



Trademarks in the Democratic Republic of Congo [DRC]

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This article gives insights concerning Trademarks in the Democratic Republic of Congo [DRC]

1. Law dealing with Trademarks in DRC

- Industrial Property Law no 82-001 of 1982
- Industrial Property Regulations, 1989

2. Trade mark protection in DRC

The Law provides for the registration of trademarks for goods and services, for collective marks, for manufacturing marks, and for national warranty marks. The Law states that the filing of a mark is compulsory for each commercial operator.

Applications may be filed as national applications and, in appropriate circumstances, claiming convention priority in terms of the Paris Convention.

3. Protection of well-known marks in DRC

There is no express provision to protect well-known marks.

4. Types of trademarks in DRC

Provision is made for the registration of trademarks for goods and services, and for collective trademarks.

The Law also refers to manufacturing marks and national warranty marks. However, these types of marks are not defined, and there are no specific provisions, which relate to their registration or use.

4.1. Definition of a trademark in DRC

A mark is defined to mean a distinctive sign that permits different objects or services of a specific commercial company to be recognised or identified. Signs which may serve as a mark include a name or denomination, letters, figures or a combination of letters and figures, seals, slogans, emblems, piping, edging, combinations or arrangements of colours, drawings, reliefs or mottos.

The following signs will not be registrable :

- signs which would be contrary to public order or decency
- coats of arms, flags or national emblems
- signs or indications likely to mislead the public.

4.2. Definition of a collective trademark in DRC

Collective marks are defined as marks which serve to distinguish one or more common characteristics of products or services provided by different undertakings, when the marks are affixed under the control of the group or organisation that is the holder of the mark.

5. Classification of Trademarks in DRC

The International Classification of Goods and Services (Nice Classification) is applied.

6. Convention priority in DRC

The DRC is a member of the Paris Convention. An applicant who has applied for a trademark in another convention country is entitled to a priority right to be accorded the same date as the earlier application.

7. Application of Trademarks in DRC

An application is filed at the Department of Industrial Property or a regional department of government.

The following information and documents are required:

- full particulars of the applicant
- power of attorney (simply signed), in French
- list of goods or services to be covered
- reproduction of the mark
- certified copy of priority document (if applicable), with certified French translation.

8. Examination/procedure in DRC

The application is subjected to formal and substantive examination. If the application meets the formal and substantive requirements for registration, it will be published. The applicant will be notified that the application has proceeded to grant.

9. Opposition in DRC

The Industrial Property Law makes no provision for opposition. However, any interested party, including the Public Minister, may invoke the nullity of a mark.

10. Duration and renewal of Trademarks in DRC

Trade marks are registered for a period of 10 years from the filing date. A mark registration is renewable upon request for further periods of 10 years, and upon the payment of the prescribed fee. A grace period of six months is allowed for such payment, provided that a penalty is paid.

11. Use requirement and cancellation of Trademarks in DRC

A mark must be used in the course of trade within three years of the date of its registration, failing which interested persons may apply to cancel the registration.

12. Rights conferred by registration of Trademarks in DRC

The registration of a trademark gives the owner the right to use and exploit the mark, and to allow

others to use and exploit the mark.

13. Marking of goods in DRC

The Law provides that, under certain circumstances, the bringing of certain marketable products onto the market shall require the prior affixation of the national warranty mark. The purpose of the national mark is to certify the quality of merchandise.