

## **The Law of Ukraine**

### **“On Introduction of Amendments to Certain Laws of Ukraine in the Sphere of Intellectual Property (on meeting the requirements, related to Ukraine’s accession to WTO)”**

The Verkhovna Rada of Ukraine hereby RESOLVES:

I. To introduce amendments into the following Laws of Ukraine:

1. In the Law of Ukraine “On Protection of Rights to Indication of Goods Origin” (Vidomosty of the Verkhovna Rada, 1999, №32, art. 267; 2001, №8, art. 37; 2003, №35, p. 271):

1) To include into Article 8 the sub-item f) stating that:

“f) is identical or similar and hence can not be distinguished from the registered mark for goods and services, or the application to which is filed to the Institution, or from a mark recognized to be well known in Ukraine in accordance with the Law of Ukraine “On Protection of Indication of Goods Origin” with regard to the same and homonymic goods, if the use of this qualified origin of goods may mislead consumers about true identification of goods.”

Part 3 shall be excluded.

2) Paragraph 3 of part 6 of Article 10 shall be followed by paragraph 4:

“Such document may be, in particular, in the form of a statement, containing the evidence, indicated in sub-items a) and b) of this Item, filed by the foreign applicant.”;

2. In the Law of Ukraine “On Protection of Rights to Marks for Goods and Services” (Vidomosty of the Verkhovna Rada, 1994, №7, art. 36; 2003, №35, art. 271):

1) In Article 16:

to remove the words “including in domain names” from paragraph 4 of Item 4;

the 4<sup>th</sup> paragraph of Item 6 shall be stated in the following wording:

“use of qualifying indication of the goods’ origin, registered prior to the priority date (the date of filing - in the absence of the priority date) of the application or prior to the date of a recognition of the mark as well known in Ukraine”.

2) To add the first Item of Article 20 by the following paragraph:

“the use in domain names of marks and indications without permission of the certificate holder, mentioned in Item 5 of Article 16, is also considered to be the violation of rights of the certificate holder.

3) To add the first Item of Article 25 by the following sentence:

“A mark can be recognized as well known in Ukraine, whether registered or not registered in Ukraine”;

II. Final and Transitional Provisions

1. This Law will enter into force from the date of Ukraine's accession to the WTO and will be applied to the relations, appearing after its entry into force.
2. Prior to bringing other laws into conformity with the norms of this Law, these laws shall be valid in parts that do not conflict with this Law.
3. An examination of an application filed for a qualifying indication of goods origin and/or for the right to use the registered qualifying indication of goods origin, that has been filed before entry into force of this Law but has not been finished by entry into force of this Law, is conducted under the procedure, established by the Law, that was in force at the time of this application filing.
4. During the examination of the application for the registration of qualifying indication of goods origin and/or for the right to use the registered qualified indication of goods origin, filed before entry into force of this Law, the applied therein indication is examined on the subject of conformity with conditions for providing legal protection, established by the Law that was in force when the application was filed.
5. The registration of right to use the qualified indication of goods origin and certificate, confirming the right to use the qualified indication of goods origin, can be recognized as invalid by the court decision, if the registration was conducted with violation of the requirements, established by the Law, that was in force at the date of filing this application.
6. An exclusive right of certificate holder or owner of well known mark to prohibit other persons to use, without his consent, the registered or well known mark shall not cover the use of the qualifying indication of goods origin, protected in accordance with the Law of Ukraine "On protection of Rights to Marks for Goods and Services", the application for which has been filed before entry into force of this Law.