



Law No. 8477 Dated April 22, 1999

**“Some Changes and Supplements on the Law No. 7819, April 27, 1994,
of Industrial Property”**

In compliance to the articles 78 and 83/1 of the Constitution, upon the proposal of the Council of Ministers,

THE PARLIAMENT OF THE REPUBLIC OF ALBANIA

DECIDED

In the law No. 7819, dt. 27.04. 1994, will be made some changes and supplements:

1. Paragraph 4 of article 81 will be changed as follows:

If the application conforms to the requirement of Article 78 of this Law, the Patent Office shall send a written notice to the applicant on the acceptance of the application for examination.

2. In article 82 are made these changes and supplements:

Paragraph 3 is changed as follows:

Within a period of 5 months after the application has been accepted for examination, the Patent Office, in accordance with the results of the examination, shall adopt the decision to register the trademark or to reject the registration thereof and shall publish the trademark. The applicant shall be notified of the decision in writing and, if the decision is positive, shall be invited to pay a fee for registration and publication of the mark.

3. After paragraph 5, the paragraph 6 is added with these content:

If the applicant has paid the fee, as soon as possible after the adoption of a favorable decision resulting from the examination, the Patent Office shall register the Trademark in the Register of Trademark and publish the mark in the trademark gazette, as well as issue an establish form of a certificate of the registration of the Trademark to the applicant.

4. After the article 82, article 82/1 is added:

(1) The opposition in written form shall be filed with the Board of Appeal.

(2) The Board of Appeal shall inform the applicant of the opposition and determine a period for submitting a reply.

(3) In accordance with the results of reviewing the opposition, the Board of Appeal shall adopt the decision of the full or partial satisfaction of the opposition or on its rejection.

5. After the article 82/1, article 82/2 is added:

(1) The opposition submitted in accordance with the provisions of Article 73(3)(4) and Article 75(a)(b)(c) of this Law shall be examined by the Board of Appeal.



(2) The opposition shall be reviewed within three months from the date of receipt of the applicant's reply.

(3) The appellant or his authorized representative shall be invited to take part in the proceeding of the Board of Appeal. Where oppositions are examined, both interested parties shall have the right to participate in the proceedings, to submit necessary materials and to provide oral explanations. The decision shall be made in the absence of the interested parties and they shall be notified of the decision within one month in writing.

(4) The decision of the Board of Appeal on the conformity of the application with the requirements of Articles 73(3)(4) of this Law shall be final. The applicant may, within six months from the date of decisions, appeal against other decision of the Board of Appeal to the Court.

6. After the article 82/2, article 82/3 is added:

The holder of a mark shall notify the Patent Office for the following changes:

- (1) Change in the name or address of the holder
- (2) Change in the name or address of the representative
- (3) Limitation of the list of goods or services
- (4) Change in whole or in part in the ownership of the registration.

The Directorate of Patents and Trademarks shall, upon payment of the fee and upon submission of any evidence it may require, enter the changes in the Register of Trademarks and also in the registration certificate.

7. After the paragraph 5 of article 83, paragraph 6 is added:

The holder of a trademark which is considered to be well-known in the Republic of Albania, even it is not registered under this Law, shall have the right to prevent third parties from using in commerce without his authorization, any sign which constitutes a reproduction, an imitation or a translation of the trademark. The concept of a well-known trademark shall be established by the Patent Office.

8. The paragraph 1 of article 86 is changed as follows:

The registration of a trademark and service mark is made for ten years counted from the filing date. If the registration is not renewed in due time, the Patent Office shall, upon the owner's request and the payment of an extra fee, allocate an additional six months period for the renewal of the registration.

9. In the chapter XXIII, "Licensing contracts", the title will be changed in "Transfer and Licensing of marks".

10. After the article 88, article 88/1 is added:



Transfer of Rights

(1) The rights in a mark may be transferred with or without a transfer of the business of the assignor.

(2) The transfer of a mark may cover one, several or all the goods or services to which it is applied.

(3) The transfer of a mark shall have no effect if the transfer has not been recorded in the Register of Trademarks.

11. In article 89 paragraph 3 is added:

In addition to the measures specified in paragraph 2(a) of this Article, the Court may re-establish the situation that existed before the infringement and to stop infringing actions, to proceed with an effective seizure of the goods and, when necessary, to destroy illegally used marks, tools that could be used to manufacture the goods and the goods themselves in absence of possibility to remove any illegally mark from such goods.

12. In article 92, the paragraph 1 is changed:

The registration of a mark may be revoked if the owner of the registered mark has not used it in connection with the goods or services referred to in the registration during a period of three years, without good reason.

13. In article 93, paragraph 7 is added:

Persons not authorized to use an appellation of origin may not use such appellation even they add the words “type”, “style”, “fashion”, “produced as” or similar words.

14. In article 93, paragraph 8 is added:

The protection of the appellation of origin shall be applicable against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory.

15. Article 94 will be changed as follows:

“Directorate of Patents and Trademarks”

Directorate of Patents and Trademarks is a central and public institution under the supervision of Council of Ministers and is led by Director General who represent the Directorate to the Court and other public intitutions.

The Prime minister shall establish the structure of the Directorate of Patents and Trademarks.

The Director General shall be appointed by the Council of Ministers.



The Directorate of Patents and Trademarks shall have own seal which shall be used for sealing patents and certificates of trademarks, industrial designs, appellations of origin, as well as other documents.

16. After article 93, article 93/1 is added:

Any person who has registered an appellation of origin and/or whose name is entered as a user of the appellation of origin shall be entitled to use it for the designation of the goods covered by its registration or to use it in advertising or on business papers. He shall be entitled to prohibit the use of the appellation of origin by third persons not entered as its users.

17. Article 97 will be changed as follows:

A Board of Appeal shall be established for the review of the disputes relating to patents, trademarks, industrial designs and appellations of origin within the structure of the Directorate of Patents and Trademarks which shall act in accordance with the law.

18. In article 100, a paragraph is added:

Nationals of non-Member countries domiciled or that have real and effective industrial or commercial establishments in a Member country shall be treated as nationals of a Member country.

19. In article 101, paragraph 4 is added:

The judicial authorities shall have the authority to order prompt and effective provisional measures:

(a) to prevent an infringement of any intellectual property right from occurring, and in particular to prevent the entry into channels of commerce in their jurisdiction of goods, including imported goods immediately after customs clearance;

(b) to preserve relevant evidence in regard to the alleged infringement.

20. Patents applied for in the various countries of the Paris Union by nationals of countries of the Union shall be independent of patents obtained for the same invention in other countries, whether members of the Union or not.

21. Temporary protection of patentable inventions and utility models exhibited at official or officially recognized international exhibitions.

1. The applicant for registration a patentable invention who has exhibited a product or products incorporating the invention at an official or officially recognized international exhibition and who apply for the registration of that invention within one year from the day on which the product or products incorporating the invention were first exhibited in the exhibition shall on his request be deemed to have applied for registration on that day.

2. Evidence of the exhibition of products incorporating the invention shall be given by a certificate issued by the competent authorities of the exhibition, stating the date on which the invention was first shown in connection with products included in the exhibition.



22. Article 39 is changed as follows:

General Provisions on Compulsory Licenses

1. An applicant for a compulsory license shall be required to prove that the requirements for a compulsory license have been complied with, and further that

(a) the patentee was unwilling to grant a voluntary license to exploit the patent under appropriate conditions and within a reasonable period of time;

(b) he is able to exploit the invention to the required extent.

2. The scope and duration of a compulsory license shall be established by the court, taking into account the purpose of the exploitation authorized by the compulsory license; a compulsory license may be granted with or without limitation. Unless relinquished or cancelled, a compulsory license shall have effect until expiration of the term of validity fixed by the court or until the lapse of patent protection. Compulsory licenses shall be recorded in the Patent Register.

3. The patentee shall receive adequate compensation for the compulsory license, which shall be fixed, failing agreement between the parties, by the court. The compensation shall take into adequate account the economic value of the compulsory license. In particular, it shall be commensurate with the royalty the holder of the compulsory license would have paid on the basis of an exploitation contract concluded with patentee, taking into account the licensing conditions in the technical field of the invention.

4. The holder of a compulsory license shall have the same rights as the patentee in regard to the maintenance of the patent and exercise of the rights deriving from protection.

5. A compulsory license may not be assigned or transferred to any other person. Compulsory licenses are non-exclusive and non-transferable, even in the form of sub-license, except with that part of the enterprise or goodwill which exploits such license. The holder of the compulsory license may not grant a license of exploitation.

6. The holder of a compulsory license may relinquish his compulsory license at any time. If the holder does not begin exploitation within one year from the definitive grant of the compulsory license, the patentee may claim modification or cancellation of the compulsory license.

7. The patentee may request modification or cancellation of a compulsory license if the circumstances on which it was based cease to exist and are unlikely to occur again. Modification or cancellation shall take a form that does not prejudice the legitimate interests of the holder of the compulsory license.



23. This law shall enter into force on the fiteenth day following its publication in the Official Gazette of the Republic of Albania.

Chairman
Skender Gjinushi
