

Information concerning the protection of country names from registration as trademarks in Ukraine

1. According to the Law of Ukraine “On the Protection of Rights to Marks for Goods and Services” the legal protection shall not be granted for marks that represent or imitate official country names (Article 6 “Grounds for Refusal of the Legal Protection”).

The said signs may be included to a mark as non-protected elements, provided that the consent of the relevant authorized body was obtained.

2. During the examination procedure “country name” means:

an official country name, represented by the letters of the national alphabet or another alphabet other than national;

a historical country name being not out of civil circulation;

a short country name, represented by the letters of the national alphabet or another alphabet other than national;

an international country code in accordance with International Standard ISO 3166 and WIPO Standard ST.3.

Imitation of the official country name is reproduction of the said name not following the settled vocality or transliteration of such a name or its stylized rendering.

3. A relevant authorized body for the country name “Ukraine” is the Commission for Coordination of the Issues on Inclusion of a Sign Containing an Official Country Name “Ukraine” to a Mark for Goods and Services (hereinafter – Commission). The Commission is a permanent body of the State Intellectual Property Service of Ukraine.

Conditions for the consent of the Commission to include a sign containing an official country name “Ukraine” to a mark for goods and services, the order of filing a request by an applicant and its consideration are determined by the Regulations for Coordination of the Issues on Inclusion of a Sign Containing an Official Country Name “Ukraine” to a Mark for Goods and Services (hereinafter – Regulations).

According to the Regulations the use of an official country name “Ukraine” means the inclusion of a sign to a mark for goods and services as an element which contains:

- an official country name “Ukraine” represented by the letters of the Ukrainian and/or any other alphabet;
- an international code of Ukraine “UA” in accordance with International Standard ISO 3166 and WIPO Standard ST.3;
- imitation of the official country name “Ukraine” represented by the letters of the Ukrainian and/or any other alphabet.

Conditions for the consent to include a sign containing an official country name “Ukraine” to a mark for goods and services:

Consent to include a sign containing an official country name “Ukraine” to a mark for goods and services is granted to:

- individuals-entrepreneurs registered in accordance with the Ukrainian legislation;
- legal entities established in accordance with the Ukrainian legislation.

Consent is provided in case of applicants compliance with the following criteria:

- the use of an official country name “Ukraine” as an element of a mark for goods and services is not contrary to public order, humanity or morality, promotes state interest and doesn’t deceive the public in relation to a person producing goods or providing services;
- goods and services for which such a mark is to be used have industrial, educational, scientific, cultural or artistic value;
- types of goods and/or services produced and/or provided by an applicant are unique and characteristic for Ukraine only;
- an applicant has a dominant position in the Ukrainian market in relation to goods and/or services for which the use of a mark for goods and services is supposed;
- an applicant performs foreign economic activity and has a dominant position in his foreign economic activity group of goods and/or services;

- duration of applicant's activity in the Ukrainian or global market in relation to such goods and/or services is not less than 5 years.

While considering the request about the consent of the Commission certain criteria or their combination are taken into account.

4. The Draft Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on Intellectual Property Issues» introduces changes, in particular, to paragraph 1 of Article 6 of the Law of Ukraine “On the Protection of Rights to Marks for Goods and Services”. According to the proposed wording of the mentioned article indications representing or imitating full or short official country names or international two-letter codes cannot obtain any legal protection.