

Trademarks and Other Distinctive Signs Act

LAWS

No 7978

THE CONGRESS OF THE
REPUBLIC OF COSTA RICA

DECREES:

TRADEMARKS AND OTHER DISTINCTIVE SIGNS ACT

TITLE I

General provisions

Article 1° - **Subject.** The objective of this law is to effectively protect the legitimate rights and interests of the holders of trademarks and other distinctive signs, as well as the effects of unfair competition that may be caused to the legitimate interests and rights of consumers. Likewise, it intends to contribute to the promotion on technological innovation and the transfer and dissemination of technology, for the reciprocal benefit of manufacturers and users of technological knowledge, in such a way that they foster socioeconomic welfare and a balance of rights and duties.

Article 2° - **Definitions.** For the purposes of this law, the following concepts are defined:

Person: an individual or legal entity.

Trademark: Any sign or combination of signs that distinguishes the goods and services of one person from another's, as they are considered to be sufficiently distinct and capable of identifying the goods and services to which they are applied from those of their same species or kind.



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Collective mark: A sign or combination of signs whose holder is a collective entity that groups persons authorized by the owner to use the trademark.

Certification mark: A sign or combination of signs that are applied to products or services whose features and quality have been controlled and certified by the mark holder.

Trade name: a sign or word that identifies and distinguishes a determined company or commercial establishment.

Emblem: graphic sign that identifies and distinguishes a company or an establishment.

Distinctive sign: any sign that constitutes a trademark, a trade name or an emblem.

Notorious trademark: sign or combination of signs that is known in international commerce, the relevant sector of the consumer public or industrial circles.

Expression or commercial advertising sign: any legend, advertisement, slogan phrase, combination of words, design, engraving or any similar media, as long as it is original, characteristic and is used to call attention of consumers or users about a certain product, service, company, facility or commercial establishment.

Designation of origin: geographical designation, designation, expression, image or sign of a country, region or location, useful to designate a product as original from a country, region or location within a territory and whose quality or features are due exclusively to the geographical milieu, including natural and human factors.

Geographical indication: geographical name of a country, region or locality, used in the presentation of a product to indicate its place of origin, source, process, collection or extraction.

Industrial Property Register: competent national administration, attached to the National Register for awarding and registering industrial property rights.



TITLE II

Trademarks

CHAPTER I

Trademarks in general

Article 3° - **Signs that may constitute a trademark.** Trademarks refer to, in particular, any sign or combination of signs capable of distinguishing the products or services, specially the words or group of words (including personal names) the characters, numbers, graphic elements, figures, monograms, portraits, labels, shields, prints, vignettes, borders, lines or stripes, combinations of colors, as well as any other distinctive sign. Likewise, they may consist of the shape, presentation or conditioning of the products, their bottling or packing or the means or places of sale of products or corresponding services.

Without prejudice of the provisions related to geographical indication established in this law, trademarks may refer to geographical names, domestic or foreign, as long as they are sufficiently distinctive and their use may not cause confusion in regards to its origin, source, qualities and characteristics of the products or services for which those trademarks are used or applied.

The nature of the product or service to which the trademark is applied shall not be an obstacle for its registration.

Article 4° - **Precedence to obtain the rights derived from a trademark registration.** The precedence in the right to obtain the registration of a trademark will be governed by the following rules:

- a) The person who is using it in good faith in commerce, from the earliest date shall have preferential right to obtain registration, as long as the use has lasted more than three months and claims the oldest priority rights.
- b) When a trademark is not in use in commerce or has been used for less than three months, registration will be granted to the person that first submits the corresponding request or claims the oldest right to priority, as long as the established requirements are met.



The matters that arise regarding the precedence when two or more requests are submitted shall be resolved in accordance to the date and hour of filing for each.

The use and registration of trademarks to market products or services is optional.

Article 5° - **Priority rights.** Whoever may have submitted, in accordance with the guidelines, a request to register a trademark in a State part of the Paris Agreement for the Protection of Industrial Property, or in a country that grants reciprocity for those purposes to nationals of member countries, or has residence, an effective and real place of business in one of them, as well as their assignee, will have the right of priority to file, in Costa Rica, one or more requests for registration of trademark, for the same products or services.

The priority claim will be for a term of six months, starting from the day following the filing of the priority claim. An application for trademark registration already submitted, that may invoke a priority claim, shall not be denied revoked or annulled for events that occur during the term of priority, whether these are executed by the requestor himself or a third party. Those events will not grant third parties any rights over the trademark.

The priority claim shall be invoked via express declaration, which shall be made together with the registration application or within a term of two months starting from the date of filing the application.

A certified copy of the priority claim and the acquiescence of the Industrial Property Office that receives the claim shall be annexed to the application, or filed within three months following its submittal. This document shall be exempt from legalization and shall be accompanied by the corresponding translation if necessary.

Various and multiple or partial priority claims can be made per application, whether they originate from one or two different offices. In such case, the term of priority will start on the date of the oldest priority claim.

The priority claim can be based on an application previously filed with the Industrial Property Register, as long as no other priority claim has been previously invoked in it. The grant of a registration as requested with a priority claim carries with it the end of the effects of the previous application in



relation to those elements common to both. The terms and conditions established in this article may apply in these cases.

Article 6° - **Joint ownership.** The joint ownership of the applications for the purposes of the corresponding register, if there is no agreement to the contrary, shall be governed by the following rules:

- a) The modification, limitation or waiver of an application being processed has to be made jointly.
- b) Each co-owner can use the distinctive sign subject of the registration or application individually, but shall fairly compensate the co-owners that are not exploiting or using the sign or have not granted a license for its use. In lieu of an agreement on compensation, it shall be set by the competent court.
- c) The transfer of the application or registration shall be made in common agreement, but each co-owner can transfer their share separately; the others will have right of first refusal for the first three months starting from the date in which the co-owner notifies his intent to transfer his share.
- d) Each co-owner can grant to third parties a non-exclusive license for use of the distinctive sign subject of registration or application; but shall reasonably compensate the co-owners that are not using the sign nor have granted license for its use. In lieu of an agreement, this compensation shall be set by the competent court.
- e) An exclusive license for exploitation or use can only be granted by agreement of the parties.
- f) Relinquishing, limiting or voluntarily canceling a registration, either total or partial, will be made by agreement of the parties.
- g) Any co-owner can communicate to the others that he is relinquishing his share of the registration or application for the benefit of the others, he is thus exempt from any obligation towards them, starting from the date of the registry of the relinquish in the corresponding register or in case of an application, starting from the notification of the relinquish to the Industrial Property Register. The relinquished share will be distributed among the



remaining co-owners, proportionate to their rights in the application or registration.

h) Any co-owner is entitled to start the corresponding actions in case of infringement of rights.

The provisions of common laws regarding co-ownership shall apply in those aspects not established in this article.

Article 7° - **Non-admissible trademarks due to intrinsic reasons.** A sign consisting of any of the following can not be registered as trademark:

- a) The regular shape of the product or bottling to which it is applied, or a shape necessary or dictated by the nature of the product or service in question.
- b) A shape that provides a functional or technical advantage to the product or service in question.
- c) A sign or indication that in the common language and trade customs of the country is a common or regular designation of the product or service in question.
- d) A sign or indication that by itself can be used in commerce to describe or qualify a characteristic of the product or service in question.
- e) A simple color, on its own.
- f) A character or number on its own, unless it is presented in a special and distinctive manner.
- g) When it does not possess a distinctive quality in relation to the product or service in question.
- h) It is contrary to morality or public order.
- i) It comprises an element that offends or derides persons, ideas, religions or national symbols of any country or an international entity.
- j) Can mislead or confuse about the geographical origin or source, the nature, mode of manufacturing, qualities, aptitude for use or



consumption, quantity or any other feature of the product or service in question.

k) Is identical or similar, in a way that can create confusion, to a trademark whose registration has expired and has not been renovated during the priority period of six months after its expiry, or has been cancelled at the request of the owner and was used en commerce for the same products or services or others that, given their nature, can be linked to those, unless one to three years have passed from the expiration or cancellation, in case of a collective mark from the date of expiration or cancellation. This prohibition does not apply if the person requesting registration is the same that was the owner of the expired or cancelled registration or his representative.

l) A geographical indication that is not in accordance with what is established in the second paragraph, article 3 of this law.

m) It reproduces or imitates, fully or partially, the seal, flag or other emblem, name or abbreviation of name of any State or international organization, without authorization from the competent authority of such State or organization.

n) It reproduces or imitates, fully or partially, an official control or warranty sign adopted by a State or public entity, without authorization of the competent authority.

ñ) It reproduces coins or currency under current use in the territory of any country, stock or other mercantile instruments, seals and stamps or tax stamps in general.

o) It includes or reproduces medals, awards, diplomas or other elements that can lead to believe that rewards have been obtained in regards to the product or service in question, unless those rewards have truly been awarded to the requestor of the registration or his representative and such fact is credited upon requesting the registration.

p) It consists of vegetal species protected in Costa Rica or a foreign country with an agreement or treaty for the protection of vegetal species.

q) It falls within the prohibition stated in article 60 of this law.



If the trademark consists of a label or any other sign made up of a group of elements and it expresses the name of a product or service, the registration will only be granted for that product or service.

Article 8° - **Non-admissible trademarks because of rights of third parties.**
No sign can be registered when the trademark may injure the rights of a third party, as in the following cases, among others:

a) If the sign is identical or similar to a registered trademark or under registration procedures by a third party on a prior date and distinguishes the same products or services or others related to these that may cause confusion for consumers.

b) If the use of the sign may cause confusion, for being identical or similar to a registered trademark or under registration procedures by a third party on a prior date, and distinguishes the same products or services or different products and services, but that can be associated with those distinguished by the prior trademark.

c) If the use of a sign can cause confusion, for being identical or similar to a trademark used by a third party with better right to obtain its registration for the same products or services or different products and services, but may be associated with those distinguished by the trademark being used.

d) If the use of the sign can cause confusion, for being identical or similar to a trade name or emblem used in the country by a third party from a prior date.

e) If the sign is a reproduction, imitation, translation or transcript, full or partial, of a distinctive sign notoriously known by the relevant sector of the public, in any State signatory of the Paris Agreement, in industry circles or international trade, and it belongs to a third party, whichever may be the products or services to which that sign is applied, when its use may lead to confusion or carry a risk of being associated with that third party or an unfair use of the notoriety of the sign.

f) If the use of the sign affects the personality rights of a third party, especially as it relates to its name, signature, title, nickname, pseudonym, image or portrait of a different person than the petitioner of registration, unless the consent of that person is accredited or has



passed away, in which case the consent of his legally declared inheritors will be required. If the consent has been given abroad, it shall be legalized and authenticated by the corresponding Costa Rican consul.

g) If the use of the sign affects the rights to a name, image or prestige of a local, regional or national collectivity, unless the express consent of the competent authority of that collectivity is accredited.

h) If the use of the sign might be confused with that of a protected designation of origin.

i) If the sign is a reproduction or imitation, full or partial, of a protected certification mark.

j) If the use of the sign may infringe a third party's copyright or industrial property right.

k) If the registration of the sign was requested to commit or consolidate an act of unfair competition.

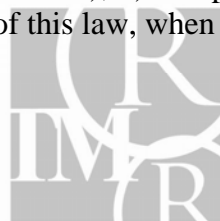


CHAPTER II

Procedures for registration of the trademark

Article 9° - **Application for registration.** The application for registration of a trademark shall be submitted to the Industrial Property Register and shall contain:

- a) Applicant's name and address.
- b) Applicant's place of establishment and place of business, in the case of legal entities.
- c) Name of the legal representative, when applicable.
- d) Name and address of the proxy in the country, when the applicant does not have a place of business or a real and effective commercial establishment in the country.
- e) The trademark whose registration is being requested, when the trademark is a designation without graphics, shape or special color.
- f) A reproduction of the trademark with the number of copies that is determined by the by-laws of this law, in the case of designation trademarks with graphics, special shape or color, or graphic trademarks, mixed or three-dimensional colored or not.
- g) A translation of a trademark when it is constituted by a designation element with meaning in a language different than Spanish.
- h) A list of the names of the products and services for which the trademark will be used, grouped by classes according to the Nice's International Classification of Products and Services, with indication to the class number.
- i) The documents or special authorizations required in the cases provide in sections m), n) and p) of article 7 and sections f) and g) of article 8 of this law, when applicable.



j) Proof of payment of the established basic fee.

The applicants can go through the application process at the register by themselves or with the aid of an attorney or agent. When an agent is processing the application he shall produce the corresponding power of attorney. If that power of attorney is in the Intellectual Property Register, the trademark's file, name and application number or registration will also have to be submitted.

In case the applicant wishes to make use of the priority of a previous application, he shall submit the priority declaration and the documents mentioned in paragraphs three and four of article 5 of this law, together with the application for registration, within the allotted term. The priority declaration shall contain the following information:

- a) Name of the country and regional office where the priority application was filed.
- b) Filing date for the priority application.
- c) Number of the priority application, if this has been already assigned.

Article 10° - Admission of the application for processing. The Industrial Property Register will assign a filing date and hour to the application, and will admit it for processing if it meets the following requirements:

- a) It provides information that identifies the applicant.
- b) It provides an address or appoints a representative in the country.
- c) Shows the trademark whose register is being requested or, in the case of
- d) Shows the names of the products or services for which the trademark will be used; also indicates their class.
- e) Proof of payment of the basic fee is attached.



Article 11° - **Modifying and dividing the application.** The applicant can modify or correct the application at any time during the process. No modification or correction will be admitted, however, if it implies an essential change in the trademark or an addition to the list of products or services as submitted in the original; but the list can be reduced or limited.

The applicant can divide the application at all times during the process, so that the products or services contained on the original application list are divided in one or more applications. No division will be allowed, if it implies adding to the list of products submitted in the original application; but the list can be reduced or limited. Each application will maintain the filing date of the original application and the priority claim, as it may correspond.

The modification, correction and split of an application will pay the established fee.

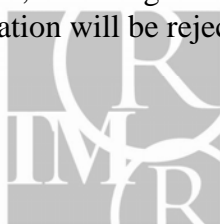
Article 12° - **Waiver of an application.** The applicant can desist from the application at any time during the process. The waiver of an application does not grant the right to reimbursement of the fees that have been paid.

Article 13° **Review of formalities.** The Industrial Property Register will review the application to verify compliance with requirements as established in article 9 of this law and the applicable provisions established in the by-laws, with a term of fifteen working days starting from the date of receipt of the application.

In case any of the requirements established in article 9 or the corresponding by-laws are not fulfilled, the Register shall notify the applicant so that the mistake or omission is corrected in a term of fifteen working days starting from the corresponding notification; otherwise the application will be taken as waived.

Article 14° - **In depth review.** The Industrial Property Register will review if the trademark falls into one of the prohibitions as provided in articles 7 and 8 of this law.

In case the trademark falls in one of the referred prohibitions, the register shall notify the applicant, indicating the objections that prevent the registration and providing a term of thirty working days, starting from the corresponding notification, to answer. Once this period has expired and no answer has been received from the applicant or, if having answered the register considers that the objections remain, registration will be rejected via reasoned decision.



Article 15° - **Publication of the application.** Once the reviews according to articles 13 and 14 of this law have been performed, the Industrial Property Register shall order the publication of the request, for three times, at the expense of the applicant in the official gazette, in a term of fifteen days from the notification.

The notice to be published shall contain:

- a) Applicant's name and address.
- b) Name of the representative or proxy, if any.
- c) Filing date for the application.
- d) Number of application.
- e) Trademark as it is being requested.
- f) List of the products or services to which the trademark will apply, with their corresponding class.

Article 16° - **Opposition to a registration.** Any interested party can oppose to the registration of a trademark, in a time limit of two months starting from the first publication of the application notice. The opposition shall be submitted with its factual and law basis; it shall be accompanied by the pertinent proof being offered.

If proof is not submitted together with the opposition, it shall be submitted within thirty natural days after the opposition was submitted.

The opposition will be notified to the applicant, who may respond in the two months after the date of notification. Once this time limit expires the Industrial Property Register shall decide on the request, even if the opposition has not been answered.

Article 17° - **Opposition based on a non registered trademark.** Opposition based on prior use of the trademark shall be declared inadmissible, if the opponent does not accredit having petitioned, before the Industrial Property Register, the registration of the used trademark. The Register shall accumulate the files related to a registration application subject to opposition



and the registration application of the used trademark, so that they can be decided together.

The opponent must submit the request within fifteen days starting from the submittal of the request. When previous use of the trademark is proven and the other requirements established by this law to register a trademark are met, registration will be granted. Registration can also be granted to the trademark liable to cause confusion; in such a case, the register can limit or reduce the list of products or services for which each of the trademarks can be used, and can determine other conditions related to its use, when that is deemed necessary to avoid the risk of confusion.

Article 18° - **Decision.** If one or more oppositions have been submitted, they shall be decided, together with the main part of the application, in a single reasoned decision.

When full rejection of the requested registration is not merited or the opposition submitted is limited and both trademarks can coexist without causing confusion, the registration can be granted only for some of the products or services indicated in the application or be granted with an express limitation for certain products or services.

The registration of a trademark will not be rejected even if there is a previous registration if the protection established in the second paragraph of article 39 of this law is invoked and the protection turns out to be well founded.

When no opposition is submitted within the allotted time limit, the Industrial Property Register shall register the trademark.

If registration is granted, the Industrial Property Register shall notify the decision to the applicant so that the established additional fee is paid. If within the month following the notification of the decision the applicant has not paid the fee, the decision will be rendered null and the dossier should be filed without further process.

Article 19° - **Certificate of registration.** The Industrial Property Register shall issue a trademark registration certificate to its owner, which should contain the information included in the corresponding registration and those dictated by the by-laws.

CHAPTER III



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Duration, renewal and modification of the registration

Article 20° - **Time limits and renewal of the registration.** The registration of a trademark will expire in ten years, starting from the grant date. The trademark can be renewed indefinitely for successive periods of ten years, starting from the date of the prior expiration.

Article 21° - **Procedures for renewal of registration.** The renewal of registration can be made submitting the corresponding request before the Industrial Property register, and it shall include:

- a) Owner's name and address.
- b) Number of the registration being renewed.
- c) Name and address of the proxy in the country, if that is the case, but the power of attorney needs to be accredited only when the proxy is different from that designated in the registration being renewed or in the prior renewal; if it is the same proxy it shall indicate the file, name of the trademark, number of application and registration where the power of attorney is registered.
- d) A list of the products and services in accordance with the desired reduction or limitation, when a reduction or limitation of the products and services in the registration being renewed is desired. The products or services shall be grouped by class according to the international classification of products and services, indicating the number for each class.
- e) Proof of payment of the established basic fee.

The request for renewal can only refer to one registration and shall be submitted within the year prior to the expiration of the registration to be renewed. It can also be submitted within the grace period of six months after the expiration date; but in that case, an additional fee must be paid, apart from the corresponding renewal fee. During the grace period the registration shall remain in force.



The renewal of a trademark registration will become effective from the date of expiration or the prior registration, even if the renewal was requested within the grace period.

Once the requirements stated in paragraphs one and two of this article have been met, the Industrial Property Register will register the renewal without further process. The renewal does not require and in depth review or publication.

Article 22° - **Modification in the renewal.** No change in the trademark can be introduced in a renewal nor can the list of covered products or services be extended.

The registry of the renewal shall mention any reduction or limitation made in the list of products or services that the trademark distinguishes.

Article 23° - **Correction and limitation of the registration.** The holder of a registration can request, at any time, the modification of the registration in order to correct a mistake. The correction will not be admitted if it implies an essential change in the trademark or an extension of the list of products and services covered by the registration.

The holder of a registration can request, at any time, the reduction or limitation of the list of products or services covered by the registration. When some right related to the trademark appears as registered in favor of a third party, the reduction or limitation will only be registered prior presentation of a written statement by the third party, with its signature duly certified by a notary, in which there is stated consent to the reduction or limitation of the list.

The correction, reduction or limitation period will pay the established fee.

Article 24° - **Division of the registration.** The holder of a registration can request, at any time, the division of the registration of the trademark, so that the products or services can be divided into two or more registrations from the original list.

The division period will pay the established fee.

CHAPTER IV

Rights, duties and limitations related to the registration



Article 25° - **Rights granted by the registration.** The holder of a registered manufacturing or commerce trademark will have exclusive right to prevent that, without his consent, third parties may use in the commercial operations, similar or identical signs for products or services equal or similar to those registered for the trademark, when their use may lead to confusion. Given that, the registration of a trademark grants its owner or holder the right to act against third parties that, without their consent, may engage in one of the following actions:

- a) Apply or put the trademark or an identical or similar distinctive sign on products or services for which the trademark was registered, or on products, containers, covers, packaging or elements of those products related to the services for which the trademark was registered.
- b) Delete or modify the trademark for commercial purposes after having applied or put it over the products or services mentioned in the previous section.
- c) Produce labels, containers, coverings, packaging or other related materials, to reproduce or contain the trademark, as well as trading or holding those materials.
- d) Fill or re-use, for commercial purposes, containers, coverings or packaging identified with the trademark.
- e) Using in commerce a sign similar or identical to the trademark, for products or services, when such use may lead to confusion or the risk of association with the holder of the registration.
- f) Using in commerce a sign similar or identical to the trademark for products or services, when such use can cause the owner or holder of the registration financial or commercial harm, given the decrease in distinctive strength or commercial value of the trademark, or for the unfair profit form the prestige of the trademark or the customer base fostered by its use.

For the purposes of this law, actions of use of a sign in commerce, whether within or outside of the national territory, among other uses, are the following:



a) Introduce to commerce, sell, offer for sale or distribute products or services with the sign, in the conditions established by that sign.

b) Import, export, store or transport products with the sign.

c) Use the sign in advertising, publication, commercial documents or written or verbal communication, without prejudice to the applicable rules of advertising.

The limitation mentioned in the previous article will take place as long as the use is made in good faith, does not constitute an action of unfair competition or is not capable of causing confusion about the origin of the products and services.

Article 27° - The registration of a trademark does not grant its holder the right to prohibit a third party to use the trademark, in products that are legitimately branded and have been introduced for commerce, in the country of abroad, either by the holder or another person with the consent of the holder, on the condition that those products and the containers and packaging that come into contact with them have suffered no modification, alteration or damage and do not cause damage to the holder or owner.

Article 28° - **Non-protected features in complex trademarks.** When the trademark is a label or any other sign made up of a group of features, the protection will not cover the features contained in it that are of common use in commerce.

Article 29° - **Adoption of someone else's trademark as a company name.** A legal entity can not be incorporated or registered in a public register with a trade or business name that includes a trademark registered to a third party, when the use of that name may cause confusion, unless that third party has given their written consent.

Article 30° - **Designation of origin/source of products.** All products commercialized in the country shall clearly indicate the place of manufacturing or production of the product, the name of the manufacturer or producer, the relationship between said producer or manufacturer and the holder of the trademark used on the product, when they are not the same



person, without prejudice to the applicable rules about labeling and information for the consumer.

CHAPTER V

Transfer and licensing trademarks for use

Article 31° - **Transfer of the trademark.** The rights over a registered trademark, or in the process of registration, can be transferred inter vivos or mortis causa. The transfer shall be made in writing and shall be registered to come into effect before third parties. The registry shall pay the fee established in this law.

Every transfer request for a trademark shall contain the information cited in the following sections a), b), c) d) and e), and shall have the documents mentioned in sections f), g) and h) attached.

- a) Name and address of the parties.
- b) Indication of the trademark.
- c) Indication of the trademark classification.
- d) Indication of the products and services protected by the trademark.
- e) Value of the transfer
- f) Transfer document signed by both parties and, in if that were the case, duly legalized and authenticated by a Costa Rican Consul.
- g) Power of attorney of one of the parties and, if that were the case, duly legalized and authenticated by the Costa Rican Consul. If the proxy has already acted on behalf of one of the parties, an indication of the name of the trademark and number of application, or indication of the registration where the power of attorney is recorded.
- h) Payment of the corresponding fee.

Article 32 ° - **Change of name of the holder.** The persons who have changed or modified their name, trade or business name in accordance with the law,



shall request the Industrial Property Register to register the change or modification in the entries for distinctive signs on their name.

The request for change or modification shall include:

- a) Applicant's name and address.
- b) Indication of the signs and number of application or registration.
- c) Specify whether there is a change of name, company merger, among other changes.
- d) Indication of the applicant's new name.
- e) Power of attorney from the company resulting from the change or merger duly legalized and authenticated.
- f) Document where the change is recorded. Duly legalized and authenticated
- g) Proof of payment of the corresponding fee.

Once the corresponding review about the change is performed, the Industrial Property Register shall grant the interested party an edict that will be published, at their own expense and for one time only, in the official gazette.

Once the publication has been made, the Industrial Property Register will issue the corresponding certificate of change or modification.

Article 33° - **Freedom to transfer a trademark.** The rights over a trademark can be transferred separately from the company or part of the company of the holder of the rights, and with relation to one, some or all the products or services for which the trademark was registered. When the transfer is limited to one product or service or some of them, the registration will be divided and a new one will be opened in the name of the buyer.

The transfer and its corresponding inscription may be annulled if the change in the ownership of the right is liable to cause confusion.



Article 34° - **Joint transfer of a trademark and a corporation.** The holder of a registered trademark has the right to transfer it with the transfer of the corporation to which the trademark belongs or without it.

The trademarks that constitute the trade name of its holder can only be transferred jointly with the corporation or establishment that said name identifies.

Article 35° - **License to use a trademark.** The holder of a right over a registered trademark or under registration process can grant license to use it. Such license shall be registered so that it is effective for third parties. If registered, the registration shall pay the fee established in article 94 of this law.

In the request for a license to use a trademark the type of license has to be indicated, its duration and the territory its covers, apart from the requirements established in the second paragraph of article 31 of this law.

Together with the request for a license to use a trademark, the license documents signed by both parties have to be presented and if that is the case, duly legalized and notarized by the Costa Rican Consul. The documents specified in sections b), c) g) and h) of article 31 of this law also have to be submitted.

In absence of stipulation to the contrary, the following rules will apply to license contracts:

- a) The person to whom the license has been granted will have the right to use the trademark during the whole length of the registration, including its renewals, in all of the national territory and with regards to all the products and services for which the trademark is registered.
- b) The person to whom a license has been granted can not transfer nor grant other sub-licenses.
- c) When the license has been granted on an exclusive basis, the grantor can not grant other licenses with regards to the same trademark nor for the same products or services; he will not be able to use, by himself, the trademark in the country in regards with those products or services.



CHAPTER VI

End of the trademark registration

Article 36° - **Quality control.** As long as due process principles are respected, and at the request of any person with a legitimate interest and following prior audience to the holder of the trademark registration, the register may cancel the registry of the license contract and forbid the licensee from using the trademark when, given a lack of quality control or abuse of the license, confusion, deception or serious damage to the consumer happens or is likely to happen.

The by-laws of this law shall establish the corresponding procedure, with respect to due process.

Article 37 ° - **Nullity of the registration.** As long as due process principles are guaranteed, at the request of any person with a legitimate interest or ex officio, the Industrial Property register shall declare the nullity of a trademark registration if it violates any of the prohibitions contained in articles 7 and 8 of this law.

Nullity of a trademark can not be declared for reasons that, when a decision about nullity is reached, are not applicable anymore. When the reasons for nullity have only happened in regards to some products or services for which the trademark was registered, nullity will be declared only for those products or services and will be eliminated from the corresponding list in the trademark registration.

The nullity action will prescribe after four years, starting from the date of grant of registration.

Nullity of a registration shall not be declared because of a prior registration, if the reason provided for in paragraph two or article 39 is invoked and it turns out to be well founded.

The nullity request can be filed as a defense or in court, against any action that infringes a registered trademark.



The nullity statement will have retroactive effect only to the date of the act, without prejudice of rights acquired in good faith. In the case of nullity declared ex officio the rules stated in article 173 sections 1) to 3) of the Public Administration's general Law, No. 6227 of May 2 1978 will apply.

Article 38° - **Cancellation due to generalization of the trademark.** At the request of any person with legitimate interest with adherence to due process, The Industrial Property Register can cancel the registration of a trademark or limit its scope when the holder has caused or tolerated that it turns into a generic name or one or several of the products or services for which it is registered.

It is understood that a trademark has become a generic name when, in commerce and for the public it has lost its distinctive character as an indicator of the corporate source of the product or service to which it applies. To that effect, the following events must converge:

- a) The absence of another proper name to designate, in commerce, the product or service to which the trademark applies.
- b) Widespread use of the trademark, both by the public and in commerce, as a common or generic name for the respective product or service.
- c) Lack of knowledge of the trademark by the general public, as a sign that distinguishes a particular corporate source.

Article 39° - **Cancellation of registration due to lack of use.** At the request of any interested party and after granting prior audience to the holder of the trademark registration, the Industrial Property register shall cancel the registration of a trademark when it has not been used in Costa Rica during the five years prior to the date of starting the cancellation action. The request for cancellation can not be admitted unless five years have passed, starting from the date of registration of the trademark.

The cancellation of a right for lack of use can also be requested as a defense against an objection from the Industrial Property Register, an opposition to the registration from a third party, a request to declare null a trademark registration or action due to infringement of a registered trademark. In such cases, the cancellation will be decided by the Industrial Property Register.



When the use of a trademark starts after five years from the date of grant of the corresponding registration, such use will only prevent cancellation of the registration if it started at least three months before the date in which the cancellation request is submitted.

When the lack of use only affects one or some of the products or services for which the trademark was registered, the cancellation of the registration can be decided as a reduction or limitation of the list of products and services included in the registration and will eliminate those for which the trademark has never been used.

Article 40° - **Definition of use of trademark.** A registered trademark is understood to be in use when the products or services that it distinguishes have been placed in the marketplace with that trademark, in the quantity and in the way that would normally correspond, taking into account the size of the market, the nature of the products or services in question and the modalities under which it is commercialized. Use of the trademark is also its use in relation to products destined for export from the national territory or services rendered abroad from the national territory.

A registered trademark shall be used as it appears registered, however, the use of a trademark in a different format than the one registered only as it relates to small details or non-essential elements and which do not alter the identity of the trademark, will not be reason enough to cancel the registration nor will that diminish the levels of the protection that the registration provides.

The use of a trademark by a licensee or any other authorized person shall be considered as made by the owner of the registration, for all purposes related to the use of the trademark.

Article 41° - **Provisions related to the use of the trademark.** The registration of a trademark shall not be canceled for lack of use when this lack of use is due to justifiable reasons.

A justifiable reason for the lack of use will be the circumstances that come up, without the will of the trademark holder, and constitute an obstacle to use it, such as import restrictions or other official requirements imposed on the products or services protected by the trademark.



Article 42° - **Proof of use of the trademark.** The burden of proof of use of the trademark shall correspond to the party that claims existence of nullity.

The use of a trademark shall be accredited by any means of proof admitted by law, which may show that it has effectively been used.

Article 43° - **Waiver of the registration requested by its holder.** At any time, the holder of a registration of a trademark can request the Industrial Property Register to cancel the registration. The request for cancellation shall pay the fee established in article 94 of this law.

If any right of a third party appears registered in relation to the trademark, the cancellation shall only be recorded prior presentation of a written statement from the third party, with its signature duly certified by a notary, consenting to the cancellation.



TITLE III

Notorious trademarks

Article 44° - **Protection of notorious trademarks.** The provisions of Title II shall apply, when proper, to notorious trademarks, except for the special provisions contained in this title.

This law recognizes the right of the holder of a notorious trademark to prevent improper utilization of the trademark's notoriety, the decrease of its distinctive strength or value, commercial or for publicity, by third parties that lack any right. Ex officio or by request of the interested party, the Industrial Property Register can reject or cancel the registration and forbid the use of a manufacturing or commerce trademark or a service trademark, that is a reproduction, imitation or translation of a notorious trademark, used for identical or similar products, thus liable to cause confusion.

The Industrial Property register shall not register as trademarks signs that are alike or similar to a notorious trademark, to apply it to any product or service, when the use of the trademark by the applicant may cause confusion or risk of association with the products and services of the person who uses the trademark, there is improper utilization of the trademark's prestige or suggests a connection with it, and its use can harm the interests of that person.

The previous provisions will not apply when the applicant is the holder of the notoriously well known trademark.

All means of proof can be used for the purposes of proving the notoriety of the trademark.

Article 45° - **Criterion to determine notoriety.** In order to determine if a trademark is notorious, the following criterion, among others, should be taken into account:

- a) The extent of its acquaintance by the relevant sector of the public, as a distinctive sign for the products or services for which it was agreed.
- b) The intensity, scope of spread and advertising or promotion of the trademark.



c) The trademark's age and its constant use.

d) An analysis of production and marketing of the products distinguished by the trademark.

TITLE IV

Collective trademarks

Article 46° - **Applicable provisions.** The provisions of Title II will apply to collective trademarks, except for the special provisions contained in this title.

Article 47° - **Application for registration of the collective trademark.** The application for registration of a collective trademark shall indicate that its subject is a collective trademark and include three samples of the rules of use.

The rules of use for the collective trademark shall indicate the features or qualities that will be common to the products or services for which the trademark will be used, the conditions and modalities under which the trademark can be used and the persons entitled to use it. It shall also include provisions conducive to ensuring and controlling that the trademark is used according to the rules of use and the penalties in case of non-compliance.

Article 48° - **Review of the collective trademark mark application.** The review of the collective trademark application shall include verification of the requirements contained in article 47 of this law.

Article 49° - **Registration and publication of the collective trademark.** Collective trademarks will be recorded in the trademarks register; a copy of the rules of use shall be included.

Article 50° - **Changes in the rules of use of the collective trademark.** The changes introduced in the rules of use of the collective trademark will be notified by its holder to the Industrial Property Register. They will be recorded in the register prior payment of the fee established in article 94 of this law.



Article 51° - **Licensing of a collective trademark.** A collective trademark can not be licensed for use by persons other than those authorized to use the trademark in its rules of use.

Article 52° - **Use of a collective trademark.** The holder of a collective trademark can use, by himself, the trademark as long as it is also used the persons authorized according to the rules of use of the trademark. The use of a collective trademark by authorized persons will be taken as made by its holder.

Article 53° - **Nullity of the collective trademark registration.** At the request of any interested party and after having granted audience to the holder of the trademark, the Register will declare the registration of a collective trademark as null in any of the following cases:

- a) If the trademark was registered against the provisions of articles 7 or 8 of this law.
- b) If the rules of use of the trademark go against morals or public order.
- c) If, for more than a year, the collective trademark is used only by its holder and not by the persons authorized according to the rules of use of the trademark.
- d) If the holder of the collective trademark uses it or allows others to use it against the provisions of its rules of use or in a way that is liable to deceive the public or commercial establishments as to the origin or any other feature of the products or services for which the trademark is used.

The Register shall act ex-officio and will declare the nullity if the trademark was registered in violation of articles 7 or 47 of this law. In any case, the application of due process principles must be guaranteed as well as the provisions of sections 1) to 3) article 173 of the General Law of the Public Administration, No. 6227, of may 2 1978.



TITLE V

Certification marks

Article 54° - **Applicable provisions.** The provisions of Title II will be applicable to certification marks, except for the special provisions contained in this article.

Article 55° - **Ownership of a certification mark.** Any private or public entity, as well as any local, regional or international organization capable of performing quality certification activities, is entitled to be the holder of a certification mark.

Article 56° - **Registration formalities.** The application for registration of a certification mark must be accompanied by a set of regulations or rules for use, which will dictate the features guaranteed by the presence of the mark and the way in which quality control will be performed both before and after there has been an authorization to use the mark. The rules will be approved by the competent administrative authority in terms of the product or service in question and will be registered together with the mark.

Article 57° - **Duration of the registration.** In those cases where the holder of the registration is a state organization, the registration will have indefinite duration and will cease with the disappearance of the holder. In all other cases, the trademark registration will last ten years and can be renewed.

The registration of a certification mark can be cancelled at any time at the request of its holder.

Article 58° - **Use of the certification mark.** The holder of a certification mark shall authorize the use of the mark to any person whose product or services, in each case, may meet the conditions established in the rules of use of the mark.

A certification mark can not be used for products or services produced, provided or commercialized by the holder of the mark.

Article 59° - **Encumbrance and transfer of a certification mark.** A certification mark can not be subject to any encumbrance or burden; nor can it be subject to seizure, cautionary measures or attachment.



A certification mark can only be transferred with the entity that holds the registration. In case of liquidation or disappearance of the holding entity, the certification mark can be transferred to another suitable entity, prior authorization from the competent government entity.

Article 60° - **Reserve of use of an extinguished certification mark.** A certification mark whose registration is rendered null or is not used anymore because of disappearance or liquidation of its holder, can not be used nor registered as a distinctive sign for a period of ten years starting from the annulment, disappearance or liquidation, as it may correspond.

TITLE VI

Commercial advertising signs and expressions

Article 61° - **Applicable provisions about trademarks.** Unless otherwise provided in this title, the provisions about trademarks established in this law will apply to commercial advertising signs and expressions.

Article 62° - **Forbidden registrations.** A commercial advertising sign or expression can not be registered as a trademark in the following cases:

- a) It falls into one of the provisions of sections c), d), h), i), j), l), m), n), ñ) and o) of this law.
- b) It is like or similar to an already registered trademark, under application for registration or being used by a third party.
- c) It includes somebody else's distinctive sign, without authorization.
- d) That whose use in commerce is liable to cause confusion in regards to the products, services, companies or place of business of a third party.
- e) It falls within one of the provisions of sections e), f), g), h), i), j), and k) of article 8 of this law.
- f) That whose use in commerce is deemed an unfair competition act.



Article 63° - **Scope of protection.** The protection granted by the registration of a commercial advertising sign or expression includes the sign or expression in itself, and does not cover its parts or features considered separately.

Once registered, a commercial advertising sign or expression enjoys protection for an indefinite period of time, but its existence depends, in each case, of the trademark or commercial name it relates to.

TITLE VII

Trade names and symbols

CHAPTER I

Trade names

Article 64° - **Acquisition of rights over the trade name.** The exclusive rights over a trade name are acquired by its first use in commerce and ends with the liquidation of the company or establishment that uses it.

Article 65° - **Inadmissible trade names.** A trade name can not consist, totally or partially, of a designation or sign contrary to morals, public order or liable to cause confusion with the public or in commerce, about the identity, nature, activities, line of business or any other matter regarding the company or commercial establishment identified with such trade name or about the origin, source, or other features of the products or services produced or commercialized by the company.

Article 66° - **Protection of a trade name.** The owner of a trade name is entitled to act against any third party that, without his consent, uses in trade a distinctive sign identical to the protected trade name or a similar distinctive sign, whenever this may be liable to cause confusion or risk of association with the owning company, its products or services.

The provisions of articles 26 and 27 of this law will apply to trade names, as it may correspond.

Article 67° - **Registration of a trade name.** The holder of a trade name can request its registration in the Industrial Property Register.



The registration of a trade name will be for an indefinite period and will cease with the company or the establishment that uses the trade name. It can be cancelled, at any time, at the request of its holder.

A trade name shall be registered before the Industrial Property Register, without prejudice to the provisions regarding the registration of merchants and civil and commercial corporations in the corresponding public registers and without prejudice to the rights resulting from that registration.

Article 68° - **Trade name registration procedures.** A trade name, its modification and annulment shall be registered when pertinent, following the procedures established for trademarks registration and will pay the established fee. The Industrial Property Register will review if the trade name is in accordance with the provisions of article 66 of this law.

The classification of products and services used for trademarks will not apply to the registration of a trade name.

Article 69° - **Transfer of a trade name.** A trade name may only be transferred jointly with the company or establishment that uses it or with the part of the company or establishment that uses it.

The transfer of a registered trade name or under registration procedures will be registered in the Industrial Property register, according to the procedures applicable to the transfer of trademarks, as it may correspond, and shall pay the same fees.

CHAPTER II

Emblems

Article 70° - **Protection of emblems.** The protection and registration of symbols will be governed by the provisions related to trade names.



TITLE VIII

Geographical indications

CHAPTER I

Geographical indications in general

Article 71° - **Use of geographical indications.** A geographical indication can not be used in commerce by any means related to the designation or presentation of a product or service, when such indication may be false or, though literally true in regards to the territory, region or locality of origin of the products or services, it indicates or suggests a false or deceitful idea about their origin, or when its use may lead the public to confusion or error about the origin, source, feature or qualities of the product or services.

Geographical indications can not be used in such a way that they become an act of unfair competition, as started by article 10 bis of the Paris Agreement.

Article 72° - **Use in advertising.** An indication can not be used, in advertising or commercial documentation, when it may induce error or confusion about the geographical origin of products, either because they are not originally from the place designated in the geographical indication, or even when the real origin of the product or service is indicated but can also generate confusion with the public. The use of expressions such as “class” “type”, “style”, “imitation”, and others similar to these, will not be allowed.

Article 73° - **Indications regarding merchants.** Every merchant may indicate its name or place of business on the products or services that he sells, even when they come from abroad, as long as the name and address is accompanied by precise indication, with sufficiently highlighted characters, of the country or place of manufacture or production or any other indication enough to prevent error about its true origin.



CHAPTER II

Designation of origin

Article 74° - **Registration of designations of origin.** The Industrial Property Register shall keep a register of designations of origin.

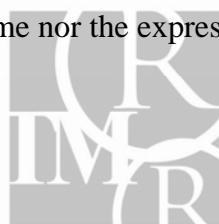
The designation of origin whether local or foreign, will be registered at the request of one or various producers, manufacturers or artisans who have their production, manufacturing facilities in the region or locality to which the designation of origin may correspond, or at the request of any competent public authority.

In the case of homonym geographical indications, the protection will be granted to each, subject to the provisions established on the first paragraph article 71 of this law. The conditions to differentiate homonym indications will be set in their corresponding regulations, taking into account the need to ensure that the products receive equal treatment and consumers are not induced to error.

Article 75° - **Forbidden registrations.** At the request of any person with legitimate interest or ex-officio a designation can not be registered at the Industrial Property Register in the following cases:

- a) Is not in accordance with the definition of designation of origin established in article 2 of this law;
- b) It is contrary to morals or public order or can induce the public to error in relation to the geographical origin, nature, method of fabrication, features, qualities or aptitude for use and consumption of the respective products.
- c) It is a common or generic designation for a product. A designation shall be deemed as generic or common when it is considered as such by those who know about the type of products and the general public.

A designation of origin can be registered together with the generic name of the respective product or an expression related to that product; but the protection will not cover the generic name nor the expression.



Article 76° - **Application for registration.** The application for registration of a designation of origin shall contain:

- a) Name, address and nationality of the applicants and the location of their manufacturing or production facilities.
- b) The designation of origin requested.
- c) The geographical area of production to which the designation of origin relates.
- d) The products and services for which the designation is used.
- e) A summary of the qualities or essential characteristics of the products or services for which the designation is used.

The application for registration of a designation of origin shall pay the established fee, except when the registration is requested by a public authority. In the case of foreign public authorities, the exemption will be subject to reciprocity.

Article 77° - **Registration procedures.** The application for registration of a designation of origin shall be reviewed with the purpose of verifying that:

- a) It is in compliance with the requirements established in article 76 of this law and applicable regulations.
- b) The designation of origin whose registration is requested does not fall in one of the forbidden categories established in paragraph one article 75 of this law.

The procedures regarding the registration and review of a designation of origin will be governed, when applicable, by the provisions for trademarks registration.

Article 78° - **Grant of registration.** The decision that grants the registration of a designation of origin and the corresponding entry shall indicate:



- a) The boundaries of the geographical area of production whose producers, manufacturers or artisans will be entitled to use the designation.
- b) The products or services to which the designation of origin applies.
- c) The characteristics and essential features of the product or services covered by the designation of origin, except when, given the nature or the product or service or any other circumstance, it may not be possible to clearly state such characteristics.

The registration of a designation of origin shall be published in the official gazette.

Article 79° - **Duration and modification of the registration.** The registration of a designation of origin will be for an indefinite period of time. It can be modified at any time, when there is a change in any of the items established in the first paragraph of article 78 of this law. The modification shall pay the established fee and will be subject, as it may correspond, to the procedures established for the registration of designations of origin.

Article 80° - **Right to use a designation of origin.** Only the producers, manufacturers or artisans that carry out their activities within the boundaries of the determined geographical area will be entitled to use, in commerce, the designation of origin registered for the products or services included in the registration.

All producers, manufacturers and artisans that carry out their activities within the boundaries of the determined geographical area, even those not among the applicants for registration, are entitled to use the designation of origin in regards to the products or services indicated in the registration.

Only the producers, manufacturers or artisans authorized to use a designation of origin commercially are entitled to use it, together with the expression "DESIGNATION OF ORIGIN".

Actions related to the right to use a registered designation of origin shall be exercised before the courts.



The provisions of articles 26 and 73 of this law will apply to designations of origin, as it may correspond.

Article 81° - **Annulment of registration.** At the request of anyone with a legitimate interest, the Register shall declare the nullity of the registration of a designation of origin when it is proven that it falls in one of the forbidden categories established in article 75 of this law, or the designation is used in commerce in such a way that it does not correspond to the registration, in accordance to paragraph one of article 78 of this law.

TITLE IX

Common rules

CHAPTER I

Procedures

Article 82° - **Delegation.** When the applicant or holder of an industrial property right has his place of business outside Costa Rica, he shall be represented by a proxy based in this country.

If the power of attorney is already accredited before the Industrial Property Register, the application shall only indicate the date, reason of submittal and file number where the power of attorney is recorded.

In case of urgency, so deemed by the industrial property registrar, an ex-officio solicitor who must be an attorney and provide sufficient guarantee to respond for the results of the matter if the interested party does not approve what has been done on their behalf, may be admitted.

Article 83° - **Joint disposal of applications.** Corrections or modification of one or more applications under process can be requested in a single request, when the correction or modification is the same for all.

The registration of transfers for two or more applications under process can be requested, when the assignor and the assignee are the same in all of them. This provision shall apply, in what may be relevant, to the registration of the licenses to use distinctive signs whether registered or in process or registration.



For the purposes of the provisions of the previous two paragraphs, the applicant shall identify each one of the registrations or applications in which a modifications, corrections registration will be made. The fee to be paid will be according to the number of applicants or registrations involved.

Article 84° - Effects of the nullity declaration. The effects of the declaration of nullity of a registration will be retroactive to the date of the corresponding grant, without prejudice of the conditions or exceptions that may be established in the decision that dictates the nullity.

When a registration for which a license has been issued is declared null, the grantor is exempt from returning payments made by the licensee, unless the latter has not benefited from the license.

Article 85° - Abandonment of the process. The applications and actions for registration conducted under the provisions of this law, will be taken as abandoned and will become null and void, if they are not urged fro process in a period of six months, starting from the last notification made to the interested party.

CHAPTER II

Registration and publication

Article 86° - Registry and publication of decisions. The Industrial Property Register shall register, in the corresponding registry, the decision related to nullity, revocation, waiver or cancellation of any registration and shall publish them in the official gazette, at the expense of the interested party.

Article 87° - Consulting registrations. Industrial property registrations are public. Any person can obtain copies of them after paying the fee established in article 94 of this law.

Article 88° - Consulting files. Any person can consult the files of a registration application at the offices of the Industrial Property Register. Likewise, they may obtain copies of documents contained in an application file, after paying the established fee.



CHAPTER III

Classification

Article 89° - **Classification of products and services.** The International Classification of Products and Services of the World Intellectual Property Organization will be used for the purposes of classifying the products and services for which trademarks shall be registered.

Any doubts regarding the class applicable to a product or services shall be decided upon by the Industrial Property Register.

Products or services will not be deemed similar simply because in any publication or registry of the Industrial Property Register they may appear in the same class of the above mentioned classification.

Products and services shall not be deemed as different simply because, in any publication or registry of the Industrial Property Register they may appear in different classes of the above mentioned classification.

Article 90° - **Classification of graphic elements.** The International Classification of graphic elements of trademarks of the World Intellectual Property Organization, Convention of the World Intellectual Property Organization, Law No. 6468 of September 18 1980, will apply in order to classify graphic elements in trademarks.

TITLE X

Industrial Property Register

Article 91° - **Competence of the Industrial Property Register.** For the purposes of this law, the Industrial Property Register, part of the National Register, will be in charge of the administration of intellectual property.

Article 92° - **Impediments to become registrar.** It is forbidden for the registrar and persons under his supervision to carry out any formalities, directly or indirectly, in their own name or on behalf of third parties before the Industrial Property Register.



The officials and employees of the Industrial Property Register shall maintain absolute impartiality in all their actions.

Any violation of the provisions of this article shall be penalized in accordance with the applicable laws and by-laws.

Article 93° - Access to Register's documents. The files, books, registries and other documents located in the Industrial Property Register shall not leave the offices of the Register. All judicial, administrative or contentious proceedings and the consultations or queries that authorities or the public may demand and require the presentation of such documents, will be performed in the same office, under the responsibility of the Registrar. There may be an exception to the previous circumstances only by court order, duly required for a process and is so required.

At the request of then interested party, the registrar may return a document previously presented to the Industrial Property Register in a determined proceeding and is deemed as not necessary to keep. It will be returned and the file shall keep a copy of the document, at the expense of the interested party.

Article 94° - Rates. The following amounts are the rates to be charged by the Industrial Property Register:

- a) For the registration of a trademark in class fifty American dollars (US\$ 50, 00).
- b) For the registration of each trade name: fifty American dollars (US\$ 50, 00).
- c) For the registration of each expression of advertising sign: fifty American dollars (US\$ 50, 00).
- d) For the renewal of each trademark: fifty American dollars (US\$ 50,00).
- e) For the assignment, license of use or cancellation of each trademark in each class: twenty five American dollars (US \$25, 00)



f) For the assignment, change of name or cancellation of each trade name, expression or advertising sign: twenty five American dollars (US\$ 25, 00)

g) For the replacement or duplicate of a certificate of renewal of registration or any other similar document: twenty five American dollars (US\$ 25, 00)

(Thus amended by article 1 of Law No. 8020 of September 6 2000)

Article 95°- **Utilization of the amounts received from fees.** The amounts received annually by the Industrial Property Register from rates, shall be distributed in the following manner:

a) Forty per cent (40%) for the Editorial Costa Rica, which shall be used according to the provisions of Law No. 2366 of June 10 1959 and its amendments, as a state subsidy.

b) Ten per cent (10%) for the Editorial of the Technological Institute (Editorial del Instituto Tecnológico).

c) Thirty per cent (30%) to pay for the all annual expenses required by the Industrial Property Register of the National Register. The Register shall submit the corresponding annual budget to the Administrative Board of the National Register for its approval and eventual execution.

d) Twenty per cent (20%) for research and training in topics of intellectual property, assigned to the Administrative Board of the National Register. For budgetary purposes, these investments will be excluded from the limits and guidelines for budget expenditures and annual cash disbursements that the Ministry of Finance may assign to the National Register, and the latter shall budget it separately from the ordinary budget of the Administrative Board of the National Register, and shall not be subject to any limitations for budget expenditures from the Budget Authority.”

(Thus amended by article 1 of Law No. 8020 of September 6 2000)



TITLE XII

Final and temporary provisions

Article 96° - **Regulations.** The Executive Branch shall regulate this law within a month after its publication.

Temporary provision I. **Application under process related to trademarks.** The registration or renewal applications in process at the time of this law going into force shall continue to be processed according to the previous regulations, but the registrations and renewals that may be granted will be subject to the provisions of this law. With regards to the use of trademarks, the period for which a trademark has been registered , per article 39, will be computed when this law becomes effective.

Temporary provision II. **Registrations in force.** The trademarks and other distinctive signs registered in accordance to the previous regulations will be governed by the provisions of this law and its respective by-laws, applicable starting as soon as this law becomes effective, however, an action to cancel for lack of use can not be started before five years have passed starting on that date.

Temporary provision III. **Already started actions.** The actions that were started before this law comes into effect will continue to be ruled by the provisions under which they were started.

Temporary provision IV. **Agreements of article 89.** The classification rules mentioned in paragraphs first and fourth of article 89 are ad referendum; their full force will be subordinated to the full compliance of the constitutional proceedings for the approval of international agreements.





DIVIMARK⁴³
ABOGADOS