

## ARTICLE

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### Iran: features of a trademark registration and labeling of goods



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The Islamic Republic of Iran is a country with a multimillion population and rich natural resources. Iran is always attractive for investors, and after cancellation of UN sanctions, the number of those wishing to continue trade relations with the Islamic Republic considerably increased, despite the corruption of government structures, outdated labor and commercial laws and the complexity of mutual settlements.

It is useful for exporters of products, before entering into agreements to analyze the customs and mentality of the country, the consequences that may entail violation of rights of the third parties. The state is on the side of right owners and any act of unfair competition, including violation of the trademark owners' rights entails long and costly court proceedings and tough penalties. Therefore, it is necessary in advance, before the start of supplies to review legislation of Iran in the field of intellectual property protection and take care of protecting your rights.

It should be kept in mind that control of imported products will begin with checking the packaging for compliance with the requirements for product labeling. Let's start that all information on the packaging must be translated into the Persian language and the content must not contradict with Sharia rules.

Since a consumer receives basic information about a product from a

packaging of a product, the highest requirements are imposed on it. The information must be truthful and sufficient to form a preliminary understanding of a product.

When applying information to packaging, generally accepted requirements should be met and then supplemented with information about special quality or other characteristics belonging only to this product. Information source can be a product itself, packaging, as well as the label and its varieties, such as a checklist or a leaflet.

When marking products, information sources should contain the following information:

Product name - it should reflect the content of a product without misleading a consumer;

Contact details of a producer, which confirm the fact of the real existence of a particular company and provide feedback with him, if necessary;

List of consumer properties. Among them: weight of a product, its ingredients, the energy value of a unit of a product, nutritional value, variety and method of preparation (if necessary);

The standards the product meets; and

Date of manufacture, as well as the method of storage and shelf life of a product.

The information contained on product packaging or other information source must comply with generally accepted requirements that oblige producers of a particular product to label their product with specific information about a product. In other words, product labeling is textual, graphic or digital information that allows you to identify a product by its qualitative and quantitative features.

In Iran, more stringent requirements are imposed on imported products and on their labeling, taking into account Sharia rules.

In addition to complying with the standard requirements for product labeling on product packaging and in trademarks, it is not allowed to post information and designations in violation of religious Muslim customs and rules, as well as for political reasons.

it is prohibited to use images of women on packages and trademarks;

it is prohibited to import alcoholic beverages;

it is prohibited to import products containing Israeli symbols.

The basic requirements for product labeling are also set out in the Iranian Law on Food, Beverage and Cosmetic:

Product information on the packaging must be translated into the Persian language;

The trademark, information on a product, the name of a product, production time and expiration date, as well as the country of origin, must be presented clearly and legibly;

The packaging must contain the producer's representative and his contact details;

The package must contain the conditions of use, if necessary, confirmed by the opinion of experts;

Precautionary information about possible contraindications, confirmed by the comments of specialists is mandatory;

Food products must have confirmation of the quality and properties of products marked "Halal".

In addition to providing reliable information on a product, it is important to acquire the intellectual property rights to a product or its accompanying items.

Intellectual property rights are registered in Tehran with the Industrial Property Registration Office.

The most accessible and quickest way to acquire intellectual property rights is the registration of trademarks.

Since Iran is a party to the main international agreements in the field of intellectual property protection (the World Intellectual Property Organization, the Paris Convention for the Protection of Industrial Property, the Madrid Agreement Concerning the International Registration of Marks and the Protocol, the Nice Agreement on the International Classification of Goods and Services for the Registration of Marks, etc. .) then the requirements for a trademark, the criteria for protection, as well as the conditions for registration differ slightly from those adopted in most countries of the world.

The requirements for registering trademarks are provided in the Code of Laws on the Registration of Inventions, Industrial Designs and Trademarks. As in most countries in the world, a trademark in Iran serves to distinguish goods and producers of similar products. The law does not contain a specific indication of the type of trademarks, however one of the main conditions for its registration is the visibility and clarity of the designation. Iran belongs to the countries with registration system of trademarks

protection. The application is formally examined for the compliance of the application materials with the requirements of the law, as well as an examination on definite grounds for the compliance of the designation with the protection criteria. There is no substantive examination to identify the owners of earlier trademark rights. The decision to register a trademark is made after the publication of the application in the official bulletin and review of possible objections from the conflicting parties.

To determine if a trademark is subject to protection, as well as to avoid possible violation of the third parties' rights, it is possible to order a search for the novelty and protection eligibility of a designation. The cost of the search, taking into account the cost of the services of an Iranian patent attorney shall be about US \$200.

Article 32 of the Law on Trademarks provides a list of definite grounds preventing the registration of a trademark, according to which designations are not subject to registration:

Not able to distinguish between goods and their producers, that is, not having distinctiveness in relation to the declared goods and services;

Contrary to the rules of Sharia, public order or morality;

Capable of misleading the public regarding producer or the place of its production;

Identical or imitating, as well as containing state emblems, flags or other emblems, abbreviated or full names of international organizations, their coats of arms, flags and emblems, official hallmarks adopted by any state, intergovernmental organization, created in accordance with an international convention. Such designations may not be used in trademarks without the consent of the competent authority of that state or organization;

Identical or confusingly similar, or representing a translation of the brand name of a well-known company in Iran for similar goods;

Identical or confusingly similar to a well-known trademark in Iran in relation to inhomogeneous services in the event that the registration of this designation could damage the reputation of a well-known trademark;

Identical or confusingly similar to a trademark registered in the name of another owner with an earlier priority in relation to similar goods or services.

The official flag of Iran is not registered as a trademark; badges, medals and marks of distinction of the Iranian government; official institution stamps such as the Iranian Red Crescent or the International Red Cross; words and/or phrases that give the impression of an official connection with the Iranian authorities; designations that are contrary to public order and

social morals (the standard for this is more severe in Iran than in most other countries).

A trademark registration application is filed with the Office for the Registration of Industrial Property in Tehran. Applications from foreign applicants are filed through an official representative registered as a patent attorney.

The application should be submitted in the Persian language. It must contain information about the applicant, a list of goods and/or services, grouped by classes in accordance with the current edition of the International Classification of Goods and Services.

Application should contain 12 copies of the designation applied for registration; a power of attorney certified by the Iranian Consulate, if the application is submitted from a foreign applicant; a document evidencing payment of the official fee, as well as a certified copy of the first application, if the applicant claims Convention priority.

After the successful completion of the formal examination, the application is published in the official gazette. Any interested person, before the expiration of 30 days from the date of publication can file a grounded objection to the office against trademark registration.

The Office should forward an objection to the applicant. If within 20 days from the date of filing the objection an applicant files a counter-objection with arguments in favor of registration, then the office must consider both objections and decide on trademark registration or refuse registration. If a counter-objection is not received within the established time period, the application shall be deemed withdrawn. In case of disagreement with the decision, the applicant may apply to the court.

If a trademark owner with an earlier priority has not filed a timely objection to the registration of an identical or confusingly similar (hereinafter - similar) designation, then the second trademark shall also be registered and similar trademarks registered in the names of different owners will appear on the market. Will the owner of the earlier rights be able to cancel a similar designation and what measures should be taken?

The owner of the first trademark may apply to the court to cancel the registration of a similar trademark registered with a later date claiming his priority rights. At the same time the said owner of the first trademark should use a trademark, since the opponent can file a counterclaim to cancel the first trademark on the grounds of its non-use continuously for

three years from the date of registration.

The absence of verification on other grounds significantly reduces the time for consideration of the application and simplifies the procedure for registering trademarks. The Office disclaims responsibility for the reliability of the granting of exclusive rights to trademarks and shifts it to the public. All disputes are resolved through the court proceedings.

The cost of services for the registration of one trademark in relation to one class of goods or services, taking into account the cost of the services of an Iranian patent attorney is approximately US \$700.

After the trademark registration, the owner obtains a trademark certificate that is valid for 10 years from the date of filing the application. At the request of a trademark owner, its validity period can be extended every 10 years.

The trademark owner obtains monopoly rights to a trademark. He can use it himself and prohibit use by the third parties in relation to similar goods and services. The trademark owner may assign the rights to a trademark in full or permit a third party to use a trademark temporarily through a license agreement.

Any interested person can challenge trademark registration if it has not been used continuously for three years from the date of registration. If a trademark owner proves that the non-use of a trademark was associated with force majeure circumstances, a trademark shall not be terminated.

If the registration was made in relation to a designation that does not meet the criteria for protection, any interested person can dispute such registration in court, referring to the provisions of the law. The validity of a trademark can be challenged within three years from the date of its registration. After this period, such an opportunity is lost and a trademark becomes indisputable.

The trademark expires from the date of publication of information on the cancellation of registration in the official bulletin.

In case of unlawful use of a trademark, the owner can file a complaint against the infringer with the court.

Iran is one of the countries in which the violation of the rights of intellectual property owners is classified as a criminal offense and if violation of rights is proven, then, based on the provisions of the Islamic

Criminal Code (Taazirat), the violator will be charged with damages and/or imprisonment for term from six months to 3 years and from 3 to 15 years, depending on the severity of the crime.

Consequently the export of goods to Iran requires more careful preparation and respect for the culture and mentality of the Islamic state, and checking the existence of registered trademarks of the third parties in our opinion, necessary precondition.

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