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Trademark

Legal Guide

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April 16th, 2021



On what grounds are rights on trademarks obtained?

Trademark rights are acquired by registering a trademark in a specific country. To obtain trademark rights in Georgia, the trademark must be registered with the National Intellectual Property Center of Georgia (hereinafter referred to as the "Sakpatenti") under an international treaty. In Georgia, trademarks that have been determined to be well-known by a court or the Chamber of Appeals of Sakpatenti (hereinafter the "Chamber of Appeals") are protected without registration in Georgia.

Who has a right to register a trademark in Georgia?

Any natural and/or legal person may register a trademark. These persons may either register a trademark themselves or have a trusted person do so on their behalf.

What is a trademark and what can it be?

According to article 3 of the law of Georgia On Trademarks (hereinafter referred to as the "Law"), a trademark is a sign or any combination thereof which is used for identifying the goods and/or services and distinguishes the goods and/or services of one company from those of another.

A trademark can be any graphically depicted distinguishing symbol. A word or words, letters, numerals, sounds, a personal name, pictures, 3D figures, including shapes of goods or their packaging, and any other decorations of goods using color or any combination thereof may be used as a symbol.

What is needed in order to register a trademark in Georgia?

To register a trademark in Georgia, a natural or legal person or their entrusted person must submit an application to Sakpatenti. This application must be filed in compliance with article 9 of the Law. The application must be filled out in Georgian. The application can be submitted electronically via Sakpatenti's website, which simplifies the application process.

What procedures are needed in order to register a trademark in Georgia?

The formal examination, substantial examination, and publishing stages are all part of the trademark registration process. The application will not proceed to the stage of publication if registration of a trademark is denied at the substantive examination stage. If a trademark is up for registration, Sakpatenti posts the application details on its website in the official industrial property bulletin.

Any person concerned is entitled to file a petition for appeal with the Chamber of Appeals with a request to cancel registration of a trademark. The trademark is registered and Sakpatenti issues a trademark certificate if no appeal is filed with the Chamber of Appeals within three months of the application data being released.

An applicant may ask for an accelerated or non-accelerated review of their application. In the case of a non-accelerated review, the entire process – including the examination and publication stages – may take up to a year; however, in the case of an accelerated examination, only one month is required. In the event of an accelerated examination, the application fee is usually doubled.

An applicant has the right to appeal Sakpatenti's decision to the Chamber of Appeals and/or to the court.

What rights does the owner of a trademark have?

The owner of a trademark acquires exclusive rights as of the date of registration of the trademark. According to Article 6 of the Law, a trademark owner has the right to preclude a third party from using a sign in the course of business if it is identical or so close to a trademark owner's trademark that there is a risk of confusion as a result of association. A trademark owner has the legal right to take all legitimate action to avoid a violation of his or her exclusive rights, whether one occurs. The owner of a trademark may also transfer the exclusive rights to third parties, either partially or entirely, or grant a license to use the trademark to third parties.

What are the grounds for refusal of trademark registration?

At the substantive examination point, the Sakpatenti thoroughly reviews the trademark registration application and makes a decision on full registration, partial registration, or trademark registration refusal. Sakpatenti has a lot of discretion in this process, but it has to base its rejection of trademark registration on a legal ground. The Law specifies the absolute and relative grounds for trademark registration refusal, which are set out in detail in articles 4 and 5.

What fees should be paid for trademark registration and maintenance of registration?

In order for the Sakpatenti to register a trademark or for Sakpatenti's Chamber of Appeals to accept a lawsuit, the interested party must pay the fees set by Sakpatenti and published on their website for each stage of examination and procedure.

What is a right of Priority?

A right of priority, according to the law, is a privilege that extends to a trademark registration application that is submitted before other applications. If the fee prescribed for the examination of formal requirements for the application is paid not later than one month after filing the application, a right of priority for a trademark is established on the date of filing the application.

In other cases, a trademark can have a right to priority under the Paris Convention, such as a convention priority or an exhibition priority.

Is invalidation or cancellation of a registration of trademarks possible?

A trademark registration may be canceled by a decision of Sakpatenti or a court acting within their competence, as specified in article 27 of the Law. If the court does not set a different date, the rights acquired through a trademark registration are considered to be cancelled after the date of publishing the details regarding cancellation in Sakpatenti registry.

A trademark may only be found invalid by a court order based on particular grounds set out in Article 28 of the Law. If a trademark is revoked by a judge, the rights acquired by trademark registration are considered to be invalid from the date of origin of these rights, unless the court establishes a different date.

How can a trademark be registered in another country from Georgia?

Georgia is a signatory to the Madrid Protocol Treaty for the International Registration of Trademarks (hereinafter the "Madrid Treaty"), which means that any country that is a signatory to the Madrid Treaty can file a trademark registration application with Sakpatenti. This procedure is open to those who have filed a trademark registration application in Georgia. The existence of this process does not exclude a person from filing a trademark registration application directly with the competent authority of another country in which the person wishes to register a trademark.

Thank you for Attention!

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