Trademarks. Overview

- What is a trademark? [1]
  The trademark is any sign or any combination of signs susceptible of graphic representation serving to distinguish the goods or services of certain natural / legal persons from those of other persons.

  Close [1]

- Types of trademarks [1]
  The most common types of trademarks are:

  - verbale: SPERANŢA , WESTERN UNION, STARBUCKS, СОЛНЦЕДАР, HELLO KITTY, BMW, SANDRA etc.

  - figurative:






  - combined:











  - three-dimensional :
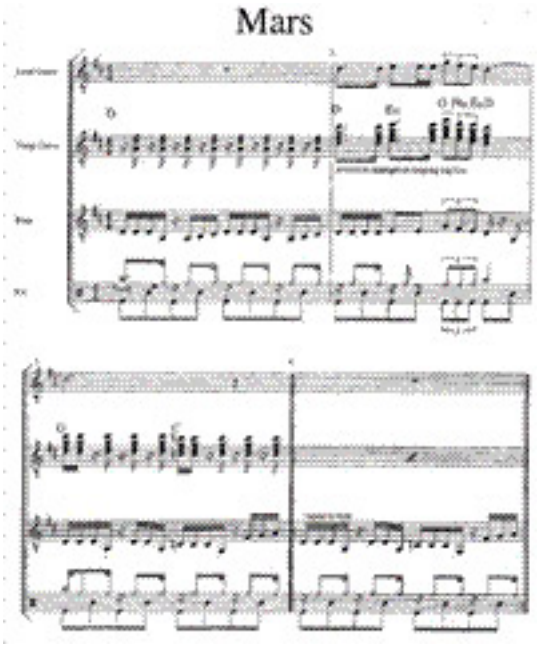








  - sound:



Collective trademark – the trademark used by an association of manufacturers, producers, service providers or traders or by other similar organizations for the designation of products and / or services;

Certification trademark (sign of correspondence) – the trademark used to certify the specific characteristics of a product and / or service;

Notorious trademark – the trademark that, at the date of filing the application for registration or at the date of the claimed priority, is notorious in the Republic of Moldova, by the audience segment targeted by the products and/ or services to which it applies, without the need for the trademark registration or use in the Republic of Moldova in order to be opposed.

Close [1]

- What trademarks may be registered? [1]
  The following may be registered as trademarks: words (including names of persons), letters, figures, drawings, combinations of colours, figurative elements, three-dimensional forms, in particular the form of a product or its package, and any combinations of signs, provided that such signs may serve to distinguish the products and/or services of a natural or legal person from the products and/or services of other persons.

  Signs that cannot be registered as trademarks, grounds for invalidity:

  Absolute grounds for invalidity:

  The following are excluded from protection and cannot be registered:

  - trademarks that lack distinctive character;
  - trademarks composed exclusively of signs or indications that may serve in trade, to designate the species, quality, quantity, destination, value, geographical origin, time of production of the good or rendering of the services or other characteristics thereof;
  - trademarks composed exclusively of signs or indications customary in the current language or in the fair and constant commercial practices;
  - signs composed exclusively of the form imposed by the nature of the products or the form of products necessary to obtain a technical result or the form affording substantial value to the product;
  - trademarks which are contrary to ordre public or good morals or harmful to the state image and interests;
  - trademarks capable of misleading the consumer in relation to the geographical origin, quality or nature of the product or service;

- trademarks that contain, without the authorization of competent authorities, reproductions or imitations of state coats of arms, flags and emblems, official or historic names of states or abbreviations thereof, full or abbreviated names of international or intergovernmental organizations, official control, guarantee and hallmarks, seals, awards and other signs of distinction;
- trademarks with major symbolic significance, in particular religious symbols;
- trademarks containing or consisting of a geographical indication intended to identify wines or other alcoholic products; or a designation, identical or similar to a geographical indication or an appellation of origin protected in the Republic of Moldova, in cases where the origin of products does not correspond to the geographical indication or the appellation of origin, even if the genuine place of origin of the product is indicated, or if the geographical indication or the appellation of origin is used in translation or in combination with words such as; "form", "type", "style", "imitation" or similar, and where trademarks are requested for products not covered by a protectable geographical indication or appellation of origin, insofar as these products are comparable with products in relation to which a geographical indication or appellation of origin is protected or to the extent which unjustified use of a requested trademark will allow an unlawful advantage to be gained from the reputation of a protectable geographical indication or appellation of origin.

Relative grounds for invalidity:

A trademark shall be refused registration if:

- the trademark is identical to an earlier trademark registered in relation to identical goods and / or services;
- a trademark is identical or similar to an earlier trademark and because it is identical or similar to the goods and/or services indicated by both trademarks, there is a risk of confusion by the user, including the risk of association with the earlier trademark;
- a trademark is identical or similar to an earlier trademark and is submitted for registration in relation to goods and/or services not identical to those for which the earlier trademark is registered, if the earlier trademark is well known in the Republic of Moldova and if unjustified use of the requested trademark would cause an unlawful advantage owing to the distinguishing capacity or well-known nature of the earlier trademark or would have caused harm thereto;
- trademarks that cause harm to a prior right in relation to the image or the name of a notorious personality in the Republic of Moldova;
- a trademark shall also be refused registration where the agent or the representative of the owner of the trademark in one of the countries of the Union requests the registration thereof in his own name, without the owner`s consent, except where the agent or the representative justifies the lawful nature of his actions. Close [1]

- The benefits of protection [1]
  The trademark is an essential element of the companies` strategy: it distinguishes between the goods and services of the company and those of the competitors. For a consumer, the trademark is the most practical means of quick recognition of the category of goods and services that were recommended to him or which experience induced him to prefer to other goods or services of similar nature. For an enterprise, the trademark is a means of conquering and maintaining its customers.

  The owner of the trademark shall have the exclusive right to dispose and exploit the trademark, and also the right to prohibit other parties from making use of the trademark on the territory of the Republic of Moldova throughout the validity period of the trademark concerned.

  Close [1]

- Who may register a trademark? [1]
  Any natural or legal person or group of natural and / or legal persons may register a trademark.

  Close [1]

- What is important to know before applying for registration [1]
  Prior to the registration and introduction of a trademark into the economic circuit it is advisable to verify if it does not conflict with the existing trademarks previously registered or submitted for registration in relation to certain goods and / or services.

  Verification may be performed in 2 ways:

  1. Free database search:
     - national, http://www.db.agepi.md/marcireprezentanti/Search.aspx [2];
     - and international https://www.wipo.int/madrid/monitor/en/ [3].
  2. Through a documentary search at AGEPI, against payment: https://agepi.gov.md/en/ [4].

Close [1]

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