

# New Trademark Law aligns Greek regime with that of European Union

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## Introduction

### Key changes and benefits

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In March 2020 – during the lockdown imposed by the government to combat the COVID-19 pandemic – Greece adopted a new Trademark Law (4679/2020), which replaced the previous Trademark Law (4072/2012). The purpose of adopting this new law was to implement the EU Trademarks Directive (2015/2436/EC) into Greek law.

By virtue of this new law, the Greek trademark regime is now largely similar to that of the European Union. The new Greek Trademark Law essentially follows EU Trademark Regulation (2017/1001), rendering the Greek legal system more familiar and friendly to foreign entities, many of which are already acquainted with the EU framework.

#### Key changes and benefits

Some of the major changes and practical benefits of the new law are as follows.

##### ***Ex officio protection abolished***

The *ex officio* protection of prior marks by the competent administrative authorities has been abolished, in the sense that examiners of the Trademark Department are no longer entitled to prevent the registration of an applied-for mark on relative grounds.

Under the previous regime, examiners blocked the registration of new marks due to (among other things) their similarity with prior trademarks, regardless of whether these marks were in actual use or the rights holders wanted to protect their prior rights.

Under the new Trademark Law, examiners dealing with new applications are no longer entitled to block the registration of the mark on relative grounds. Instead, they can merely inform the rights holders of prior marks that they may file an opposition if they so wish. This should help to reduce the significant workload of the Trademark Department and the costs and time associated with registration.

##### ***Graphic representation requirement removed***

The graphic representation requirement has been removed. Thus, new forms of trademark can now be registered, including:

- shape marks;
- position marks;
- pattern marks;
- colour marks;
- sound marks;
- motion marks;
- audiovisual marks;
- hologram marks; and
- other non-traditional types of mark.

To qualify for registration, such marks must be capable of:

- distinguishing the products or services of one undertaking from those of another; and
- being represented on the register in a way that allows the competent authorities and the public to

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determine clearly and precisely the subject matter of the protection afforded to the rights holder.

***Products and services must be identified with adequate clarity and precision***

A trademark applicant must identify the products and services covered by its application with "adequate clarity and precision". Applicants are discouraged from using the Nice Classification of Goods and Services class headings; any such general terms or class headings will be considered to cover only the goods and services clearly covered by the literal meaning of the general term or heading. This forces applicants to abandon any maximalist intentions and instead determine precisely and more realistically the goods and services covered by their mark (and thus, the extent of the mark's protection), which, in turn, is expected to reinforce competition.

***Civil courts may examine validity of registered marks***

Under the new regime, the civil courts may examine the validity of a registered trademark in the framework of a trademark infringement action. In such proceedings, the defendant may bring a counter-action for revocation or invalidity of the trademark which is allegedly being infringed.

***Claimants may be asked to prove genuine use***

The defendant in a trademark infringement action may ask the claimant to prove that during the five years preceding the action's filing date, its earlier trademark was put to genuine use for the products or services for which it was registered and on which the action is based. Thus, trademark infringement actions based on trademarks that have been registered but are not actually being used may now be dismissed. This means that under the new Trademark Law, a trademark that is not used for five years after its registration will not be protected (unless there is a reasonable cause of non-use).

***Claims for compensation require intent or gross negligence***

A claim for compensation for material or moral damages due to trademark infringement requires intent or gross negligence on behalf of the infringer ('simple' negligence being insufficient for such claims). In cases where there is no intent or gross negligence on the part of the infringer, the injured party may claim the amount that the infringer gained from the exploitation of its trademark without its consent.

***Other changes***

The new Trademark Law introduces several other changes, including a reduction of the official fees relating to application filings, renewals and transfers and the introduction of the possibility to attend a hearing before the Administrative Trademark Committee by means of a declaration without having to be physically present.

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