

Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (Recast) (Text with EEA relevance)

CHAPTER 3

PROCEDURES

SECTION 1

Application and registration

Article 37

Application requirements

- 1 An application for registration of a trade mark shall contain at least all of the following:
 - a a request for registration;
 - b information identifying the applicant;
 - c a list of the goods or services in respect of which the registration is requested;
 - d a representation of the trade mark, which satisfies the requirements set out in point (b) of Article 3.
- 2 The application for a trade mark shall be subject to the payment of a fee determined by the Member State concerned.

Article 38

Date of filing

- 1 The date of filing of a trade mark application shall be the date on which the documents containing the information specified in Article 37(1) are filed with the office by the applicant.
- 2 Member States may, in addition, provide that the accordance of the date of filing is to be subject to the payment of a fee as referred to in Article 37(2).

Article 39

Designation and classification of goods and services

- 1 The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the system of classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957 ('the Nice Classification').
- 2 The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that sole basis, to determine the extent of the protection sought.

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3 For the purposes of paragraph 2, the general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision set out in this Article.

4 The office shall reject an application in respect of indications or terms which are unclear or imprecise, where the applicant does not suggest an acceptable wording within a period set by the office to that effect.

5 The use of general terms, including the general indications of the class headings of the Nice Classification, shall be interpreted as including all the goods or services clearly covered by the literal meaning of the indication or term. The use of such terms or indications shall not be interpreted as comprising a claim to goods or services which cannot be so understood.

6 Where the applicant requests registration for more than one class, the applicant shall group the goods and services according to the classes of the Nice Classification, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.

7 Goods and services shall not be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification. Goods and services shall not be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

Article 40

Observations by third parties

1 Member States may provide that prior to registration of a trade mark, any natural or legal person and any group or body representing manufacturers, producers, suppliers of services, traders or consumers may submit to the office written observations, explaining on which grounds the trade mark should not be registered *ex officio*.

Persons and groups or bodies, as referred to in the first subparagraph, shall not be parties to the proceedings before the office.

2 In addition to the grounds referred to in paragraph 1 of this Article, any natural or legal person and any group or body representing manufacturers, producers, suppliers of services, traders or consumers may submit to the office written observations based on the particular grounds on which the application for a collective mark should be refused under Article 31(1) and (2). This provision may be extended to cover certification and guarantee marks where regulated in Member States.

Article 41

Division of applications and registrations

The applicant or proprietor may divide a national trade mark application or registration into two or more separate applications or registrations by sending a declaration to the office and indicating for each divisional application or registration the goods or services covered by the original application or registration which are to be covered by the divisional applications or registrations.

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Article 42

Class fees

Member States may provide that the application and renewal of a trade mark is to be subject to an additional fee for each class of goods and services beyond the first class.