

## Amendments of Bulgarian Trademark Law

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### Summary:

- **Implementation of CTM style Opposition Proceedings for National Bulgarian Trademarks and International Trademarks designating Bulgaria**
- **3 months Opposition Deadline for all the marks published after 10 March 2011**

As of 10 March 2011 some important amendments to the Bulgarian Law on Marks and Geographical Indications (LMGI) will enter into force. The amendments aim to approximate the Bulgarian trademark legislation to the one related to Community Trademarks.

The most important amendments are related to **the withdrawal of the *ex-officio* examination on relative grounds**. As of 10 March 2011, the Bulgaria Patent Office (BPO) will perform only formality and absolute grounds examination.

Both national and international trademarks designating Bulgaria will be published in the Official Bulletin issued by the BPO.

Observations based on the absolute grounds could be filed by any person within three months after the publication.

The term for filing an opposition based on the relative grounds is extended from two to three months. The deadline for filing oppositions against national trademark applications will be calculated from the date of the publication. Oppositions against international registrations could be filed between the sixth and the ninth month after the publication in the Official Bulletin of the BPO.

Oppositions could be based on: (i) earlier registered or applied for trademarks - national, international or Community; (ii) well-known trademarks; (iii) and for a first time also on earlier unregistered marks.

Oppositions could be also filed by the owner of a trademark if it is applied for in the name of its agent or representative.

Unlike the current procedure where oppositions serve only for information of the examiner and are not sent to the applicant, according to the new procedure a copy of the opposition will be sent to the applicant. The parties will be provided with three months cooling-off period which could be extended twice under a request of the parties.

If no agreement is signed between the parties within the cooling-off period, the applicant will be given two months term to reply to the opposition. The applicant's reply will be sent to the opponent providing him with one month for filing observations.

During the opposition procedure, the applicant might request proof of use of the mark on which the opposition is based, if 5 years have passed from the date of its registration until the date of filing of the opposition. The opponent is granted two months for furnishing proof of use. If the opponent fails to provide evidence about the use of the earlier trademark, the opposition will be rejected.

A decision on the opposition should be issued within 6 months after the correspondence between the parties ends.

The decision of the Opposition Division can be appealed before the Department on Disputes of the BPO within three months from the date of its receipt. The decision of the Department on Disputes can be further appealed before the court.

The amendments of the LMGI will apply to trademark applications filed after 10 March 2011 and to applications which have not been published as of this date. Trademark applications which have been already published will be treated under the old procedure.

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