
Belarus: changes in trade- and service mark protection soon in effect

Changes to Belarusian legislation on legal protection of trade and service marks will come into effect on 15 July 2016. The "Trademarks and Service Marks" law (the "**Law**") is substantially detailed and updated.

In line with the amendments, the **exclusive right to a trademark** will be based on the right of its owner to use the trademark, dispose of it, and prohibit use of the trademark to others. In this context under **use of a trademark** the law recognizes its application:

- 1) on goods produced, offered for sale or otherwise put into civil circulation, stored, transported or imported into Belarus for putting into civil circulation, as well as on labels and packaging of those goods;
- 2) on documents connected to putting goods into civil circulation;
- 3) while executing work or performing services, or both;
- 4) in advertising, printed media, on signs, on items displayed at exhibitions and markets held in Belarus;
- 5) on the Internet (including **domain names** or other method(s) of identification).

Please note that this list is open.

Significant changes affect grounds for rejection of trademark and service mark registration, the procedure for applying for registration, as well as the procedure for preliminary examination.

The law sets a deadline for examination – a maximum **two years** from the date of approving the application.

The novelty in trademark registration is that the registration authorities will be obliged to publish on the official website of the patent authority information about **applications that pass the preliminary examination and are accepted for examination**. This may help other interested parties to obtain advance information about potential trademark registration. Unfortunately, they cannot object or otherwise hinder trademark registration at this stage. It will only be possible to appeal against a decision of the patent authority on trademark registration.

Norms on **trademark protection** have also changed.

Firstly, until now only specified persons could apply for protection of exclusive rights to a trademark. Now, besides the trademark owner, these may include a licensee (a person to whom the right to use the trademark has been granted under a licensing agreement).

Secondly, a trademark holder may now claim withdrawal from civil circulation of counterfeit goods, labels and packaging of goods **only** if the unlawfully used trademark or other designation similar to the point of confusion cannot be removed. In that case, seizure and destruction is carried out at the cost of the perpetrator.

Thirdly, under the new Law, the trademark owner or the licensee may claim **compensation of losses up to fifty thousand base values** instead of reimbursement.

At the same time, liability in the form of a fine at the rate of the cost of goods containing an illegally used trademark has been abolished.

Belarus: changes in the field of trademarks and service marks protection go into effect soon

Some changes were made to the **Civil Code of the Republic of Belarus**. In particular, commercial organizations will be **forbidden** to grant the right to use intellectual property rights **free of charge** between one another.

Bnt legal & tax specialists are ready to provide legal assistance at any stage: trademark registration, challenging decisions of patent authorities, and trademark rights protection.

bnt attorneys-at-law, an international law firm based in 10 Central and Eastern European countries, offers legal advice in all core areas of business law.

Contacts: bnt legal and tax
Revolutsionnaya str. 9 - 40
BY-220030 Minsk
Phone +375 17 203 94 55
Fax +375 17 203 92 73
info.by@bnt.eu



Anna Miritskaya

Senior Associate

+375 17 203 94 55
anna.miritskaya@bnt.eu