

Translation of Liechtenstein Law

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Law
of 12 December 1996
on the Protection of Trade Marks and
Indications of Source
(Trade Mark Protection Act; MSchG)¹

I hereby grant My consent to the following resolution adopted by Parliament:

I. General provisions²

Article 1³

Object and purpose

1) This Act governs the protection of trade marks and indications of source, in particular:

- a) the establishment, existence, content, limitations, and modifications of trade mark rights;
- b) guarantee marks and collective marks;
- c) registration of trade marks and international registration of trade marks;
- d) the origin of goods and services; and
- e) legal protection.

¹ Title amended by LGBL 2016 No. 413.

² Title preceding Article 1 amended by LGBL 2022 No. 346.

³ Article 1 amended by LGBL 2022 No. 346.

2) This Act serves to transpose Directive (EU) 2015/2436 to approximate the laws of the Member States relating to trade marks⁴.

3) The valid version of the EEA legislation referred to in this Act is referenced in the promulgation of the decisions of the EEA Joint Committee in the Liechtenstein Law Gazette pursuant to Article 3(k) of the Promulgation Act.

Article 1a⁵

Designations

The designations of persons and functions contained in this Act shall apply to persons of female and of male gender.

Ia. Trade marks⁶

A. In general⁷

1. Protection of trade marks⁸

Article 1b⁹

Terminology

- 1) A trade mark is a sign capable of:
- a) distinguishing the goods or services of one undertaking from those of other undertakings; and
 - b) being represented in the Trade Mark Register in a manner which enables the competent administrative or judicial authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

⁴ 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 (OJ L 336, 23.12.2015, 1)

⁵ Article 1a inserted by LGBL 2022 No. 346.

⁶ Title preceding Article 1b inserted by LGBL 2022 No. 346.

⁷ Title preceding Article 1b inserted by LGBL 2022 No. 346.

⁸ Title preceding Article 1b inserted by LGBL 2022 No. 346.

⁹ Article 1b inserted by LGBL 2022 No. 346.

2) A trade mark may in particular consist of words, including personal names, or designs, letters, numerals, colours, the shape, presentation, or packaging of goods, sounds, or combinations of such elements with each other or with colours.

Article 2¹⁰

Absolute grounds for exclusion

- 1) The following shall be excluded from trade mark protection:
- a) signs which cannot constitute a trade mark;
 - b) trade marks which are devoid of any distinctive character;
 - c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services;
 - d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade for the designation of the goods or services;
 - e) signs which consist exclusively of the shape, or another characteristic, which:
 1. results from the nature of the goods themselves;
 2. is necessary to obtain a technical result; or
 3. gives substantial value to the goods;
 - f) trade marks which are contrary to public policy or to accepted principles of morality;
 - g) trade marks which are of such a nature as to deceive the public, in particular as to the nature, quality or geographical origin of the goods or services;
 - h) trade marks which are excluded from registration pursuant to Liechtenstein law, EEA legislation, or international agreements to which Liechtenstein is party, providing for protection of designations of origin and geographical indications;

¹⁰ Article 2 amended by LGBL 2022 No. 346.

- i) trade marks which are excluded from registration pursuant to EEA legislation or international agreements to which Liechtenstein is party, providing for protection of traditional terms for wine;
- k) trade marks which are excluded from registration pursuant to EEA legislation or international agreements to which Liechtenstein is party, providing for protection of traditional specialities guaranteed;
- l) trade marks which consist of, or reproduce in their essential elements, an earlier plant variety denomination registered in accordance with Liechtenstein law, EEA legislation, or international agreements to which Liechtenstein is party, providing protection for plant variety rights, and which are in respect of plant varieties of the same or closely related species;
- m) trade marks where the application for registration was made in bad faith.

2) Paragraph 1(b) to (d) shall not apply if, before the date of the decision on registration, the trade mark has become established in the relevant public in consequence of the use in respect of the goods or services for which the application for registration was made.

Article 3

Relative grounds for exclusion

- 1) Also excluded from trade mark protection are trade marks which:¹¹
- a) are identical with the earlier trade mark, and the goods or services for which the trade mark is applied for or is registered are identical with the goods or services for which the earlier trade mark is protected;
 - b) because of their identity with, or similarity to, the earlier trade mark and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association with the earlier trade mark;
 - c) are identical with, or similar to, an earlier trade mark irrespective of whether the goods or services for which they are applied or registered are identical with, similar to or not similar to those for which the earlier trade mark is registered, where the earlier trade mark has a reputation in Liechtenstein and the use of the later trade marks without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;

¹¹ Article 3(1) amended by LGBL 2022 No. 346.

- d) an agent or representative of the proprietor of the trade mark applies for registration of in the agent's or representative's own name without the proprietor's authorisation, or which remains registered after the consent lapses, unless the agent or representative justifies their action;
- e) may not be used on account of the right of the holder of an earlier designation of origin or geographical indication;

2) An earlier trade mark is:

- a) a trade mark applied for or registered that gives rise to a right of priority under this Act (Articles 6 to 8);¹²
- b) a trade mark that is well-known in Liechtenstein within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property of 20 March 1883 (Paris Convention) at the time of application for registration of the sign referred to in paragraph 1.¹³

3) Goods and services shall not be considered similar merely because they appear in the same class under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957 (Nice Classification). They shall not be considered dissimilar merely because they appear in different classes of the Nice Classification.¹⁴

Article 4¹⁵

Repealed

2. Establishment of a trade mark right; priority

Article 5

Establishment of a trade mark right

A trade mark right is established on entry in the register.

¹² Article 3(2)(a) amended by LGBL 2022 No. 346.

¹³ Article 3(2)(b) amended by LGBL 2022 No. 346.

¹⁴ Article 3(3) amended by LGBL 2022 No. 346.

¹⁵ Article 4 repealed by LGBL 2022 No. 346.

Article 6¹⁶*Priority of application*

A trade mark right belongs to the person who first applies for registration of the trade mark.

Article 7¹⁷*Priority under the Paris Convention*

1) Where a trade mark is first duly applied for in another Member State of the Paris Convention or with effect in such a Member State, the applicant or successor in title may claim the right of priority of the first application for the application of registration of the same trade mark in Liechtenstein, provided the application in Liechtenstein takes place within six months of the date of the first application.

2) The first application in a state that grants reciprocity to Liechtenstein has the same effect as the first application in a Member State of the Paris Convention.

Article 8¹⁸*Exhibition priority*

Any person who exhibits goods or services bearing a trade mark at an official or officially recognised exhibition under the Convention of 22 November 1928 Relating to International Exhibitions in a Member State of the Paris Convention or another exhibition recognised by the Government, may claim the opening date of the exhibition for the application for registration provided that the trade mark is applied for within six months of this date and certified proof by the exhibition management is presented.

¹⁶ Article 6 amended by LGBl. 2022 No. 346.

¹⁷ Article 7 amended by LGBl. 2022 No. 346.

¹⁸ Article 8 amended by LGBl. 2022 No. 346.

Article 9

Declaration of priority

1) Any person who claims priority under the Paris Convention or exhibition priority must file a declaration of priority. The Office of Economic Affairs may demand that a priority document be submitted.¹⁹

2) The claim is forfeited if the time limits and formal requirements laid down by the Ordinance are not complied with.

3) Registration of priority is merely a presumption in favour of the proprietor of the trade mark.

3. Existence of a trade mark right

Article 10

Term of validity and renewal of registration

1) A registration is valid for 10 years from the date of application for registration.²⁰

2) A registration will be renewed for further periods of 10 years if an application for renewal is submitted and the renewal fee and where applicable the class fee (Article 29(4)) are paid.

2a) At least six months before the term of validity expires, the Office of Economic Affairs shall remind the proprietor of a trade mark entered in the register, or their representative, about the date of expiry and the possibility of renewal. No liability shall be assumed for failure to provide such information.²¹

3) The application for renewal must be submitted to the Office of Economic Affairs within the last 12 months prior to the expiry of the term of validity, but not later than six months after its expiry.²²

4) If the application for renewal is submitted after expiry of the term of validity, an additional fee must be paid.

¹⁹ Article 9(1) amended by LGBL 2016 No. 413.

²⁰ Article 10(1) amended by LGBL 2022 No. 346.

²¹ Article 10(2a) inserted by LGBL 2022 No. 346.

²² Article 10(3) amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

Article 11²³*Use of trade marks*

- 1) A trade mark is protected if it is used in respect of the goods or services for which it is claimed.
- 2) The following shall also constitute use of the trade mark:
 - a) use of the trade mark in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, regardless of whether or not the trade mark in the form as used is also registered in the name of the proprietor; and
 - b) affixing of the trade mark to goods or to the presentation or packaging thereof intended solely for export purposes.
- 3) Use of the trade mark with the consent of the proprietor is considered to be use by the proprietor.
- 4) Use of the trade mark in the territory of the European Economic Area or Switzerland is also considered to be use of the trade mark.

Article 12²⁴*Consequences of non-use*

- 1) Where the proprietor has not put the trade mark to genuine use in connection with the goods or services for which it is claimed for an uninterrupted period of five years following the unused expiry of the opposition period or, in the event that an opposition has been lodged, from the date when a decision terminating the opposition proceedings became final or the opposition was withdrawn, the proprietor may no longer assert the right to the trade mark, unless there are proper reasons for non-use.
- 2) If use of the trade mark is commenced or resumed after more than five years, the right to the trade mark is restored with effect from the original priority date, unless non-use of the trade mark has been invoked under paragraph 1 prior to its commencement or resumption of use.
- 3) Any person who invokes non-use of a trade mark is required to substantiate the claim; evidence of use is then required to be provided by the proprietor of the trade mark.

²³ Article 11 amended by LGBL 2022 No. 346.

²⁴ Article 12 amended by LGBL 2022 No. 346.

Article 12a²⁵*Non-use as defence*

The proprietor of a trade mark shall be entitled to prohibit the use of a sign only to the extent that the proprietor's rights are not liable to be revoked pursuant to Article 12b at the time the infringement action is brought. If the defendant so requests, the proprietor of the trade mark shall furnish proof that, during the five-year period preceding the date of bringing the action, the trade mark has been put to genuine use in connection with the goods or services in respect of which it is registered and which are cited as justification for the action, or that there are proper reasons for non-use, provided that the registration procedure of the trade mark has at the date of bringing the action been completed for not less than five years.

Article 12b²⁶*Revocation*

1) A trade mark shall be liable to revocation on request if, within a continuous five-year period, it has not been put to genuine use in connection with the goods or services in respect of which it is claimed, and there are no proper reasons for non-use.

2) No person may claim that the proprietor's rights in a trade mark should be revoked where, during the interval between expiry of the five-year period and filing of the application for revocation, genuine use of the trade mark has been started or resumed.

3) The commencement or resumption of use within the three-month period preceding the filing of the application for revocation which began at the earliest on expiry of the continuous five-year period of non-use shall be disregarded where preparations for the commencement or resumption occur only after the proprietor of the trade mark becomes aware that the application for revocation may be filed.

4) A trade mark shall furthermore be liable to revocation if:

- a) as a result of acts or inactivity of the proprietor, it has become the common name in the trade for goods or services in respect of which it is claimed;

²⁵ Article 12a inserted by LGBl. 2022 No. 346.

²⁶ Article 12b inserted by LGBl. 2022 No. 346.

b) as a result of the use made of it by the proprietor of the trade mark or with the proprietor's consent in respect of the goods or services for which it is claimed, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

5) Where grounds for revocation of a trade mark exist in respect of only some of the goods or services for which that trade mark has been registered, revocation of the registration shall cover those goods or services only.

4. Content and limitations of trade mark rights²⁷

Article 13²⁸

Exclusive right, principle of exhaustion

1) A trade mark right confers on the proprietor the exclusive right to use the trade mark to identify the goods or services for which it is claimed and to dispose of it.

2) Without prejudice to the rights of proprietors acquired before the filing date or the priority date, the proprietor of the trade mark shall be entitled to prevent all third parties not having the proprietor's consent from using in the course of trade, in relation to goods or services, any sign where:

- a) the sign is identical with the trade mark and is used in relation to goods or services which are identical with those for which the trade mark is registered;
- b) the sign is identical with, or similar to, the trade mark and is used in relation to goods or services which are identical with, or similar to, the goods or services for which the trade mark is registered, if there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association between the sign and the trade mark;
- c) the sign is identical with, or similar to, the trade mark irrespective of whether it is used in relation to goods or services which are identical with, similar to, or not similar to, those for which the trade mark is registered, where the latter has a reputation in Liechtenstein and where

²⁷ Title preceding Article 13 amended by LGBL. 2022 No. 346.

²⁸ Article 13 amended by LGBL. 2022 No. 346.

use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.

3) If a condition under paragraph 2 applies, the proprietor of the trade mark may in particular prohibit:

- a) affixing the sign to the goods or to the presentation or packaging thereof;
- b) offering the goods or putting them on the market, or stocking them for those purposes, under the sign;
- c) offering or supplying services under the sign;
- d) importing, exporting, or transiting goods under the sign;
- e) using the sign as a trade or company name or part of a trade or company name;
- f) using the sign on business papers and in advertising or otherwise in the course of trade;
- g) using the sign in comparative advertising in a manner that is contrary to Directive 2006/114/EC²⁹.

4) The proprietor of the trade mark may also assert the rights under paragraph 3(d) if the import, export, or transit of commercially manufactured goods is carried out for private purposes.

5) The proprietor of a trade mark shall not be entitled to prohibit a third party from using the trade mark for goods which have been put on the market by the proprietor or with the proprietor's consent in Liechtenstein or in one of the other EEA Member States.

6) Paragraph 5 shall not apply if the proprietor of the trade mark opposes the use of the trade mark in connection with the further commercialisation of the goods for legitimate reasons, in particular if the condition of the goods has been changed or impaired after being put on the market.

7) The proprietor of a trade mark only has the right to prohibit a third party from using the trade mark for goods which have been put on the market by the proprietor or with the proprietor's consent in a country outside the EEA if such use could be misleading for domestic consumers.

8) Where there is a risk that the presentation or packaging for presentation or packaging or the means of identification such as labels, tags, patches or the like will be used to identify goods or services in respect

²⁹ Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, 21)

of which third parties would be prohibited from using the sign under paragraphs 2 and 3, the proprietor of the trade mark may also prohibit third parties from the following acts in the course of trade without the proprietor's consent:

- a) affixing a sign identical with, or similar to, the trade mark on any presentation, packaging, or other means of identification;
- b) offering or placing on the market, or stocking for those purposes, any presentation, packaging, or other means of identification bearing a sign identical with or similar to the trade mark; or
- c) importing, exporting, or transiting any presentation, packing, or other means of identification bearing a sign identical with or similar to the trade mark.

Article 13a³⁰

Limitation of the effect of a trade mark

1) The proprietor of a trade mark may not prohibit a third party from using, in the course of trade:

- a) the name or address of the third party, where that third party is a natural person;
- b) signs or indications which are not distinctive or which concern the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services; or
- c) the trade mark for the purpose of identifying or referring to goods or services as those of the proprietor of that trade mark, in particular, where the use of the trade mark is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts.

2) Paragraph 1 shall apply only where the use made by the third party is in accordance with honest practices in industrial or commercial matters.

³⁰ Article 13a inserted by LGBI. 2022 No. 346.

Article 13b³¹*Forfeiture of claims*

1) The proprietor of the trade mark shall not be entitled to prohibit the use of a later trade mark in respect of the goods or services for which it is registered to the extent that the proprietor has acquiesced, for a period of five successive years, in the use of the trade mark while being aware of such use, unless the registration of the later trade mark was applied for in bad faith.

2) In the case referred to in paragraph 1, the proprietor of the later trade mark shall not be entitled to prohibit the use of the earlier trade mark.

Article 14

Limitation concerning previously used signs

1) The proprietor of a trade mark may not prohibit another person from continuing to use a sign to the same extent as already previously used prior to the application for registration.³²

2) This right to continued use may only be assigned together with the undertaking.

Article 15

Well-known trade marks

1) The proprietor of a well-known trade mark may prohibit others from using the trade mark for any type of goods or services if such use threatens the distinctiveness of the trade mark or exploits or damages its reputation.³³

2) Rights acquired before the trade mark became well-known remain unaffected.

³¹ Article 13b inserted by LGBL 2022 No. 346.

³² Article 14(1) amended by LGBL 2022 No. 346.

³³ Article 15(1) amended by LGBL 2022 No. 346.

Article 16

Reproduction of trade marks in dictionaries and other reference works

Where a registered trade mark is reproduced in a dictionary, in another reference work or in a similar work without reference to its registration, the proprietor of the trade mark may require that the publisher, editor, or distributor of the work include a corresponding reference, at the latest in a reprint.

Article 16a³⁴*Claims against agents or representatives*

1) Where a trade mark is registered in the name of the agent or representative of a person who is the proprietor of that trade mark, without the proprietor's consent, or if the trade mark remains registered after the consent lapses, the proprietor shall be entitled:

- a) to oppose the use of the trade mark by the proprietor's agent; and/or
- b) to demand the assignment of the trade mark in the proprietor's favour.

2) Paragraph 1 shall not apply if there are grounds of justification for the actions of the agent or representative.

5. Modifications concerning trade mark rights

Article 17

Assignment

1) The proprietor may assign the trade mark in whole or in part for the goods or services for which it has been claimed.

2) The assignment is only valid if evidenced in writing. It is only effective in relation to third parties who are acting in good faith once it has been entered in the register.

3) Actions under this Act may be brought against the previous proprietor up to the entry of the assignment in the register.

³⁴ Article 16a inserted by LGBL 2022 No. 346.

4) Unless otherwise agreed, the assignment of an undertaking also includes the assignment of its trade marks.

Article 18

Division of a request for registration or registration

1) The proprietor of a trade mark may at any time make a written demand for the division of a registration or a request for registration.

2) The goods and services are divided between the divisional applications or divisional registrations.

3) Divisional applications or registrations retain the filing date and priority date of the original application or original registration.³⁵

Article 19³⁶

Licensing

1) The trade mark may be licensed, exclusively or non-exclusively, for some or all of the goods or services for which the trade mark is claimed, for the whole or part of Liechtenstein.

2) The proprietor of the trade mark may invoke the rights conferred by that trade mark against a licensee who contravenes any provision of the licensing contract with regard to:

- a) its duration;
- b) the form covered by the registration in which the trade mark may be used;
- c) the scope of the goods or services for which the licence is granted;
- d) the territory in which the trade mark may be affixed; or
- e) the quality of the goods manufactured or of the services provided by the licensee.

3) The licensee may bring an action for infringement of a trade mark only if its proprietor consents thereto. If the proprietor of the trade mark, after formal notice, does not themselves bring an action for infringement of the trade mark within an appropriate period, the holder of an exclusive licence may also bring such an action.

³⁵ Article 18(3) amended by LGBl. 2022 No. 346.

³⁶ Article 19 amended by LGBl. 2022 No. 346.

4) A licensee shall be entitled to join an infringement action brought by the proprietor of the trade mark as an intervening party. The licensee's interest in obtaining future compensation for damage suffered by the licensee in their own proceedings constitutes the legal interest in joining as an intervening party.

5) The licence shall be entered in the register at the request of the proprietor of the trade mark or the licensee with proof of the consent of the other party. It then becomes binding on any rights to the trade mark subsequently acquired.

Article 20

Usufruct and pledge; compulsory enforcement

1) A trade mark may be subject to usufruct, pledge, or compulsory enforcement measures.

2) Usufruct and pledges only have effect against third parties acting in good faith if they are entered in the register.

Article 20a³⁷

Applications for trade marks

Articles 17, 19 and 20 shall apply *mutatis mutandis* to rights conferred by applications for trade marks.

6. International treaties

Article 21

1) This Act is subject to international treaties.

2) Where international treaties binding on Liechtenstein grant more extensive rights than this Act, such rights also apply to Liechtenstein nationals.

³⁷ Article 20a inserted by LGBL 2022 No. 346.

B. Guarantee marks and collective marks

Article 22³⁸

Guarantee marks

1) A guarantee mark is a sign that is used by several undertakings under the supervision of the proprietor of the mark and which serves to guarantee the quality, geographical origin, the method of manufacture, or other characteristics common to goods or services of such undertakings.

2) A guarantee mark may not be used for goods or services of the proprietor of the mark or of an undertaking with which the proprietor has close economic ties.

3) In return for equitable remuneration, the proprietor of the guarantee mark must allow any person to use it for goods or services that possess the common characteristics guaranteed under the regulations governing the use of the mark.

Article 23³⁹

Collective marks

1) A collective mark is a trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods or services of the members of an association from the goods or services of other undertakings.

2) Associations of manufacturers, producers, suppliers of services or traders, which have the capacity in their own name to have rights and obligations, to make contracts or accomplish other legal acts, and to sue and be sued, as well as legal persons governed by public law, may apply for collective marks.

³⁸ Article 22 amended by LGBl. 2022 No. 346.

³⁹ Article 23 amended by LGBl. 2022 No. 346.

Article 24

Regulations governing the use of guarantee/collective marks

1) The applicant of a guarantee or collective mark must file regulations governing the use of the mark with the Office of Economic Affairs.⁴⁰

2) The regulations for guarantee marks shall designate the common characteristics of the goods or services which the mark is intended to guarantee; they shall also provide for an effective control of the use of the mark and for appropriate sanctions.⁴¹

3) The regulations for collective marks shall contain at least the following:⁴²

- a) the name and registered office of the association;
- b) the purpose and representation of the association;
- c) the requirements for membership;
- d) information on the group of persons entitled to use the collective mark;
- e) the conditions for use of the collective mark; and
- f) information on the rights and obligations of the parties in the event of infringement of the collective mark.

4) The regulations may not be contrary to public policy, morality, or applicable law.

Article 25

Approval of the regulations⁴³

The regulations must be approved by the Office of Economic Affairs. Approval will be granted if the requirements under Article 24 are fulfilled.⁴⁴

⁴⁰ Article 24(1) amended by LGBl. 2022 No. 346.

⁴¹ Article 24(2) amended by LGBl. 2022 No. 346.

⁴² Article 24(3) amended by LGBl. 2022 No. 346.

⁴³ Article 25 heading amended by LGBl. 2006 No. 299.

⁴⁴ Article 25 amended by LGBl. 2006 No. 299 and LGBl. 2011 No. 551.

Article 25a⁴⁵*Amendments to regulations*

- 1) Any amended regulations must be notified to the Office of Economic Affairs.
- 2) Articles 24 and 25 shall apply *mutatis mutandis* in the event of amendments to regulations.
- 3) Amendments to regulations shall take effect only from the date of their entry in the register.

Article 26

Unlawful regulations

Where the approved regulations do not fulfil or no longer fulfil the requirements of Article 24 and the proprietor of the mark does not remedy the situation within the time limit determined by the Court of Justice, the registration of the mark becomes null and void on expiry of this time limit.

Article 27⁴⁶*Use in contravention of the regulations*

Where the proprietor of the mark tolerates repeated use of a guarantee or collective mark that infringes the main provisions of the regulations and the proprietor does not remedy the situation within the time limit determined by the Court of Justice, the registration of the mark becomes null and void on expiry of this time limit.

Article 28

Assignment and licensing

The assignment of a guarantee or collective mark and the grant of licences with respect to collective marks are only valid if entered in the register.

⁴⁵ Article 25a inserted by LGBl. 2022 No. 346.

⁴⁶ Article 27 amended by LGBl. 2022 No. 346.

Article 28a⁴⁷*Revocation*

In addition to the grounds for revocation provided for in Article 12b, the registration of a guarantee or collective mark shall, on request, be revoked on the following grounds:

- a) the proprietor of the guarantee or collective mark no longer exists;
- b) the proprietor of the guarantee or collective mark does not take suitable steps to prevent the guarantee or collective mark from being misused in a manner contrary to the purposes of the association or the regulations;
- c) the manner in which the mark has been used by authorised persons has caused it to become liable to mislead the public; or
- d) an amendment to the regulations has been entered in the register contrary to Article 25a(2), unless the proprietor of the guarantee or collective mark further amends the regulations so that the ground for revocation no longer exists.

C. Registration of trade marks**1. Registration procedure**

Article 29

*Application*⁴⁸

- 1) Any person may apply for the registration of a trade mark.⁴⁹
- 2) When filing an application for registration with the Office of Economic Affairs, the following must be submitted:⁵⁰
 - a) a request for registration with details of the name or company name of the applicant;⁵¹
 - b) a representation of the trade mark;

⁴⁷ Article 28a inserted by LGBL 2022 No. 346.

⁴⁸ Article 29 heading amended by LGBL 2022 No. 346.

⁴⁹ Article 29(1) amended by LGBL 2022 No. 346.

⁵⁰ Article 29(2) introductory sentence amended by LGBL 2006 No. 299 and LGBL 2011 No. 551 and LGBL 2022 No. 346.

⁵¹ Article 29(2)(a) amended by LGBL 2022 No. 346.

- c) a list of goods and services for which the trade mark is to be claimed.
- 3) An application fee must be paid for each application, as established by Government ordinance.⁵²
- 4) By ordinance, the Government may also establish an additional fee in proportion to the scope of the list of goods and services (class fee).
- 5) The Government shall determine the detailed modalities of the filing procedure by ordinance. The Government shall specify in particular what documents must be submitted, what deadlines must be met, and how the trade marks are to be published.

Article 30⁵³

Date of application

- 1) A trade mark is considered to have been applied for once the documents referred to in Article 29(2) have been submitted.
- 2) If, after filing an application, a trade mark is replaced or essential elements of it are modified or if the list of goods or services is extended, then the date of application is considered to be the day on which those modifications were submitted.

Article 31

Decision and registration

- 1) The Office of Economic Affairs shall dismiss a request for registration if the application does not fulfil the requirements of Article 29(2).⁵⁴
- 2) It shall reject the request for registration if:
- a) the application does not fulfil the formal requirements laid down in this Act or in the associated ordinances;⁵⁵
 - b) the prescribed fees have not been paid;
 - c) absolute grounds for exclusion exist as referred to in Article 2(1)(a) to (f) and (h) to (l);⁵⁶

⁵² Article 29(3) amended by LGBL 2022 No. 346.

⁵³ Article 30 amended by LGBL 2022 No. 346.

⁵⁴ Article 31(1) amended by LGBL 2022 No. 346.

⁵⁵ Article 31(2)(a) amended by LGBL 2022 No. 346.

⁵⁶ Article 31(2)(c) amended by LGBL 2022 No. 346.

d) the guarantee or collective mark does not fulfil the requirements of Articles 22 to 24.

2a) If an absolute ground for exclusion exists as referred to in Article 2(1)(g) or (m), the request for registration shall be refused only if the likelihood of deception or bad faith is evident.⁵⁷

3) It shall register the trade mark if no grounds for refusal exist.

1a. Opposition procedure⁵⁸

Article 31a⁵⁹

Opposition

1) The proprietor of an earlier trade mark may file a written notice of opposition against the registration of a trade mark after the publication of the registration of the mark. The notice of opposition may also be filed by persons entitled to assert rights arising from by an earlier protected designation of origin or geographical indication.

2) The opposition may be based solely on the ground that the trade mark may be removed on account of:

- a) an earlier trade mark pursuant to Article 3(2)(a) in conjunction with Article 3(1)(a) to (c);
- b) an earlier well-known trade mark pursuant to Article 3(2)(b) in conjunction with Article 3(1)(a) to (c);
- c) its registration for an agent or representative of the proprietor of the trade mark pursuant to Art. 3(1)(d); or
- d) an earlier designation of origin or geographical indication pursuant to Article 3(1)(e).

3) The notice of opposition must be filed in writing with the Office of Economic Affairs within three months after the publication of the registration of the trade mark, stating the grounds for the opposition. The opposition fee must also be paid within this period.

4) A notice of opposition may be filed on the basis of one or more earlier rights, provided that they all belong to the same proprietor.

⁵⁷ Article 31(2a) inserted by LGBl. 2022 No. 346.

⁵⁸ Title preceding Article 31a inserted by LGBl. 2022 No. 346.

⁵⁹ Article 31a inserted by LGBl. 2022 No. 346.

5) If a notice of opposition is filed, the Office of Economic Affairs shall inform the proprietor of the trade mark thereof and invite the proprietor to comment on the notice of opposition within one month. Within this period, the proprietor of the trade mark may also raise the defence of non-use as set out in Article 31b.

6) If the proprietor of the trade mark does not file an objection to the notice of opposition within the period set out in paragraph 5, the trade mark shall be removed for the goods and services against which the opposition is directed and the opposition proceedings shall be deemed to be closed. If an objection is filed within the time limit, the Office of Economic Affairs shall inform the opposing party of the objection and shall give the opposing party the opportunity to comment on it within two months.

7) The parties shall be granted, at their joint request, a minimum of two months in the opposition proceedings in order to allow for the possibility of a friendly settlement.

Article 31b⁶⁰

Non-use as defence in opposition proceedings

If notice of opposition has been given by the proprietor of an earlier trade mark, that proprietor shall, if the other party raises the defence of non-use, furnish proof that the earlier trade mark has been used in accordance with Article 11 during the five-year period preceding the filing date or priority date of the trade mark against which the opposition is directed, provided that at that date no opposition to it was possible for at least five years. Only goods and services for which use has been proven shall be taken into account in the decision.

Article 31c⁶¹

Decision on the notice of opposition

If the examination of the notice of opposition shows that it is well founded in respect of all or part of the goods or services, the registration shall be removed in whole or in part and the trade mark shall be deemed not to have had, as from the outset, its effects to the extent that the trade

⁶⁰ Article 31b inserted by LGBl. 2022 No. 346.

⁶¹ Article 31c inserted by LGBl. 2022 No. 346.

mark has been removed. Otherwise the notice of opposition shall be rejected.

Article 31d⁶²

Compensation of parties

With the decision on the notice of opposition, the Office of Economic Affairs shall determine whether and to what extent the costs of the successful party are to be reimbursed by the unsuccessful party.

1b. Procedure for revocation or declaration of invalidity⁶³

Article 31e⁶⁴

Basic principle

- 1) The registration of a trade mark may be revoked on request in accordance with Article 12b.
- 2) The registration of a trade mark may be declared invalid on request if:
 - a) the trade mark should not have been registered because it does not comply with the requirements provided for in Article 2;
 - b) the trade mark should not have been registered because of the existence of an earlier right within the meaning of Article 3.

Article 31f⁶⁵

Procedure

1) The application for revocation or for a declaration of invalidity shall be submitted in writing to the Office of Economic Affairs. The facts and evidence serving as grounds shall be stated. The application shall be refused if the same subject matter of the dispute between the parties has been decided by an unappealable ruling or a final judgment. If several

⁶² Article 31d inserted by LGBL 2022 No. 346.

⁶³ Title preceding Article 31e inserted by LGBL 2022 No. 346.

⁶⁴ Article 31e inserted by LGBL 2022 No. 346.

⁶⁵ Article 31f inserted by LGBL 2022 No. 346.

applications are filed between the same parties, they may be combined and decided by ruling in a single proceeding.

2) The application for revocation or for a declaration of invalidity may be directed against a part or the totality of the goods or services in respect of which the contested mark is registered.

3) The application for revocation or for a declaration of invalidity on absolute grounds for exclusion may be filed by any natural or legal person and any group or body set up for the purpose of representing the interests of manufacturers, producers, suppliers of services, traders, or consumers that has the capacity to be a party in the proceedings.

4) The application for revocation or for a declaration of invalidity on relative grounds for exclusion may be filed by the proprietor of the rights referred to in Article 3. This shall apply in the case of an application for a trade mark under Article 3(2)(a), subject to its registration.

5) If an application for revocation or for a declaration of invalidity is filed, the Office of Economic Affairs shall send a notice to the proprietor of the registered trade mark and invite the proprietor to comment on the application within one month.

6) If the proprietor of the registered trade mark does not file an objection against the application for revocation or for a declaration of invalidity within the period set out in paragraph 5, revocation or invalidity shall be declared, the registration shall be removed for those goods and services against which the application is directed, and the revocation or invalidity proceedings shall be deemed to be closed. If an objection against the application for revocation or for a declaration of invalidity is filed within the time limit, the Office of Economic Affairs shall notify the applicant of the objection. The revocation or invalidity proceedings shall continue only if the fee for pursuing the revocation or invalidity proceedings is paid within one month. Otherwise, the revocation or invalidity proceedings shall be deemed closed.

7) If the application for revocation or for a declaration of invalidity on grounds of earlier rights has been filed by the proprietor of an earlier trade mark, the proprietor shall prove, upon objection by the respondent, that the trade mark has been used during the five-year period preceding the filing of the application, provided that at that date no opposition to it was possible for at least five years. Where an opposition has been lodged, the five years shall be calculated from the date when a decision terminating the opposition proceedings became final or the opposition was withdrawn. If the period of five years of non-use ends after the filing of the application, the applicant shall prove, upon objection by the respondent, that the trade mark has been used within the last five years. If

the earlier trade mark had already been registered for at least five years on the filing date or priority date of the later trade mark, the applicant shall further prove, upon objection of the respondent, that the registration of the earlier trade mark could not have been declared revoked on that date. Only the goods and services for which use has been proven shall be taken into account in the decision.

8) If the right created by the registration of the trade mark has been assigned or transferred to another person, the decision on the merits shall also be effective and enforceable against the successor in title.

2. Removal of the registration

Article 32

*Preconditions*⁶⁶

The Office of Economic Affairs shall remove a trade mark registration in whole or in part if:⁶⁷

- a) the proprietor requests the removal;
- b) the registration has not been renewed;
- c) the registration has been declared invalid in a final court decision;
- d) the removal is carried out pursuant to opposition proceedings;⁶⁸
- e) an application for revocation or for a declaration of invalidity is granted.⁶⁹

3. Legal remedies

Article 33

Complaint

1) Decrees of the Office of Economic Affairs may be appealed by way of complaint to the Government within 30 days of service.⁷⁰

⁶⁶ Article 32 heading amended by LGBL 2022 No. 346.

⁶⁷ Article 32 introductory sentence amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

⁶⁸ Article 32(d) inserted by LGBL 2022 No. 346.

⁶⁹ Article 32(e) inserted by LGBL 2022 No. 346.

⁷⁰ Article 33(1) amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

2) Decisions of the Government may be appealed by raising an objection to the Government or by way of complaint to the Administrative Court within 30 days of service.⁷¹

4. Register, publication, and electronic communication with authorities⁷²

Article 34

Maintenance of the register⁷³

The Office of Economic Affairs shall maintain the Trade Mark Register.⁷⁴

Article 35

Publications

1) The Office of Economic Affairs shall publish:⁷⁵

- a) the registration of trade marks (Article 31(3));
- b) the renewal of trade mark registrations (Article 10(2));
- c) the removal of trade mark registrations (Article 32).

2) By ordinance, the Government shall specify what other registrations are to be published, and it shall determine the publication medium.

Article 36

Access to the register; inspection of the files

1) Any person may inspect the register, obtain information on its contents, and request extracts from it.

2) In addition, any person may inspect the files of a registered trade mark.

⁷¹ Article 33(2) amended by LGBL 2004 No. 33.

⁷² Title preceding Article 34 amended by LGBL 2022 No. 346.

⁷³ Article 34 heading amended by LGBL 2006 No. 299.

⁷⁴ Article 34 amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

⁷⁵ Article 35(1) introductory sentence amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

3) By ordinance, the Government shall regulate the cases in which inspection of the dossier is permitted prior to the registration of a trade mark or which certain parts of the dossier are excluded from inspection for the purpose of protecting trade marks or indications of source.

Article 37⁷⁶

Electronic communication with authorities

- 1) The Trade Mark Register may be maintained in electronic form.
- 2) The dossier and the files may be maintained and stored in electronic form.
- 3) The Office of Economic Affairs may make its database accessible, particularly online, to third parties; it may demand remuneration for this service.
- 4) The publications of the Office of Economic Affairs may be produced in electronic form; the electronic version, however, is only authoritative if the data is exclusively published in electronic form.

5. Further processing for missed time limits

Article 38

- 1) If the Office of Economic Affairs refuses an application relating to trade marks because a time limit has been missed, then the applicant may file a request in writing for further processing. This provision is subject to Article 104 of the National Administration Act.⁷⁷
- 2) The request must be filed within two months of the applicant receiving notice of the expiry of the time limit, and at the latest within six months of expiry of the said time limit; within this time limit, the omitted act must be carried out in full and the fee for further processing paid.
- 3) If the request is approved, this will have the effect of restoring the situation that would have resulted from carrying out the act within the time limit.
- 4) Further processing is ruled out in the case of failure to observe:

⁷⁶ Article 37 amended by LGBL 2022 No. 346.

⁷⁷ Article 38(1) amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

- a) time limits for filing a request for further processing (paragraph 2);
- b) time limits for claiming priority under Articles 7 and 8;
- c) the time limits for filing an application for renewal under Article 10(3);⁷⁸
- d) the time limits in the opposition proceedings under Article 31a(3) and (5);⁷⁹
- e) the time limits in the revocation or invalidity proceedings under Article 31(f).⁸⁰

6. Representation

Article 39⁸¹

Representatives and authorised recipients

1) Any person who is party to administrative or judicial proceedings governed by this Act and does not have a domicile, registered office, or branch in Liechtenstein or other EEA Member State or Switzerland may participate before the competent administrative or judicial authorities only if the person has appointed a lawyer or patent lawyer as representative who is domiciled in Liechtenstein or is authorised to temporarily pursue the profession in Liechtenstein.

2) Any person who is party to administrative or judicial proceedings governed by this Act and has a domicile, registered office, or branch in an EEA Member State or Switzerland may participate before the competent administrative or judicial authorities if an authorised recipient in Liechtenstein has been appointed.

7. Fees

Article 40

1) In addition to the cases referred to in this Act, fees are payable for official actions in response to specific requests.

2) By ordinance, the Government shall determine the fees so that they cover the administrative effort.

⁷⁸ Article 38(4)(c) inserted by LGBL 2015 No. 280.

⁷⁹ Article 38(4)(d) inserted by LGBL 2022 No. 346.

⁸⁰ Article 38(4)(e) inserted by LGBL 2022 No. 346.

⁸¹ Article 39 amended by LGBL 2015 No. 280.

8. Data protection⁸²

Article 40a⁸³

Processing of personal data

1) The Office of Economic Affairs may process or have processed personal data to the extent necessary for the performance of its duties under this Act.

2) To the extent that personal data is contained in the register or in the publication medium referred to in Article 35(2), the following shall not exist:

- a) the right of access referred to in Article 15(1)(c) of Regulation (EU) 2016/679⁸⁴;
- b) the notification obligation referred to in the second sentence of Article 19 of Regulation (EU) 2016/679; and
- c) the right to object referred to in Article 21(1) of Regulation (EU) 2016/679.

3) The right to receive a copy referred to in Article 15(3) of Regulation (EU) 2016/679 is fulfilled by the person concerned being able to inspect the register or the publication medium referred to in Article 35(2).

D. International registration of trade marks

Article 41

Applicable law

1) This chapter applies to international registrations under the Madrid Agreement of 14 April 1891 Concerning the International Registration of Marks (the Madrid Agreement) and the Protocol of 28 June 1989 Relating to the Madrid Agreement Concerning the International Registration of

⁸² Title preceding Article 40a inserted by LGBl. 2022 No. 346.

⁸³ Article 40a inserted by LGBl. 2022 No. 346.

⁸⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, 1)

Marks (Madrid Protocol) that are done through the intermediary of the Office of Economic Affairs or which have effect in Liechtenstein.⁸⁵

2) The other provisions of this Act apply except where the Madrid Agreement, the Madrid Protocol, or Part I provide otherwise.

Article 42

Application for registration in the International Register

1) It is possible to request the following through the intermediary of the Office of Economic Affairs:⁸⁶

- a) the international registration of a trade mark provided that Liechtenstein is the country of origin in accordance with Article 1(3) of the Madrid Agreement, or Article 2(1) of the Madrid Protocol;
- b) the modification of an international registration provided that Liechtenstein is the country of the proprietor of the trade mark in accordance with the Madrid Agreement or the Madrid Protocol;
- c) the international registration of a request for registration provided that Liechtenstein is the country of origin in accordance with Article 2(1) of the Madrid Protocol.

2) The fees as set out in the Madrid Agreement, the Madrid Protocol, and in the ordinance must be paid for the international registration of a trade mark, a request for registration, or the modification of an international registration.

Article 43

Effect of international registration in Liechtenstein

1) An international registration with effect in Liechtenstein has the same effect as the filing of an application with the Office of Economic Affairs and registration in the Liechtenstein register.⁸⁷

2) Such effect does not arise if and to the extent the internationally registered trade mark has been refused protection in Liechtenstein.

⁸⁵ Article 41(1) amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

⁸⁶ Article 42(1) introductory sentence amended by LGBL 2006 No. 299 and LGBL 2011 No. 551.

⁸⁷ Article 43(1) amended by LGBL 2022 No. 346.

3) For an international registration with effect in Liechtenstein, the period of use of the trade mark of five years shall be calculated from the day on which the trade mark can no longer be refused or a notice of opposition against it can no longer be filed. If a notice of opposition has been filed, the period shall be calculated from the date when a decision terminating the opposition proceedings became final or the opposition was withdrawn.⁸⁸

4) In the case of internationally registered trade marks, publication of the registration pursuant to Article 35(1)(a) shall be replaced by publication in the gazette issued by the International Bureau of the World Intellectual Property Organization.⁸⁹

5) The period for filing a notice of opposition under Article 31a(3) against an international registration shall commence on the first day of the month following the month of publication of the internationally registered mark in the gazette.⁹⁰

6) The removal of the registration under Article 31a(6) and Article 31c shall be replaced by the refusal of protection.⁹¹

Article 44

Conversion of an international registration into a national request for registration

1) An international registration may be converted into a national request for registration if:

- a) the application is submitted to the Office of Economic Affairs within three months of removing the international registration;⁹²
- b) the international registration and the national request for registration concern the same trade mark;
- c) the goods and services indicated in the application were also the actual goods and services covered by the international registration having effect in Liechtenstein;
- d) the national request for registration fulfils all the other requirements laid down in this Act.

⁸⁸ Article 43(3) inserted by LGBL. 2022 No. 346.

⁸⁹ Article 43(4) inserted by LGBL. 2022 No. 346.

⁹⁰ Article 43(5) inserted by LGBL. 2022 No. 346.

⁹¹ Article 43(6) inserted by LGBL. 2022 No. 346.

⁹² Article 44(a) amended by LGBL. 2006 No. 299 and LGBL. 2011 No. 551.

2) Notices of opposition against the registration of trade marks applied for under paragraph 1 shall be inadmissible.⁹³

II. Indications of source

Article 45

Principle

1) Indications of source are direct or indirect references to the geographical origin of goods or services, including references to their properties or the quality associated with their origin.

2) Geographical names and signs that are not understood by the relevant public as indicating a certain origin of the goods or services are not considered indications of source within the meaning of paragraph 1.

3) It is prohibited to use:⁹⁴

- a) incorrect indications of source;
- b) designations that may be confused with an incorrect indication of source;
- c) a name, a company name, an address, or a trade mark associated with goods or services of a different origin where this could be misleading.⁹⁵

3a) Where indications of source are used with additions such as "kind", "type", "style" or "imitation", the same requirements must be fulfilled that apply to the use of indications of source without these additions.⁹⁶

3b) Indications regarding research or design or other specific activities associated with the product may only be used if this activity takes place entirely at the specified location.⁹⁷

4) Regional or local indications of source for services are considered to be correct if such services satisfy the criteria of origin for the country concerned as a whole.

⁹³ Article 44(2) inserted by LGBL 2022 No. 346.

⁹⁴ Article 45(3) introductory sentence amended by LGBL 2022 No. 346.

⁹⁵ Article 45(3)(c) amended by LGBL 2016 No. 413.

⁹⁶ Article 45(3a) amended by LGBL 2022 No. 346.

⁹⁷ Article 45(3b) inserted by LGBL 2016 No. 413.

Article 46

Origin of goods

1) The origin of goods is determined by the place of manufacture or by the origin of the base materials and components used.

2) Any additional requirements such as compliance with manufacturing or processing principles or quality requirements that are customary or prescribed in the place of origin must also be fulfilled.⁹⁸

3) In each individual case, all requirements are to be determined according to the understanding of the relevant public, and where applicable, in accordance with their influence on the reputation of the goods concerned.⁹⁹

4) A foreign indication of source is considered to be correct where it meets the statutory requirements of the country concerned. Any possible misleading of consumers in Liechtenstein remains reserved.¹⁰⁰

Article 47¹⁰¹*Origin of services*

1) The origin of services is determined by the registered office of the person providing the service.

2) The registered office and a place of effective administration of the person referred to in paragraph 1 must be located in the same country.

3) Where a parent company fulfils the requirements of paragraph 1, and either it or one of its subsidiaries effectively controlled by it and domiciled in the same country fulfils the requirements of paragraph 2, then the indication of source is also considered to be correct for similar services provided by the foreign subsidiaries and branches of the parent company.

4) Any additional requirements such as compliance with prescribed or customary principles of providing the service or the traditional association of the person providing the service with the country of origin must also be fulfilled.

⁹⁸ Article 46(2) amended by LGBL 2016 No. 413.

⁹⁹ Article 46(3) amended by LGBL 2016 No. 413.

¹⁰⁰ Article 46(4) inserted by LGBL 2016 No. 413.

¹⁰¹ Article 47 amended by LGBL 2016 No. 413.

5) A foreign indication of source is considered to be correct where it meets the statutory requirements of the country concerned. Any possible misleading of consumers in Liechtenstein remains reserved.

Article 47a¹⁰²

Cooperation with foreign authorities

For purposes of implementing Article 46(4), the Office of Economic Affairs may work together with the competent foreign authorities. It may:

- a) render administrative assistance;
- b) conclude administrative agreements; and
- c) delegate activities to third parties.

Article 48¹⁰³

Special provisions

Where the general interests of the economy or of individual sectors so require, the Government may by ordinance define in greater detail the requirements under which a Liechtenstein indication of source may be used for specific goods or services. It shall first hear the interested professional and business associations.

Article 49

Producer identification mark

Where the interests of a business sector so require, the Government may by ordinance prescribe that a producer identification mark be affixed to goods of that business sector.

¹⁰² Article 47a amended by LGBI 2016 No. 413.

¹⁰³ Article 48 amended by LGBI 2022 No. 346.

III. Legal protection

A. Protection under civil law

Article 49a¹⁰⁴

Reversal of the burden of proof

The user of an indication of source must prove that it is correct.

Article 50

Action for declaratory judgment

Any person who can demonstrate a legal interest may apply to the Court of Justice for a declaratory judgment as to whether a right or legal relationship governed by this Act does or does not exist.

Article 51

Action for assignment of a trade mark

1) The plaintiff may bring an action for the assignment of the trade mark instead of a declaration of nullity of the trade mark registration if the defendant has usurped the trade mark.

2) This right shall lapse two years after publication of the registration or after withdrawal of the proprietor's consent under Article 3(1)(d) in conjunction with Article 16a.¹⁰⁵

3) If the court orders the assignment, then licences or other rights granted to third parties in the intervening period lapse; however, if they have used the trade mark commercially in Liechtenstein in good faith or have made special preparations for this purpose, these third parties are entitled to be granted a non-exclusive licence.¹⁰⁶

4) Any claims for damages remain reserved.¹⁰⁷

¹⁰⁴ Article 49a inserted by LGBL 2016 No. 413.

¹⁰⁵ Article 51(2) amended by LGBL 2022 No. 346.

¹⁰⁶ Article 51(3) inserted by LGBL 2015 No. 280.

¹⁰⁷ Article 51(4) inserted by LGBL 2015 No. 280.

Article 52

*Transmission of judgments*¹⁰⁸

The Court of Justice shall transmit final judgments to the Office of Economic Affairs.

Article 53

Action for performance

1) Any person whose right to a trade mark or an indication of source is infringed or threatened may request the Court of Justice:

- a) to prohibit an imminent infringement;
- b) to remedy an existing infringement;
- c) to require the defendant to provide information on the origin and quantity of items in the defendant's possession that unlawfully bear the trade mark or the indication of source and to name the recipients and disclose the extent of any distribution to commercial and industrial customers.¹⁰⁹

2) Actions brought under civil law for damages, satisfaction, and handing over of profits in accordance with the provisions concerning agency without authority remain reserved.

2a) An action for performance may be instituted only after the entry of the trade mark in the register. Claims for damages may be made retroactively from the time at which the defendant obtained knowledge of the content of the request for registration.¹¹⁰

3) The use of a guarantee or collective mark contrary to the applicable regulations also constitutes an infringement of trade mark rights.¹¹¹

4) Any person who holds an exclusive licence is entitled to bring a separate action irrespective of the registration of the licence in the register unless this is expressly excluded in the licence agreement. Any licensees may join an infringement action in order to claim for their own damages.¹¹²

¹⁰⁸ Article 52 amended by LGBL 2016 No. 413.

¹⁰⁹ Article 53(1)(c) amended by LGBL 2015 No. 280.

¹¹⁰ Article 53(2a) inserted by LGBL 2015 No. 280.

¹¹¹ Article 53(3) amended by LGBL 2022 No. 346.

¹¹² Article 53(4) inserted by LGBL 2015 No. 280.

Article 54

Right to bring action by interested associations, organisations, and authorities¹¹³

1) The following are also authorised to bring actions for a declaratory judgment (Article 50) and actions for performance (Article 53(1)) concerning the protection of indications of source:¹¹⁴

- a) professional and business associations authorised by their articles of association to safeguard the economic interests of their members;
- b) organisations dedicated by their articles of association to the protection of consumers;
- c) the Office of Economic Affairs, to the extent the interests of the country are threatened.¹¹⁵

2) Associations and organisations under paragraph 1(a) and (b) are entitled to bring actions under Article 50 with respect to a guarantee mark (Article 22(1)) or collective mark (Article 23).¹¹⁶

Article 55

Confiscation in civil proceedings

1) The Court of Justice may order the confiscation of items which unlawfully bear a trade mark or an indication of source or of equipment, devices, and other means that primarily serve their manufacture.¹¹⁷

2) The Court of Justice decides whether the trade mark or indication of source is to be made unrecognisable or whether the items are to be rendered unusable, to be destroyed, or to be used in a specific way.

Article 56

Place of jurisdiction

1) The Court of Justice has jurisdiction for adjudicating claims under this Act, provided that the defendant's domicile, the place where the act

¹¹³ Article 54 heading amended by LGBl. 2016 No. 413.

¹¹⁴ Article 54(1) introductory sentence amended by LGBl. 2016 No. 413.

¹¹⁵ Article 54(1)(c) inserted by LGBl. 2016 No. 413.

¹¹⁶ Article 54(2) amended by LGBl. 2016 No. 413.

¹¹⁷ Article 55(1) amended by LGBl. 2015 No. 280.

was committed, or the place where the act was completed is in Liechtenstein.

2) The Court of Justice in any event has jurisdiction for claims of infringement of a Liechtenstein trade mark.

Article 57

Interim injunctions

1) A person providing *prima facie* evidence that the person's right to a trade mark or indication of origin is being violated or that such a violation must be feared and that the violation might result in a disadvantage to the person that is not easy to remedy may apply for an interim injunction.

2) In particular, the person may request the Court of Justice to order measures to secure evidence, to determine the origin of objects unlawfully affixed with the trade mark or indication of origin, to preserve the existing state of affairs, or to obtain injunctive relief or enforce the right of removal on an interim basis.

3) The Court of Justice is competent to issue interim injunctions.

Article 58

Publication of the judgment

At the request of the successful party, the Court of Justice may order the judgment to be published at the expense of the other party. The Court of Justice shall determine the manner and scope of publication.

B. Penal provisions

Article 59

Infringement of a trade mark right

1) On complaint of the injured party, the Court of Justice shall punish with a custodial sentence of up to one year or with a monetary penalty of up to 360 daily penalty units for committing a misdemeanour anyone who wilfully infringes the trade mark right of another, if that person:

- a) appropriates, counterfeits, or imitates the trade mark of the other person;
- b) places goods on the market or provides services, or offers, imports, exports, or carries in transit such goods, stocks them for the purpose of placing them on the market, advertises them, or offers or advertises such services under the appropriated, counterfeited, or imitated trade mark.¹¹⁸

2) On complaint of the injured party, anyone who refuses to provide information on the origin or quantity of the items in that person's possession that unlawfully bear the trade mark and to name the recipients and disclose the extent of distribution to commercial and industrial customers is also liable to the same penalties.¹¹⁹

3) Anyone who commits an infringement of a trade mark right on a professional basis (§ 70 of the Criminal Code) shall be punished with a custodial sentence of up to three years. Prosecution shall take place through the public prosecutor.

Article 60

*Fraudulent use of trade marks*¹²⁰

1) On complaint of the injured party, the Court of Justice shall punish with a custodial sentence of up to three years anyone who:

- a) unlawfully labels goods or services with the trade mark of another person in order to mislead and thereby give the impression that the goods or services are original goods or services;
- b) offers or places goods or services on the market as original goods or services, or offers or provides original services that unlawfully bear the trade mark of another.

2) Anyone who commits an infringement as referred to in paragraph 1 on a professional basis shall be punished with a custodial sentence of up to five years. Prosecution shall take place through the public prosecutor.

3) Repealed¹²¹

¹¹⁸ Article 59(1)(b) amended by LGBL 2015 No. 280.

¹¹⁹ Article 59(2) amended by LGBL 2015 No. 280.

¹²⁰ Article 60 heading amended by LGBL 2022 No. 346.

¹²¹ Article 60(3) repealed by LGBL 2015 No. 280.

Article 61

Use of a guarantee or collective mark contrary to the regulations¹²²

1) On complaint of the injured party, the Court of Justice shall punish with a custodial sentence of up to one year or with a monetary penalty of up to 360 daily penalty rates anyone who wilfully uses a guarantee or collective mark in a manner contrary to the regulations.¹²³

2) On complaint of the injured party, anyone who refuses to provide information on the origin of items in that person's possession that bear a guarantee or collective mark contrary to the regulations shall be punished with a fine of up to 20,000 Swiss francs, or with a custodial sentence of up to three months if the fine cannot be collected, for committing a contravention.

3) Where only minor regulation provisions are concerned, a penalty may be dispensed with.

4) Anyone who commits an infringement as referred to in paragraph 1 on a professional basis shall be punished with a custodial sentence of up to three years. Prosecution shall take place through the public prosecutor.

Article 62

Use of incorrect indications of source¹²⁴

1) The Court of Justice shall punish with a custodial sentence of up to one year or with a monetary penalty of up to 360 daily penalty units for committing a misdemeanour anyone who wilfully:¹²⁵

- a) uses an incorrect indication of source;
- b) uses a designation that can be confused with an incorrect indication of source;
- c) creates a risk of deception by using a name, a company name, an address, or a trade mark associated with goods or services of a different origin.¹²⁶

¹²² Article 61 heading amended by LGBL 2022 No. 346.

¹²³ Article 61(1) amended by LGBL 2022 No. 346.

¹²⁴ Article 62 heading amended by LGBL 2022 No. 346.

¹²⁵ Article 62(1) amended by LGBL 2022 No. 346.

¹²⁶ Article 62(1)(c) amended by LGBL 2016 No. 413.

2) Anyone who commits an infringement as referred to in paragraph 1 on a professional basis shall be punished with a custodial sentence of up to three years.¹²⁷

3) The Office of Economic Affairs may file a complaint with the prosecution authority and exercise the rights of a person entitled to private prosecution in the proceedings.¹²⁸

Article 63

Offences concerning the producer identification mark

The Court of Justice shall punish with a fine of up to 20,000 Swiss francs, or with a custodial sentence of up to three months if the fine cannot be collected, for committing a contravention anyone who wilfully infringes the regulations concerning the producer identification mark.

Article 63a¹²⁹

Non-punishable acts

Acts under Article 13(2a) are not punishable.

Article 64

Suspension of proceedings

1) The Court of Justice may suspend criminal proceedings if the accused person institutes civil proceedings for the nullity of the trade mark registration.

2) If the accused person pleads the nullity of the trade mark registration in criminal proceedings, the Court of Justice may set an appropriate time limit for the accused person to assert such nullity in civil proceedings.

3) The limitation period for prosecution is suspended during the stay of proceedings.

¹²⁷ Article 62(2) amended by LGBL 2016 No. 413.

¹²⁸ Article 62(3) inserted by LGBL 2016 No. 413.

¹²⁹ Article 63a inserted by LGBL 2015 No. 280.

Article 65

Responsibility

Where violations are committed in the business operations of a legal person, a general or limited partnership, or a sole proprietorship, then the penal provisions shall apply to the persons who acted or should have acted on its behalf; the legal person, partnership, or sole proprietorship shall, however, be jointly and severally liable for fines and costs.

Article 66

Confiscation in criminal proceedings

1) Where an offence has been committed, the following may be confiscated:

- a) goods to which the offence refers, and
- b) objects used or designated for use in the commission of the offence.

§ 26 of the Criminal Code applies.

2) The procedure shall be governed by the provisions set out in §§ 353 to 357 of the Code of Criminal Procedure.

Article 67¹³⁰*Forfeiture*¹³¹

1) Unlawfully obtained pecuniary advantages from offences referred to in Articles 59 to 63 may be declared forfeited in accordance with the General Part of the Criminal Code.¹³²

2) The procedure shall be governed by the provisions set out in §§ 353 to 357 of the Code of Criminal Procedure.

¹³⁰ Article 67 amended by LGBL 2000 No. 263.

¹³¹ Article 67 heading amended by LGBL 2016 No. 169.

¹³² Article 67(1) amended by LGBL 2016 No. 169.

C. Measures for import, export, and transit¹³³

Article 68¹³⁴

Notification of suspicious consignments

1) The competent authority is authorised to notify the proprietor of the trade mark, the person entitled to use an indication of source, or a party entitled to institute proceedings under Article 54 if there is any suspicion of the imminent passage of goods that unlawfully bear a trade mark or an indication of source into the customs area or out of the customs area.

2) In such cases, the competent authority is authorised to withhold the goods for three working days, in order that the proprietor of the trade mark, the person entitled to use the indication of source, or a party entitled to institute proceedings under Article 54 may file an application under Article 69.

Article 69

Application for assistance

1) If the proprietor of the trade mark, the licensee entitled to institute proceedings, the person entitled to use the indication of source, or a party entitled to institute proceedings under Article 54 has clear indications of the imminent passage of goods that unlawfully bear a trade mark or an indication of source into the customs area or out of the customs area, they may request the competent authority in writing to refuse the release of the goods.¹³⁵

2) The applicant must provide all the information available to the applicant that is necessary for the competent authority's decision; this includes a precise description of the goods.

3) The competent authority shall decide on the application. It may charge a fee to cover the administrative costs.

¹³³ Title preceding Article 68 amended by LGBL 2015 No. 280.

¹³⁴ Article 68 amended by LGBL 2015 No. 280.

¹³⁵ Article 69(1) amended by LGBL 2015 No. 280.

Article 70

Withholding of goods

1) If the competent authority, as a result of an application under Article 69(1), has reasonable grounds to suspect that certain goods intended for passage into the customs area or out of the customs area unlawfully bear a trade mark or an indication of source, then it shall notify the applicant and the declarant, holder, or owner of the goods accordingly.¹³⁶

2) The competent authority shall withhold the goods in question for a maximum of ten working days from the time of notification pursuant to paragraph 1, so that the applicant may obtain an interim injunction.

3) Where justified by the circumstances, the competent authority may withhold the goods in question for a maximum of ten additional working days.

4) If it is anticipated that withholding the goods may lead to a loss being incurred, the competent authority may make the withholding of goods dependent on the applicant providing an accepted security.

5) The applicant is liable for any losses incurred from withholding the goods if interim injunctions are not ordered or prove to be unjustified.

Article 70a¹³⁷*Samples*

1) While the goods are being withheld, the competent authority is authorised to hand over or deliver to the applicant, on request, samples for examination or to permit the applicant to inspect the goods being withheld.

2) The samples are collected and delivered at the expense of the applicant.

3) They must be returned after the examination has been carried out, if this is reasonable. If samples are retained by the applicant, they are subject to the provisions of customs law.

¹³⁶ Article 70(1) amended by LGBL 2015 No. 280.

¹³⁷ Article 70a inserted by LGBL 2015 No. 280.

Article 70b¹³⁸*Safeguarding of trade and business secrets*

1) At the same time as notification is made in accordance with Article 70(1), the competent authority shall inform the declarant, holder, or owner of the goods of the possible handover of samples or the opportunity to inspect them in accordance with Article 70a(1).

2) The declarant, holder, or owner may request to be present at the inspection in order to safeguard their trade or business secrets.

3) The competent authority may refuse to hand over samples on reasoned request from the declarant, holder, or owner.

Article 70c¹³⁹*Application for destruction of the goods*

1) When making an application under Article 69(1), the applicant may submit a written request to the competent authority to destroy the goods.

2) If an application for destruction is made, the competent authority shall notify the declarant, holder, or owner of the goods accordingly as part of the notification made under Article 70(1).

3) The application for destruction does not result in the time limits for obtaining interim injunctions under Article 70(2) and (3) being extended.

Article 70d¹⁴⁰*Consent*

1) The destruction of the goods requires the consent of the declarant, holder, or owner.

2) Consent is deemed to be given if the declarant, holder, or owner does not expressly object to the destruction within the time limits under Article 70(2) and (3).

¹³⁸ Article 70b inserted by LGBl. 2015 No. 280.

¹³⁹ Article 70c inserted by LGBl. 2015 No. 280.

¹⁴⁰ Article 70d inserted by LGBl. 2015 No. 280.

Article 70e¹⁴¹*Evidence*

Before the destruction of the goods, the competent authority shall remove samples and hold them in safekeeping as evidence in any actions for damage.

Article 70f¹⁴²*Damages*

1) If the destruction of the goods proves to be unjustified, the applicant is exclusively liable for the resultant loss.

2) If the declarant, holder, or owner has given express written consent for the destruction, no claims for damages may be made against the applicant if the destruction later proves to be unjustified.

Article 70g¹⁴³*Costs*

1) The destruction of the goods is carried out at the expense of the applicant.

2) The decision about the costs of collecting and safekeeping samples under Article 70e are decided by the Court of Justice in connection with the assessment of claims for damages in accordance with Article 70f(1).

Article 70h¹⁴⁴*Accountability statement and damages*

1) If it is anticipated that withholding the goods may lead to a loss being incurred, the competent authority may make the withholding of the goods dependent on the applicant providing it with an accountability statement. As an alternative to this statement and where justified by

¹⁴¹ Article 70e inserted by LGBl. 2015 No. 280.

¹⁴² Article 70f inserted by LGBl. 2015 No. 280.

¹⁴³ Article 70g inserted by LGBl. 2015 No. 280.

¹⁴⁴ Article 70h inserted by LGBl. 2015 No. 280.

circumstances, the competent authority may request the applicant to provide appropriate security.

2) The applicant is liable for any losses incurred from withholding the goods and from collecting the samples if interim injunctions are not ordered or prove to be unjustified.

Article 71

Competence; international treaties

1) The Government shall determine the competent authority for the purposes of Articles 68 to 70h by ordinance.¹⁴⁵

2) The Government may entrust the following with implementation of the measures for import, export, and transit:¹⁴⁶

- a) individual offices of the National Administration;
- b) third parties.

3) This article is subject to international treaties.

IV. Transitional and final provisions

Article 72

Implementation

The Government shall enact the ordinances necessary for implementation of this Act.

Article 73

Repeal of law hitherto in force

The following enactments are repealed:

- a) Law of 26 October 1928 on the Protection of Manufacturer's, Trade, and Service Marks, Designations of Origin of Goods, and Commercial Accolades, LGBL. 1928 No. 13;

¹⁴⁵ Article 71(1) amended by LGBL. 2015 No. 280.

¹⁴⁶ Article 71(2) introductory sentence amended by LGBL. 2015 No. 280.

- b) Law of 7 August 1952 amending the Law on the Protection of Manufacturer's, Trade, and Service Marks, Designations of Origin of Goods, and Commercial Accolades, LGBl. 1952 No. 21;
- c) Law of 9 January 1964 amending the Law of 26 October 1928 on the Protection of Manufacturer's, Trade, and Service Marks, Designations of Origin of Goods, and Commercial Accolades, LGBl. 1964 No. 12;
- d) Law of 19 December 1985 amending the Law on the Protection of Manufacturer's, Trade, and Service Marks, Designations of Origin of Goods, and Commercial Accolades, LGBl. 1986 No. 19.

Article 74

Applied for or registered trade marks¹⁴⁷

- 1) Trade marks that have already been applied for or registered upon entry into force of this Act are subject to the new law from that date.¹⁴⁸
- 2) By way of derogation from paragraph 1, the following provisions apply:
 - a) Priority is governed by the previous law.
 - b) Grounds for refusing requests for registration, with the exception of absolute grounds for exclusion, are governed by the previous law.
 - c) The validity of a registration terminates on expiry of the time limit applicable under the previous law; up to such time, it may be renewed at any time.
 - d) The first renewal of the registration of a collective mark is subject to the same formal requirements as those for an application.¹⁴⁹

Article 75¹⁵⁰

Trade marks previously not registrable

If, on entry into force of this Act, requests are pending for the registration of trade marks excluded from registration under the previous law, but not under the new law, the date of entry into force shall be considered the date of application.

¹⁴⁷ Article 74 heading amended by LGBl. 2022 No. 346.

¹⁴⁸ Article 74(1) amended by LGBl. 2022 No. 346.

¹⁴⁹ Article 74(2)(d) amended by LGBl. 2022 No. 346.

¹⁵⁰ Article 75 amended by LGBl. 2022 No. 346.

Article 76¹⁵¹*Priority of use*

Any person who first used a trade mark prior to the entry into force of this Act on goods or their packaging or to identify services, has priority over the first applicant on condition that the person applies for registration of the mark within two years of entry into force of this Act and at the same time states the date on which use of the trade mark commenced.

Article 76a¹⁵²*Right to bring action by licensee*

Article 53(4) only applies to licence agreements that have been concluded or confirmed after the Amendment of 3 September 2015 to this Act enters into force.

Article 77

Terminology

The term "manufacturer's and trade marks" shall be replaced in all enactments by the term "trade marks".

Article 78

Entry into force

1) Subject to paragraph 2, this Act shall enter into force on 31 March 1997.

2) Articles 18, 42(1)(c), and Article 44, as well as Article 41 and Article 42(1)(a), (1)(b), and (2) in relation to the Madrid Protocol shall enter into force after ratification by the Principality of Liechtenstein of the Trademark Law Treaty of 27 October 1994 and the Protocol of 28 June 1989 Relating to the Madrid Agreement Concerning the International Registration of Marks.

¹⁵¹ Article 76 amended by LGBL 2022 No. 346.

¹⁵² Article 76a inserted by LGBL 2015 No. 280.

signed *Hans-Adam*

signed *Dr. Mario Frick*
Prime Minister

Transitional provisions

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III.**Transitional provisions**

1) Trade marks applied for or registered at the time of the entry into force¹⁵³ of this Act shall be subject to the new law as of that date.

2) By way of derogation from paragraph 1, notices of opposition against the registration of trade marks which were applied for at the time of entry into force of this Act shall be inadmissible.

...

¹⁵³ Entry into force: 1 January 2023.