF A TRADEMARK CANCELLATION OR ANNULMENT OF A TRADEMARK REGISTRATION

1. If a trademark registration is cancelled under Article 27 of this Law, the rights accorded by the registration shall be considered terminated as of the date of the entering of the notification on the registration cancellation, unless the court decision refers to other date.
2. If a trademark registration is annulled under Article 28 of this Law, the rights accorded by its registration shall be considered terminated as of the date of the arising these rights in the trademark.
3. The decision on annulment of a trademark registration shall not have retroactive effect:

a) with respect to a decision of the court on infringement of exclusive rights on the trademark, if this decision entered into legal force before the decision on the entry into force of the decision on annulment of the trademark registration;
b) with respect to a transaction concluded and implemented before the entry into legal force of this decision.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

CHAPTER V.COLLECTIVE MARK

Article 30. RIGHTS IN A COLLECTIVE MARK

1. A collective mark is a sign or combination of signs that can be protected as a trademark under Article 3 of this Law and distinguishes the goods of the members of an association holding the collective mark from goods of other parties according to the geographical origin, common qualitative features or other features.
2. The holder or applicant for a collective mark may be only an association or a legal entity of public law.
3. (Repealed 21.02.2024, №4048).
4. The rules provided for by this Law shall apply fully to collective marks, unless otherwise provided for in this Chapter.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 31. USE OF AN INDICATION OF GEOGRAPHICAL ORIGIN AS A COLLECTIVE MARK

1. As an exception to the restriction provided for in Article 4(1)(c) of this Law, it shall be permissible to register as a collective mark a sign which designates the geographical origin of goods (name of place, district, region, country or other indication of the geographical origin of goods).
2. An indication of geographical origin shall not be used as a collective mark for goods which do not originate in the geographical locality, district, region or country concerned, if such an indication produces a false impression as to the origin of the goods.
3. If an indication of geographical origin points to the special features and quality of goods such an indication shall be used as a collective mark only for goods having relevant features and that quality.
4. Paragraphs (2) and (3) of this Article shall also apply to names, indications and signs that are similar to the indication of geographical origin.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 32. REGULATIONS GOVERNING COLLECTIVE MARKS

1. An application for a collective mark shall comply with the requirements of Article 9 of this Law. The application shall be accompanied by the regulations of the collective mark. The applicant shall submit the regulations of the collective mark to Sakpatenti no later than 2 months after filing the application.
2. The regulations governing the collective marks shall include:

a) the name of the association;
b) the names and legal addresses of the members of the association;
c) the aim of the association;
d) the conditions for the use of the collective mark and overseeing its use;
e) the rights and obligations of the members of the association regarding infringement of the rights in the collective mark;
f) the list of the goods and common characteristics or common indications for which the collective mark is intended.

3. If a collective mark contains a geographical name, the regulations shall provide that any person whose goods are originated within the above-mentioned geographical region and who meets the conditions for use of the mark specified by the regulations, has the right to become a member of the association and to use the mark.
4. Any interested person is entitled to familiarize with the regulations governing the collective mark.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 33. EXAMINATION OF THE APPLICATION FOR A COLLECTIVE MARK

During the substantive examination of a collective mark, along with the requirements stipulated in Article 14 (2), it is determined whether the application meets the requirements of Article 30 (1), (2) and Article 32 of this Law. At the same time, the examination will not take a decision on the refusal of the registration of the collective mark if the applicant amends the regulations governing the collective mark so that the grounds for refusal of the registration no longer exist.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 34. RESTRICTION OF PROTECTION OF A COLLECTIVE MARK

The registration of a geographical name as a collective mark does not entitle its holder to prevent a third party from using this name in the course of trade, provided that such a use does not violate the norms of fair competition and the third party has lawful grounds for the use of the name.

Article 35. APPEAL

A person entitled to use a collective mark has the right to bring an action for infringement of this right only with the permission of the association of holders of the mark, unless otherwise provided in the regulations governing the collective mark.

Article 36. AMENDMENTS TO THE REGULATIONS GOVERNING COLLECTIVE MARKS

1. The holder of a collective mark shall notify "Sakpatenti" about making any amendment to the regulations governing the collective mark.
2. In case of making amendments to the regulations governing the collective mark, the requirements of Articles 31 and 32 of this Law shall be taken into account.

Article 37. CANCELLATION OF THE REGISTRATION OF A COLLECTIVE MARK

The registration of a collective mark may be canceled:

a) pursuant to Article 27 of this Law;

b) if the holder of the collective mark uses the mark in breach of regulations governing the collective mark.

Article 38. ANNULMENT OF THE REGISTRATION OF A COLLECTIVE MARK DUE TO THE ABSOLUTE GROUNDS FOR REFUSAL OF THE REGISTRATION

In addition to the grounds provided for in Article 28 of this Law, a collective mark registration shall be annulled if it has been registered in breach of the requirements of Article 33 of this Law. If the grounds for the annulment concern the regulations governing the collective mark, the registration shall not be annulled if the holder of the collective mark, within 2 months from the date when he/she became aware of the necessity of making the amendment, amends the regulations so that the grounds for its annulment will no longer exist.

CHAPTER V[1]. CERTIFICATION MARK

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38[1]. CERTIFICATION MARK

1. A certification mark is a type of trademark which distinguishes certified goods from non-certified goods according to the material, production process, quality, accuracy or other characteristics of the goods (except for the geographical origin of the goods).
2. The owner of the certification mark may be any natural person or legal entity (including a legal entity of public law), if his/her/its activity is not related to the production or delivery of the goods for which protection of the certification mark is requested.
3. The requirements established by this Law for a trademark shall apply fully to a certification mark, unless envisaged otherwise by this Chapter.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38². REGULATIONS OF A CERTIFICATION MARK

1. An applicant shall submit the regulations of a certification mark to Sakpatenti no later than 2 months after filing the application for the certification mark.
2. The regulations of a certification mark shall define the persons having the right to use the certification mark, the conditions of use of the certification mark, the relevant goods, the rules for checking the conditions necessary for the use of the certification mark and monitoring its use, as well as the sanctions imposed for the violation of the conditions of use of the certification mark.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38³. GROUNDS FOR REFUSAL OF REGISTRATION OF A CERTIFICATION MARK

1. In addition to the cases of presence of the grounds for refusal of registration of a trademark provided by Articles 4 and 5 of this Law, a certification mark shall not be registered if:

a) the application for a certification mark does not comply with the requirements of Articles 38^1 and 38^2 of this Law;
b) the regulations of a certification mark is contrary to the public order or recognized moral principles;
c) a certification mark is likely to mislead the consumers as to its meaning or content.

2. Paragraph 1 of this Article shall not apply if the applicant amends the regulations of the certification mark so that the grounds for refusal of registration of the certification mark are eliminated.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38⁴. GROUNDS FOR APPEALING AGAINST A DECISION ON REGISTRATION OF A CERTIFICATION MARK AT THE CHAMBER OF APPEALS

In addition to the cases of presence of the grounds provided for by Article 16 of this Law, a third party may appeal against a decision on registration of a certification mark at the Chamber of Appeals, if the requirements of Article 38³ of the same Law are violated.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38⁵. USE OF A CERTIFICATION MARK

As the use of a certification mark shall be considered its use by the authorized person defined by the regulations of the certification mark provided for by Article 38² of this Law, if other requirements related to the use of a trademark established by the same Law are satisfied.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38⁶. MAKING AMENDMENTS TO THE REGULATIONS OF A CERTIFICATION MARK

1. The owner of a certification mark shall register the amendments made to the regulations of the certification mark at Sakpatenti.
2. Amendments to be made to the regulations of the certification mark shall meet the requirements of Articles 38² and 38³ of this Law.
3. A decision of Sakpatenti on making amendments to the regulations of a certification mark may be appealed against at the Chamber of Appeals within 3 months after publication in the Bulletin, if the requirements of Article 38³ of this Law are violated.
4. Amendments to the regulations of a certification mark shall enter into force from the date of entry of the relevant data in the register.

   Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38⁷. TRANSFER OF RIGHTS ON A CERTIFICATION MARK

A certification mark can be transferred only to a person who meets the requirements of Article 38¹(2) of this Law.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38⁸. PROTECTION OF RIGHTS ON A CERTIFICATION MARK

1. In case of infringement of rights the right to bring an action shall vest in the owner of a certification mark or a person authorized by him/her.
2. The owner of the certification mark has the right, on behalf of the persons having the right to use the certification mark, to request compensation for damages caused by the unauthorized use of the certification mark.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38^9. GROUNDS FOR CANCELLATION OF REGISTRATION OF A CERTIFICATION MARK

In addition to the cases of presence of the grounds provided for in Article 27 of this Law, the court shall cancel the registration of a certification mark if:

a) the owner of the certification mark no longer satisfies the requirements of Article 38^1(2) of this Law;
b) the owner of the certification mark does not take appropriate measures for the use of the certification mark in compliance with the conditions of use of the certification mark defined by the regulations of the certification mark;
c) the use of the certification mark produces a false impression on consumers;
d) the amendments made to the regulations of the certification mark are contrary to the requirements of Article 38^6(2) of this Law and the owner of the certification mark does not amend the regulations of the certification mark so that this ground is eliminated.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 38^{10}. GROUNDS FOR ANNULMENT OF REGISTRATION OF A CERTIFICATION MARK

In addition to the cases of presence of the grounds provided for in Article 28 of this Law, the court shall annul the registration of a certification mark if it is registered in violation of the requirements of Article 38^6 of the same Law and the owner of the certification mark does not amend the regulations of the certification mark so that this ground is eliminated.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

CHAPTER VI . PROTECTION OF TRADEMARKS IN ACCORDANCE WITH THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 39. APPLICATION FOR INTERNATIONAL REGISTRATION OF A TRADEMARK

1. This Law shall apply to the trademarks protection of which is claimed in accordance with the Madrid Protocol, unless otherwise provided in this Protocol or this Chapter of this Law.
2. An application for the international registration of a trademark shall be filed with "Sakpatenti" in accordance with Article 3 of the Madrid Protocol.
3. The application shall be accompanied with an English translation of the list of goods grouped according to the International Classification.

Law of Georgia of December 20, 2005 № 2380 – LH GI, №1, 04.01.2006., Art. 3

Article 40. RECORD OF THE INTERNATIONAL REGISTRATION

1. If the international registration is effected on the basis of an application filed with "Sakpatenti", the date and number of the international registration shall be recorded in the application data.
2. If the international registration is effected on the basis of the registration of a trademark at "Sakpatenti", the date and number of the international registration shall be entered in the Register.
3. If the international registration is effected as provided in paragraph (1) of this Article, the date and number of the international registration shall be recorded in the Register after the registration of the trademark at "Sakpatenti".

Article 41. EXAMINATION OF A TRADEMARK EXTENDED TO GEORGIA ON THE BASIS OF THE INTERNATIONAL REGISTRATION UNDER THE PROTOCOL RELATING TO THE MADRID AGREEMENT

1. In relation to a trademark for which protection is claimed in Georgia on the basis of its international registration under the Protocol Relating to the Madrid Agreement (hereinafter – international trademark) only substantive examination shall be conducted and compliance of the list of goods with the requirements of Article 11^1 of this Law shall be checked.
2. Instead of the term "registration" used in Chapters I-V^1 of this Law the term "protection" shall be used with respect to international trademarks.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3
Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

Article 42. PUBLICATION AND APPEAL

1. The data of the international registration of a trademark shall be published in the WIPO Gazette of International Marks of the International Bureau of the World Intellectual Property Organization (WIPO).

2. When the decision is taken to grant protection to the international trademark in Georgia, the date and number of the international registration shall be published in the Bulletin within one month from taking the decision.
3. The opposition period provided for in Article 16(4) of this Law shall be calculated from the day of publication in the Bulletin of the date and number of the international registration of the trademark.

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 43. (Repealed)

Law of Georgia of December 20, 2005 № 2380 – LHG I, №1, 04.01.2006., Art. 3

Article 44. FILING A NATIONAL APPLICATION ON THE BASIS OF A CANCELLED INTERNATIONAL REGISTRATION

1. In accordance with Article 9^{quinquies} of the Madrid Protocol, at the time of filing of a national application on the basis of a cancelled international registration, the applicant shall also file the document certified by the International Bureau of the World Intellectual Property Organization (WIPO), confirming that the international registration was extended to Georgia before it was cancelled.
2. If by the date of filing with "Sakpatenti" of the national application specified in paragraph 1 of this Article, "Sakpatenti" has taken the decision to grant protection to the relevant international trademark, substantive examination shall not be conducted on the national application.
3. If by the date of cancelling of the international registration the international trademark was granted protection in Georgia, Sakpatenti" shall conduct only examination as to form of the national application specified in paragraph 1 of this Article, after which shall register the trademark in the Register and publish the data on the registered trademark in the Bulletin.

Law of Georgia of December 20, 2005 № 2380 – LH GI, №1, 04.01.2006., Art. 3

CHAPTER VII. ENFORCEMENT OF PROTECTION OF EXCLUSIVE RIGHTS ON A TRADEMARK

Article 45. PROTECTION OF EXCLUSIVE RIGHTS ON A TRADEMARK

1. Where exclusive rights on a trademark are infringed, the holder of exclusive rights on a trademark is entitled to demand:

a) termination of actions provided for in Articles 6(2)-(4) of this Law;

b) removal from public circulation of goods bearing a sign in violation of the exclusive rights on a trademark or removal of goods imported or stored on the territory of Georgia with the purpose of inclusion in the public circulation;

c) destruction of goods bearing a sign in violation of the exclusive rights on a trademark, if separation of the trademark from the goods is impossible, or if the trademark is imprinted on the goods;

d) destruction of images, labels, imprints, packaging, packaging materials and advertisement materials that contain the trademark, is its copy or imitation, including destruction of the material and representations containing the trademark, published in the internet;

e) destruction of the clichés, matrices, other implements, technical equipment and tools intended for the production of the trademark.

2. The holder of exclusive rights on a trademark is entitled to demand simultaneous application of several measures provided for in Paragraph 1 of this this Article at his/her discretion.

3. In case of infringement of exclusive rights on a trademark, upon the request of the holder of exclusive rights on the design, the actions provided for by Subparagraph "a" of Paragraph 1 of this Article may apply also with respect to a person who was aware or should have been aware that his/her service is or was used in activities infringing exclusive rights on a trademark on a commercial scale.

4. On the basis of a request of the infringer of exclusive rights on a trademark, in special cases, the court is authorized, instead of actions provided for under Subparagraphs "b"-"e" of Paragraph 1 of this Article, to demand from him payment of a lump sum compensation, if the infringer of rights acted unintentionally, or if execution of the relevant measure would cause him/her disproportionate harm and if, along with this, the amount of pecuniary compensation defined by the court appears satisfactory to the holder of the exclusive rights on the trademark.

5. In addition to the actions provided for Paragraph 1 of this Article, in case of infringement of exclusive rights on a trademark the holder of exclusive rights on the trademark shall be entitled to request any one of the following acts:

a) compensation for damages (including lost profits), if the infringer of the exclusive rights on the trademark was aware or should have been aware of the infringement of exclusive rights on the trademark;

b) confiscation of the profits gained by the infringer of the exclusive rights on the trademark in violation of exclusive rights on the trademark in favour of the holder of exclusive rights on the trademark;

c) payment of a lump sum compensation.

6. When determining the amount of damages, the essence of the infringement of exclusive rights on the trademark, profits gained through infringement of exclusive rights on the trademark, the economic and moral damage caused to the holder of exclusive rights on the trademark, as well as the expected income that would have been gained by the holder of exclusive rights on the trademark as a result of the lawful use of the trademark shall be taken into consideration.

7. The compensation shall at least the amount which would have been due if the infringer of exclusive rights on the trademark acquired a permit for the use of the trademark.

8. When determining the amount of a lump sum compensation, the quantity of the goods bearing a sign in violation of exclusive rights on the trademark, the identity or degree of similarity of the used trademark with the protected trademark, the reputation of the trademark in Georgia, the infringer's intention, as well as the scale, character and other features of the service offered in violation of exclusive rights on the trademark and/or any other circumstance which may be taken into account in determining the amount of the compensation, shall be taken into consideration.

Law of Georgia of December 23, 2017 №1922 - website, 11.01.2018

Article 45[1]. RELATIONSHIP BETWEEN REGISTERED, CONFLICTING TRADEMARKS

1. In case of infringement of rights on a trademark, the owner of the trademark shall not have the right to request prohibition of the use of a trademark registered later, if on the basis of Article 28(7), (8), (9) or (11) of this Law, it shall not be allowed to request annulment of a trademark registered later.

2. In the case provided by Paragraph 1 of this Article, the owner of a trademark registered later shall not have the right to prohibit the use of the trademark by the owner of an earlier trademark.

Law of Georgia of February 21, 2024 №4048 – website, 07.03.2024

CHAPTER VIII. TRANSITIONAL PROVISIONS

Article 46. APPLICATIONS FILED AND CERTIFICATE GRANTED PRIOR TO THE ENTRY INTO FORCE OF THIS LAW

1. An application for registration of a trademark, filed prior to the entry into force of this Law, shall be considered in accordance with Resolution N304 of the Cabinet of
Ministers of the Republic of Georgia of March 16, 1992 "On Approving and Enacting the Statute "On Trademarks".

2. A certificate granted for a trademark registered prior to the entry into force of this Law shall remain in force thereafter.

3.

CHAPTER IX. FINAL PROVISIONS

Article 47. INVALIDATED NORMATIVE ACTS

Upon the entry into force of this Law the following shall be considered as invalidated:

a) Resolution №304 of the Cabinet of Ministers of the Republic of Georgia of March 16, 1992 "On Approving and Enacting the Statute "On Trademarks".

b) Resolution N 483 of the Cabinet of Ministers of the Republic of Georgia of June 25, 1993 "On Additional Measures for the Regulation of the Use of Trademark in Georgia".

Article 48. ENTRY INTO FORCE OF THE LAW

This Law shall enter into force after 3 months from its publication.

President of Georgia **Eduard Shevardnadze**

Tbilisi

February 5, 1999

N 1795 IIS