

NEW TYPES OF MARKS

According Art. 9. (1) of the Trademarks and geographical Indications Law of Republic of Bulgaria Marks are signs that are capable of distinguishing the goods or services of one person from those of other persons and can be represented graphically. Such signs may be words, including the names of persons, or letters, numerals, drawings, figures, ***the shape of goods or of their packaging, a combination of colours, sound signs*** or any combination of such elements.

DEFINITIONS:

Sound mark - where representing a melody that is graphically presented by notes.

Three-dimensional mark - where consisting of the shape or of the packaging of the goods.

In case of a **three-dimensional mark**, the representation must display its three-dimensional character. If one view is incapable of giving an idea of the overall form, the representation must comprise still other views.

Shall not be registered signs which consist exclusively of:

- (a) the shape which results from the nature of the goods themselves;
- (b) the shape of goods which is necessary to obtain a technical result;
- (c) the shape which gives substantial value to the goods;

In the application for registering the trademark there is a **condition to include an indication to the effect that the mark is a three-dimensional or sound mark, if any.**

All absolute grounds of refusal are applied case by case for these types of marks if appropriate without any special regulations, concerning these types of marks as follows:

Art. 11. (1) The following shall not be registered:

- (i) signs which are not marks within the meaning of Article 9(1);
- (ii) marks which are devoid of any distinctive character;
- (iii) marks which consist exclusively of signs or indications that have become customary in the current language or in the established practices of the trade in the Republic of Bulgaria with respect to the goods or services filed for registration;
- (iv) marks which consist exclusively of signs designating the kind, quality, quantity, intended purpose, value, geographical origin, time or process of production of the goods or the manner of rendering of the services, or other characteristics of the goods or services;
- (v) signs which consist exclusively of:

- (a) the shape which results from the nature of the goods themselves;
- (b) the shape of goods which is necessary to obtain a technical result;
- (c) the shape which gives substantial value to the goods;

- (vi) marks which are contrary to public policy or to accepted principles of morality;
- (vii) marks which may deceive the consumers as to the nature, quality or geographical origin of the goods or services;
- (viii) which consist of or include escutcheons, flags or other emblems of States party to the Paris Convention, or imitations thereof, as well as escutcheons, flags or other emblems or the full or abbreviated official names of international intergovernmental organizations;
- (ix) marks which consist of or include official control and warranty signs and stamps where such signs and stamps are used to mark identical or similar goods;
- (xi) marks which consist of or include the name or a representation of historical and cultural monuments of the Republic of Bulgaria, as specified by the Ministry of Culture;

(2) The provisions of items (ii), (iii) and (iv) of paragraph (1) shall not apply where the mark, through use, has become distinctive in relation to the goods or services for which registration is sought.

(3) The provisions of items (viii), (ix) and (xi) of paragraph (1) shall not apply where the consent of the relevant competent authority has been obtained.

OPPOSITION PROCEDURES

Objection against Registration of Marks

Applications that meet the formal requirements shall be published in the Official Bulletin of the Patent Office. The publication shall be effected within one month following the end of the examination referred to in Article 36, and shall comprise the incoming number, the filing date or the priority date, as appropriate, data identifying the applicant, the kind and a representation of the mark, the claim of a colour or colours, the classes and the list of the goods and services it is applied for.

An application shall not be published, if:

- (i) it is withdrawn according to Article 38(1);
- (ii) it is deemed to be withdrawn according to Article 36(2);
- (iii) the proceedings are discontinued according to Article 36(5);
- (iv) before the preparations for the publication are over, but no later than four months following the filing date, an application for international registration of the same mark is filed for the purpose of enjoying a Convention priority.

Within a period of two months following the publication date of the application, any person may file an objection against the registration of the mark on the ground of Articles 11 and 12.

The objection shall be in writing and shall contain a statement of grounds and arguments.

The person filing the objection shall not be a party to the application proceedings; however, he shall be entitled to get, on request, information concerning the outcome of the objection.

Any application shall be subjected to examination as to substance within one year following expiry of the term referred to in Article 36b(1), regardless of whether there is an objection lodged.