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Master thesis

Legal aspects on Branding of Higher education in Macedonia and EU: Case of South East European University

Candidate:

Hava Spahiu

Mentor:

Prof. Dr. Bistra Netkova

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Abstract

Many educational institutions in our region and around the world strive to create their own image in order to attract applicants - future students. This way of acting has lately been identified as a phenomenon which is called *Branding*. For a long time, the word 'brand' has been used in business and advertising marketing to distinguish the product of the one unique seller from another. Nowadays, this term has also entered into use in higher education where, although the basic activity is teaching and learning, competition nonetheless plays a significant role.

This trend also obliges universities to focus on developing their own brand and thus to differ from the group of their competitors in order to survive economic pressures and scrutiny by parents and students acting as “consumers”.

This master thesis explores the challenges of university branding and the qualities that make university branding different from commercial branding in terms of teaching issues.

The registration of the name as a trademark is a very beneficial asset for South East European University, bearing in mind that it increases the educational reputation of the University in our country and in the region. Our aim is to prove that the 'brand' (i.e. the branding process) can ensure and raise the quality of the process of education in Macedonia and the marketization of the latest trends.

Keywords:

Students, image, brand, Higher Education, consumers, parents, trademark, South East European University, Macedonia, trends.

Abstrakt

Shumë institucione arsimore në mbarë botën dhe rajonin po përpiqen të krijojnë imazhin e tyre për të tërhequr aplikantë - studentë të ardhshëm. Kjo mënyrë e veprimit kohëve të fundit është identifikuar si një fenomen i quajtur-Brend (markë). Për një kohë të gjatë, fjala "Brend" është përdorur në fushën e marketingut të biznesit dhe reklamave për të dalluar produktin e një shitësi të veçantë nga një tjetër. Sot ky term ka hyrë në përdorim në arsimin e lartë edhe pse aktiviteti bazë është mësimdhënia dhe mësimnxënia, por konkurrenca ka luajtur rolin e saj.

Ky trend gjithashtu i detyron universitetet të përqendrohen në zhvillimin e brendit të tyre dhe të ndryshojnë nga grupi për t'i mbijetuar presionet ekonomike dhe veshtrimin hetues nga prindërit dhe studentët, të cilët veprojnë si "konsumatorë".

Kjo tezë e magjistraturës i shqyrton sfidat e brendimit të universitetit dhe cilësitë që e bëjnë brendimin e tij të ndryshëm nga brendet tregtare në aspektin e çështjeve të mësimdhënies.

Regjistrimi i markës tregtare është një proces shumë i dobishëm për Universitetin e Evropës Juglindore, duke pasur parasysh se do të rrisë reputacionin arsimor të Universitetit në vendin tonë si dhe në rajon. Qëllimi ynë është që të dëshmojmë se brendimi mund të sigurojë dhe të rritë cilësinë në procesin e arsimit në Maqedoni dhe të ndikoj në marketizimin e tendencave të fundit.

Fjalë kyçe:

Studentë, imazhi, brendi, arsimi i lartë, konsumatorët, prindërit, Universiteti i Evropës Juglindore, Maqedonia,

Апстракт

Многу образовни институции во регионот и во целиот свет се стремат да создадат свој имиџ со цел да привлечат кандидати - идни студенти. Овој начин на делување во последно време е идентификуван како феномен кој се нарекува *Бренд*. Долго време, зборот „*бренд*“ се користи во маркетингот за да се разликува производот на еден производител од друг. Денес, овој термин исто така влезе во употреба во високото образование, каде што иако основната активност е настава и учење, сепак, конкуренцијата игра значајна улога.

Овој тренд исто така ги обврзува и универзитетите да се фокусираат во развивање на сопствениот бренд и на тој начин да се разликуваат од конкурентите и за да ги преживеат економските притисоци и опсервацијата од родителите и студентите што дејствуваат како „потрошувачи“.

Во оваа магистерска теза се истражуваат предизвиците на универзитетското брендирање како и квалитетите кои го прават овој процес на брендирање поразличен од комерцијалниот во однос на наставата.

Регистрацијата на трговската марка е многу корисен процес за Универзитетот на Југоисточна Европа, имајќи предвид дека ја зголемува образовната репутација на Универзитетот во нашата земја и во регионот. Нашата цел е да докажеме дека „брендот“ (т.е. процесот на брендирање) може да ни осигури поквалитетен образовен процес во Македонија и маркетингизација на најновите трендови.

Клучни зборови:

Студенти, имиџ, бренд, високообразование, потрошувачи, родители, трговска марка, Универзитет на Југоисточна Европа, Македонија, трендови.

Part I - Trademarks and branding: Definition, the meaning and the difference

1.1. Legal aspects of the definition of the trademark

It is difficult to define in which historical period trademarks arise, but it can be assumed that they exist for as long as organized trading. The earlier definition for trademarks we can find on the First Council Directive 89/104/EEC¹ in Article 2 where it is stated: "A trademark may consist of any sign capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings".

Trademarks are signs used in trade to identify products². Any distinctive words, letters, numerals, drawings, pictures, shapes, colors, logotypes, labels or combinations used to distinguish goods or services may be considered a trademark. In some countries, advertising slogans are also considered trademarks and may be registered as such at national trademark offices. An increasing number of countries also allow for the registration of less traditional forms of trademarks, such as single colors, three-dimensional signs (shapes of products or packaging), audible signs (sounds) or olfactory signs (smells)³

According to the Law on Industrial Property of the Republic of Macedonia⁴ a trademark is a sign which can be graphically displayed and is suitable for distinguishing the goods or services of one undertaking from those of the other undertakings⁵. The procedure for recognition of a trademark shall be initiated by filing a trademark application with the Office⁶. The procedure for granting a trademark right may also be initiated by filing an application in accordance with the Madrid Agreement and the

¹ First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trademarks, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31989L0104:en:HTML>

² This is a definition for trademarks according to European Union Intellectual Property Office

³ Making a Mark: An Introduction to Trademarks for Small and Medium-sized Enterprises. WIPO publication No. 900. Publication year: 2017 All publications available from the WIPO e-bookshop at: www.wipo.int/ebookshop (Page 5)

⁴ Official Gazette of the Republic of Macedonia number 21/2009 и 24/11

⁵ Article 175 of the LIP paragraph 1

⁶ According to Article 9 paragraph (1) of the Law on Industrial Property of the Republic of Macedonia: Matters relating to the acquisition and protection of rights from industrial property is carried out by the State Office of Industrial Property (hereinafter: the Office).

Madrid Protocol. The trademark shall be valid for ten years from the date of filing the application. The validity of the trademark may be renewed for an unlimited number of times for a period of 10 years, provided that the holder of the right during the last year of the ten-year validity or at the latest nine months after the expiration of the validity to the Office to file a request for extension of the validity of the trademark and to pay the appropriate fees and costs of the procedure⁷.

Why do we use the trademarks?

There are more responses to this question, but we will mention only some benefits of usage of trademarks.

Trademarks are among the most efficient marketing and communication tools. They are a powerful instrument to capture the consumer's attention and make your products stand out.

Trademarks make it easy for consumers to find your products. They help to distinguish your products whether goods or services from those of competitors. If you have a strong trademark makes it easier to hire and retain employees⁸.

At the national and regional level, trademark protection can be obtained through registration, by filing an application for registration with the national or regional trademark office and paying the required fees⁹. At the international level, you have two options: either you can file a trademark application with the trademark office of each country in which you are seeking protection, or you can use Madrid System¹⁰.

If you want protection in one EU Member State you can make a trademark application directly at the relevant national IP office¹¹. If you want protection in more

⁷ Article 211 of the Law on Industrial Property of the Republic of Macedonia

⁸ Making a Mark: An Introduction to Trademarks for Small and Medium-sized Enterprises. WIPO publication No. 900. Publication year: 2017. All publications available from the WIPO e-bookshop at: www.wipo.int/ebookshop (page 11-12).

⁹ Trademarks: What is a trademark? <http://www.wipo.int/trademarks/en/>

¹⁰ The Madrid System is a convenient and cost-effective solution for registering and managing trademarks worldwide. File a single application and pay one set of fees to apply for protection in up to 116 Countries. Modify, renew or expand your global trademark portfolio through one centralized system. For more information please visit wipo.int/trademarks.

¹¹ https://www.tmdn.org/network/who_is_participating (Here you can find all IP office when you can apply directly for registration of trademark).

Member States of the EU, you can apply for an EU trademark from EUIPO. An online application at EUIPO costs €850 and is filed in just one language¹².

To indicate that a trademark has been claimed companies use one of three symbols:

- [™] - Using the trademark symbol after a logo or phrase alerts competitors that you have claimed this symbol or phrase as your own, but you don't have to have even formally apply for it.
- ® - Only trademarks that have been officially granted by the Trademark office can use the ® symbol, which stands for registered trademark.
- SM - Companies that sell services, not products, have the option to use the service mark logo, but most use the [™] instead for simplicity.¹³

Trademark symbols may be added to documents, emails, and web pages using an ASCII keyboard code. To do this on a Windows computer, hold down the "Alt" key, and use the number pad to press the numeric code. When the last number is entered, release the Alt key, and the symbol will appear¹⁴.

- [™] = Alt+ 0153
- ® = Alt+ 0174

¹² Trademarks in the European Union: <https://euipo.europa.eu/ohimportal/en/trade-marks-in-the-european-union>

¹³ Signs of a Trademark <https://www.shopify.com/encyclopedia/trademark>

¹⁴ Trademark Symbol <https://legaldictionary.net/trademark/>

1.2. Trademarks and branding through history

Trademarks have had a long history. According to archaeologists somewhere between 5000 and 4000 BC primitive man used signs or symbols to mark their animals or property so as to identify their rights over them.¹⁵ Because of the long distances over which trade took place and the hazards of such journeys, these ancient trademarks functioned mostly as proprietary marks which conclusively indicated the ownership of goods, for example in cases of shipwreck and piracy, as well as assisting the illiterate who came into contact with these goods.¹⁶

The historical consanguinity of brands and trademarks does not mean that the terms “trademark” and “brand” share a common meaning. A “trademark” is a sign which is registered and controlled by its legal proprietor. He alone can use, permit or prohibit its use on the products or services for which he holds a registration certificate or the consuming public would think were connected to him. Otherwise, a “brand” is a form of shorthand, a signal by which the consuming public can identify and relate to actual goods or services.¹⁷

The word brand comes from the Old Norse brandr, meaning to burn, and from these origins made its way into Anglo-Saxon. It was of course by burning that early man stamped ownership on his livestock and with the development of trade buyers would use brands as a means of distinguishing between the cattle of one farmer and another.¹⁸

Despite its early roots, long history, and power, the concept of branding did not emerge as a central part of thinking in marketing until well into the twentieth century. Precisely, the term “brand” entered marketing in 1922, as a compound expression (i.e. brand name) meaning a trade or proprietary name¹⁹

¹⁵ WELL-KNOWN TRADEMARK PROTECTION A COMPARATIVE STUDIES BETWEEN THE LAWS OF THE EUROPEAN UNION AND VIETNAM (PHAN NGOC TAM) DOCTORAL DISSERTATION OF LAW HO CHI MINH CITY – 2011. (Page 27)

¹⁶ SCOPE OF TRADEMARK PROTECTION (Master of European Affairs programme, Law Muhammad Sarwar Chaudhry Spring 2007)

¹⁷ WELL-KNOWN TRADEMARK PROTECTION A COMPARATIVE STUDY BETWEEN THE LAWS OF THE EUROPEAN UNION AND VIETNAM(PHAN NGOC TAM) DOCTORAL DISSERTATION OF LAW HO CHI MINH CITY – 2011 (page 39).

¹⁸ The Economist: Brands and Branding By Rita Clifton

¹⁹ Wilson Bastos, Sidney J. Levy, (2012), "A history of the concept of branding: practice and theory", Journal of Historical Research in Marketing, Vol. 4 Iss: 3 pp. 347 - 368

The use of marks in the middle Ages, eventually became associated with the development and growth of skilled trades, and hence the term "trademarks." Marks were used to show that a product was made by a member of a guild known to have experience in the trade.²⁰

It is only around the late nineteenth century that one sees the birth of modern brands: the use of a private mark to provide information regarding source and quality and simultaneously to convey image components regarding power, value, and personality. To put it simply, brands have an array of functions depending on who is using the brand and in what context.²¹

The earliest signs of branding in Europe were the medieval guilds' requirement that craftspeople put trademarks on their products to protect themselves and their customers against inferior quality. In the fine arts, branding began with artists signing their works. Brands today play a number of important roles that improve consumers' lives and enhance the financial value of firms²².

On the territory of Republic of Macedonia, the legal protection of trademarks dates from 1920 when the first Decree on protection of industrial property was adopted, and when the Directorate for Protection of Industrial Property was established²³.

Nowadays in the Republic of Macedonia the Law on Industrial Property ("Official Gazette of the Republic of Macedonia" No. 21/2009, 24/2011) is in force, which contains provisions for application and registration of trademarks. It defines the trademark as a sign which can be graphically displayed and which is suitable for distinguishing the goods or services of one undertaking of goods or services from another undertaking. A trademark protects signs capable of distinguishing such as words, letters, numbers, pictures, drawings, color combinations, three-dimensional

²⁰ INTELLECTUAL PROPERTY A POWER TOOL FOR ECONOMIC GROWTH (Kamil Idris) Geneva, February 12, 2003, WIPO Publication.

²¹ Devin R. Resai, From Trademarks to Brands, 64 Fla. L. Rev. 981 (2012).
Available at: <http://scholarship.law.ufl.edu/flr/vol64/iss4/5>

²² Kotler, Philip. Marketing management /Philip Kotler, Kevin Lane Keller. — 14th ed.(Page 242)

²³ HANDBOOK FOR DEVELOPMENT OF STRATEGY FOR BRANDING: This publication was prepared by Tatjana Kjurchinska Pepeljugoska for the needs of the Agency for Support of Entrepreneurship of the Republic of Macedonia and the USAID Project for Investment and Export Promotion, supported by the United States Agency for International Development (USAID). The opinions expressed in this publication are by the author and do not express the views of the United States Agency for International Development (USAID) or the Government of the United States of America.

shapes, including shapes of goods or their packaging, as well as combinations of all the above-mentioned signs.

Words and letters can be written in any language and alphabet²⁴. At the same time, the Law on Trademark regulates the procedure for registration and protection of trademarks in details. In accordance with the aforementioned regulations, the protection of trademarks in our country is performed by the State Office for Industrial Property Protection²⁵. In our Law on Industrial Property there is no definition of the term Brand, but in everyday life is a common word and lately it is increasingly used in all spheres of life.

Today, there are many Macedonian brands that, apart from the domestic market, have managed to market in some of the foreign markets and be recognizable²⁶. Among them we can mention *MAMA'S-Ajvar*²⁷ who, apart from our country, managed to become recognized in the world just like *Mekicite od Strazha*²⁸. Other distinguished brands in the list of brands from the Republic of Macedonia are *Becutan*²⁹ products, *Tikveš*³⁰ winery, Skopje Brewery³¹ and many others.

1.3. The difference between the trademarks and branding

³²Great brands start small. If you've got an idea and you're serious about a business, you need a plan. You also need a trademark and should think about ways to protect and capitalize on your innovations. While a brand is a corporate image that builds over time and is a reputation of quality in the eyes of customers, a trademark is legal protection of the brand, granted by the Trademark Offices³³

²⁴ What is a trademark <http://www.ippo.gov.mk> last updated 03.09.2013.

²⁵ State Office of Industrial Property of the Republic of Macedonia is an autonomous organ of the state administration responsible for the affairs related to the acquisition and protection of intellectual property right. www.ippo.gov.mk

²⁶ "BRAND AS AN INSTRUMENT OF COMPETITIVENESS OF MACEDONIAN PRODUCTS ON GLOBAL MARKETS"
- MASTER THESIS - Stip, October 2014 Rosana Ivanova

²⁷ For more information about *Ajvar* from Mama's Food you can find on this web site: www.mamasfood.mk/

²⁸ For more information about *Mekicite od Straza* you can find on this website: www.mekiciteodstraza.com/

²⁹ For more information about products from *Becutan* you can find on this website: www.becutan.com/

³⁰ For more information about *Tikves* winery you can find on this website: www.tikves.com.mk/

³¹ For more information about famous beer "Skopsko" you can find on this website:

www.pivaraskopje.com.mk/

³² Brands (<https://euipo.europa.eu/ohimportal/en/brands>).

³³ Trademark vs. Brand: Everything You Need to Know www.upcounsel.com/trademark-vs-brand

Many people confuse the concepts of “trademark” and “brand”. Brand has a much wider meaning and refers to the proprietary visual, rational, emotional and cultural image that customers associate with a company or product. Trademarks are a vital element of a brand, but a brand will usually also include other elements such as designs, trade dress, slogans, symbols and sounds, along with the concept, image and reputation that connect consumers with specified products³⁴. For example, the word MERCEDES-BENZ®³⁵ and the three-pointed star design are two of the trademarks used to identify the German manufacturer Daimler AG. The Mercedes brand encompasses the cars, technology, innovative design, trademarks and the customer’s feeling of associating himself/ herself with an item of quality and luxury. Trademarks are the basis for building brand image and reputation³⁶.

Whereas a brand helps to identify the company and its products or services, the trademark helps to prevent competitors from stealing the brand image or creating substantially similar identities to create marketplace confusion.³⁷

³⁸Water is a free resource that every human being needs to live and survive. Yet it became a product the day humans and companies started to commercialize it, for example by selling mineral water in glass and plastic bottles. But water always looks the same, isn’t it? It is liquid and transparent. So, how can different companies sell the same product but still convince people to purchase their bottled water instead of the one from the competition? The answer is: by creating a brand.

There are a lot of definitions about branding we are going to explain some of them seen from law and marketing perspective.

³⁴ Making a Mark: An Introduction to Trademarks and Brands for Small and Medium-sized Enterprises. WIPO publication No. 900.1. 2017 First published 2006 (page 8).

³⁵ From September 1902 DMG holds the patent for successful “Mercedes” brand name. All that is missing is a characteristic trademark. That’s when the sons of Gottlieb Daimler, Paul and Adolf, remember, that their father previously used a star for a symbol. The DMG Board of Management follows this inspiration and in June 1909 registers both a three-pointed and four-pointed star as trademarks. Both logos are legally protected but it is the three-pointed star that is ultimately used and a three-dimensional star adorns the front radiator of vehicles from 1910 onwards. With the merging of both companies in June 1926, a new brand name is created, which combines the essential elements of the previous emblems.

³⁶ Making a Mark: An Introduction to Trademarks and Brands for Small and Medium-sized Enterprises. WIPO publication No. 900.1. 2017 First published 2006 (page 5).

³⁷ See *supra* note 31.

³⁸ What Is Branding? <http://www.thebrandingjournal.com> (2015)

From legal perspective: According to Black's Law Dictionary 8th edition³⁹ Branding is an ancient practice, evidenced by individual names and marks found on bricks, pots, etc. In the middle Ages, guilds granted their members the right to use a guild identifying symbol as a mark of quality and for legal protection.

Private brand is an identification mark placed on goods made by someone else under license or other arrangement and marketed as one's own. The seller of private-brand goods sponsors those goods in the market, becomes responsible for their quality, and has rights to prevent others from using the same mark.

The definition for Brand architecture is the strategic analysis and development of optimal relationships among the multiple levels of a company and its brands, products, features, technology, or ingredient names.⁴⁰

From a marketing perspective: A brand is more than a name and can consist of multiple brand elements. For example, identity, image, positioning, personality, equity, experience, differentiation, communication, Brand gap and Brand extension⁴¹.

A brand can be made up of names, logos, symbols, characters, packaging, slogans, etc.-i.e., any trademark able piece of information that serves to identify and differentiate a brand.

Brand identity⁴² is the message the consumer receives from the product, person, or thing. The brand identity will connect product recognition.

A brand image⁴³ is impression in the consumer's' mind of a brand's total personality (real and imaginary qualities and shortcomings). Brand image is developed over time through advertising campaigns with a consistent theme, and is authenticated through the consumers' direct experience.

Brand equity⁴⁴ is the added value endowed on products and services. It may be reflected in the way consumers think, feel, and act with respect to the brand, as well as in the prices, market share, and profitability the brand commands for the firm. To build

³⁹ Black's Law Dictionary, 8th Edition Bryan A. Garner See at:

http://www.republicsg.info/Dictionaries/2004_Black%27s-Law-Dictionary-Edition-8.pdf

⁴⁰ Loucks, Melissa A., "Trademarks and Geographical Indications: Conflict or Coexistence?" (2012). Electronic Thesis and Dissertation Repository. 850. <http://ir.lib.uwo.ca/etd/850> (Page 44)

⁴¹ 10 Branding Elements And What They Mean Content Marketing Enakshi Sharma July 11, 2015 <http://sumo.ly/9bJr> via @brandanewco

⁴² Learn How Brand Identity Is Defined BY LAURA LAKE Updated August 13, 2017

⁴³ Read more: <http://www.businessdictionary.com/definition/brand-image.html>

⁴⁴ 8 thoughts on "Defining Brand Equity (Philip Kotler Summary)" Arpit Srivastava Posted on February 1, 2015

brand equity, marketers typically employ a set of brand elements where each element, perhaps in different ways, helps to enhance awareness and communicate the proper image. With respect to designing a social marketing program, one branding issue then is which brand elements should be chosen to represent the desired behaviors.⁴⁵

The goal of Brand positioning⁴⁶ is to create a unique impression in the customer's mind so that the customer associates something specific and desirable with your brand that is distinct from rest of the marketplace.

Every element of the brand identity including the color of the logo and the typography on the brand name adds to the brand personality⁴⁷. It is certain emotional or personal qualities that we associate with a particular brand.

Brand experience⁴⁸ is conceptualized as sensations, feelings, cognitions, and behavioral responses evoked by brand-related stimuli that are part of a brand's design and identity, packaging, communications, and environments.

Brand differentiation⁴⁹ is the means by which your brand is set apart from the competition, by associating a superior performing aspect of your brand with multiple customer benefits.

Brand communication⁵⁰ is the combination of activities that influence customers' opinions of a company and its products.

Brand Extension⁵¹ is the use of an established brand name in new product categories. Extending a brand outside its core product category can be beneficial in a sense that it helps evaluating product category opportunities, identifies resource requirements, and lowers risk, and measures brand's relevance and appeal.

⁴⁵ Kevin Lane Keller (1998), "Branding Perspectives on Social Marketing", in NA - Advances in Consumer Research Volume 25, eds. Joseph W. Alba & J. Wesley Hutchinson, Provo, UT: Association for Consumer Research, Pages: 299-302.

⁴⁶ How to Create Strong Brand Positioning in Your Market December 13, 2017 by BJ Bueno & Scott Jeffrey

⁴⁷ See *supra* note 39

⁴⁸ Brand Experience: What Is It? How Is It Measured? Does It Affect Loyalty? Journal of Marketing Vol. 73 (May 2009), 52–68

⁴⁹ Brand Differentiation: 30 Ways to Differentiate Your Brand, December 9, 2014 by Lorraine Carter

⁵⁰ (Definition of "brand communication" from the **Cambridge Business English Dictionary** © Cambridge University Press)

⁵¹ Brand Extension DAYANANDA SAGAR BUSINESS SCHOOL BANGALORE ASSIGNMENT OF PRODUCT & BRAND MANAGEMENT ON SUCCESSFUL AND UNSUCCESSFUL BRAND EXTENSIONS SUBMITTED BY –Khushbu Roy

According to American Marketing Association “A brand is a name, term, design, symbol, or any other feature that identifies one seller’s good or services as distinct from those of other seller’s”⁵².

According to Forbes⁵³ the most Valuable Brand for 2017 and for the seventh straight year is Apple worth \$170 billion count and 67% more than second-ranked Google. On the 3 place is Microsoft worth \$507.5 Billion, followed by Facebook worth \$73.5 Billion, on the 5 place is Coca-Cola worth \$56.4 Billion, 6 place is Amazon worth \$54.1 Billion, followed by Disney worth \$43.9 Billion, on the 8 place is Toyota worth \$41.1 B, 9 place is McDonald's worth \$40.3 Billion and on the 10th place is ranked Samsung Electronics worth \$38.2 Billion.

⁵² Kotler, Philip. Marketing management /Philip Kotler, Kevin Lane Keller. — 14th ed.(page 241)

⁵³ The World's Most Valuable Brands 2017: By The Numbers, By Kurt Badenhausen , FORBES STAFF
www.forbes.com

Part II – Legal aspects of the trademarks in EU and Macedonia

2.1. The Legal aspects of The Madrid Agreement Concerning the International Registration of Marks (1981)⁵⁴

The Madrid Agreement concerning the international registration of marks was signed on April 14, 1891 by the first four countries of the Paris Union⁵⁵. This Agreement aims at establishing a special union for the international registration of trademarks. It governs only proceedings regarding the application and registration of trademarks by providing facilities in order to ensure that the registration of trademarks will be carried out quickly and effectively in Member States. It should be noted that the Madrid Agreement only deals with procedural matters⁵⁶.

The Madrid Agreement is administered by the International Bureau of the World Intellectual Property Organization (WIPO), which maintains the International Register and publishes the WIPO Gazette of International Marks⁵⁷.

The Madrid Agreement⁵⁸ offers individuals and businesses a unique opportunity to obtain and maintain protection for their marks in more than 110 countries⁵⁹, including The African Regional Intellectual Property Organization (ARIPO)⁶⁰ and the European Union (EU)⁶¹.

⁵⁴ Madrid Agreement Concerning the International Registration of Marks of April 14, 1891
http://www.wipo.int/treaties/en/text.jsp?file_id=283530

⁵⁵ Paris Convention for the Protection of Industrial Property Union Paris Convention (1883), revised at Brussels (1900), at Washington (1911), at The Hague (1925), at London (1934), at Lisbon (1958) and at Stockholm (1967), and amended in 1979 (Paris
<http://www.wipo.int/export/sites/www/treaties/en/documents/pdf/paris.pdf>

⁵⁶ WELL-KNOWN TRADEMARK PROTECTION A COMPARATIVE STUDY BETWEEN THE LAWS OF THE EUROPEAN UNION AND VIETNAM(PHAN NGOC TAM) DOCTORAL DISSERTATION OF LAW HO CHI MINH CITY – 2011 .(page 78)

⁵⁷ The Madrid System for the International Registration of Marks :Objectives, Main Features, Advantages
WIPO Publication 2016 (Page 3)

⁵⁸ MAKING THE MOST OF THE MADRID SYSTEM INFORMATION AND PRACTICAL TIPS ON HOW TO USE SPECIFIC FORMS (Updated July 2017) WIPO Publication

⁵⁹ http://www.wipo.int/export/sites/www/treaties/en/documents/pdf/madrid_marks.pdf

⁶⁰ The African Regional Intellectual Property Organization (ARIPO) is an intergovernmental organization (IGO) that facilitates cooperation among member states in intellectual property matters, with the objective of pooling financial and human resources, and seeking technological advancement for economic, social, technological, scientific and industrial development.

⁶¹ The European Union is a unified trade and monetary body of 28 member countries. For more information please visit page: https://europa.eu/european-union/index_en

The Madrid Agreement offers several advantages for trademark owners. Instead of filing a separate national application in each country of interest, in several different languages, in accordance with different national or regional procedural rules and regulations and paying several different (and often higher) fees, an international registration may be obtained by simply filling one application with the International Bureau (through the office of the home country), in one language (English, French or Spanish) and paying one set of fees.

Similar advantages exist for maintaining and renewing a registration. Likewise, if the international registration is assigned to a third party, or is otherwise changed, such as a change in name and/or address, this may be recorded with effect for all designated Contracting Parties⁶² by means of a single procedural step⁶³.

In summary, the main advantages for trademark owners consist of the simplicity of the international registration system and the financial savings made when obtaining and maintaining the protection of their marks abroad⁶⁴.

The Madrid system⁶⁵ is the only global registration system for marks, supporting activity in markets that account for over 80 percent of world trade. The system offers simultaneous protection in the territories of its members, including the countries of the European Union (EU), the majority of developed countries and many developing and transition economies⁶⁶.

The procedure implemented by the Madrid Agreement can be summarized as follows: a holder of a national trademark in a member state uses that valid trademark to apply for international trademark registration with the International Bureau of the WIPO in Geneva⁶⁷; in this application, the applicant lists the Madrid Agreement member

⁶² States and organizations party to the Madrid system are collectively referred to as Contracting Parties.

⁶³ Summary of the Madrid Agreement Concerning the International Registration of Marks (1891) and the Protocol Relating to that Agreement (1989)

http://www.wipo.int/treaties/en/registration/madrid/summary_madrid_marks.html

⁶⁴ GUIDE TO THE INTERNATIONAL REGISTRATION OF MARKS UNDER THE MADRID AGREEMENT AND THE MADRID PROTOCOL (updated 2016)

⁶⁵ The Madrid System for the International Registration of Marks is governed by two treaties: the Madrid Agreement Concerning the International Registration of Marks, which dates from 1891, and the Protocol Relating to the Madrid Agreement, which was adopted in 1989, entered into force on December 1, 1995, and came into operation on April 1, 1996.

⁶⁶ Protecting Your Marks Abroad THE MADRID SYSTEM:WIPO Publication No. 1039E/2013 (Page 6)

⁶⁷ WIPO is the global forum for intellectual property services, policy, information and cooperation. A self-funding agency of the United Nations, with 191-member states. Established in 1967 Director General: Francis Gurry with headquarters in Geneva, Switzerland.

states in which protection is sought; then the WIPO distributes the international application to the listed states, each of which treats the international application as a national application; finally, unless one of the designated countries acts within one year to refuse protection, the mark is deemed protected.⁶⁸

After 125 years of existence, the Madrid System recently recorded its 1.3 millionth international trademark registration. An estimated 52,550 international trademark applications were filed under the WIPO-administered Madrid System in 2016. That is a record number: all top 10 Madrid applicants are European companies. Occupying the 13th spot, Apple of the U.S. was the highest ranked non-European company, while Japan's Daiichi Sankyo came in at 15th, Turkey's İLKO at 16th and China's Huawei Technologies ranked 18th. Among the top 55 applicants, carmaker BMW saw the largest increase in applications filed in 2016 (77 additional filings), closely followed by pharmaceutical company Glaxo Group with 73. For the third year in a row, the United States of America (U.S.) remained the largest user of the Madrid System. International applications filed by applicants located in the U.S. reached 7,741. Almost one-third (32.7%) of all classes specified in international applications in 2016 were for service⁶⁹.

The Republic of Macedonia became a party to the Madrid agreement on September 8, 1991.

During 2015 in the State Office of Industrial Property of the Republic of Macedonia received a total of 5357 trademark applications, of which 74.7% were according to the Madrid Protocol, and the others are submitted to the State Office of Industrial Property.

According to the Madrid Protocol of the Madrid Agreement, during 2015 a total of 3188 applications for trademarks were submitted out of which 2757 were new applications and 431 territorial ones extensions⁷⁰.

⁶⁸ Timothy W. Blakely Beyond the International Harmonization of Trademark Law: The Community Trade Mark as a Model of Unitary Transnational Trademark Protection, 149 U. Pa. L. Rev. 309 (2000). Page 316-317.

⁶⁹ Madrid Yearly Review 2017: International Registration of Marks, WIPO, Geneva.

⁷⁰ Annual report for the work of the State Industrial Property Office for 2015, March, 2016

2.2. The Legal aspects of The Protocol relating to the Madrid Agreement (1989)

The Protocol relating to the Madrid Agreement concluded in 1989, adopted at Madrid on June 27, 1989, as amended on October 3, 2006 and on November 12, 2007⁷¹ aims to make the Madrid System more flexible and more compatible with the domestic legislation of certain countries or intergovernmental organizations that had not been able to accede to the Agreement.⁷²

The protocol is a filing treaty and not a substantive harmonization treaty. It provides a cost-effective and efficient way for trademark holders, individuals and businesses to ensure protection for their marks in multiple countries through the filing of one application with a single office, in one language, with one set of fees, in one currency. Moreover, no local agent is needed to file the application. While an International Registration may be issued, it remains the right of each country or contracting party designated for protection to determine whether or not protection for a mark may be granted⁷³.

The Madrid protocol⁷⁴ has some advantages which are worth mentioning. An applicant can convert international registration into national application without losing original filing date in case if the basic application was cancelled. Also, the Protocol allows an applicant to secure protection through international registrations based on not only on national registrations but also national application. Other advantages are related to the language, the Protocol allows application in three languages, English, Spanish and French, and the territorial coverage of the Protocol is broader as it is signed by more countries⁷⁵.

Republic of Macedonia became part of the Madrid Protocol on 30 of August 2002.

⁷¹ Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (as amended on November 12, 2007) (Authentic text) www.wipo.int/wipolex/en

⁷² Summaries of Conventions, Treaties and Agreements Administered by WIPO Paperback – January 1, 2013

⁷³ Madrid Protocol: <https://www.uspto.gov/trademark/laws-regulations/madrid-protocol>

⁷⁴ Alternative Way of Trademark Protection A thesis submitted to the Bucerius/WHU Master of Law and Business Program in partial fulfillment of the requirements for the award of the Master of Law and Business ("MLB") Degree Giorgi Lomidze July 25, 2014

⁷⁵ On this link you can find states how have adhered to the Madrid Union
http://www.wipo.int/treaties/en/ShowResults.jsp?treaty_id=8

2.3. The Legal aspects of International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification)

The International Classification of Goods and Services for the Purposes of the Registration of Marks was established by an Agreement⁷⁶ concluded at the Nice Diplomatic Conference, on June 15, 1957, was revised at Stockholm, in 1967, and at Geneva, in 1977, and was amended in 1979.

The Nice Agreement is the WIPO-administered multilateral treaty that establishes the Nice Classification. In January 2018, 84 States⁷⁷ were party to the Nice Agreement⁷⁸. In addition, 65 non-member countries, four organizations⁷⁹ and the International Bureau of WIPO also use the Nice Classification⁸⁰.

The Nice Classification is a system of classifying goods and services for the purposes of the registration of marks. It consists of 45 classes⁸¹ and 11 services. The Nice Classification assigns goods to Classes 1 to 34 and services from Classes 35 to 45⁸². Each class is represented by a class heading. The class headings describe in very broad terms the nature of the goods or services contained in each class. The explanatory notes of a given class describe in greater detail the types of products or services included in that class. The most detailed level of the Classification is the alphabetical list which contains around 10,000 indications of goods and 1,000 indications of services⁸³.

⁷⁶ About the Nice Classification: <http://www.wipo.int/classifications/nice/en/preface.html>

⁷⁷ Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominica, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Guinea, Hungary, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kyrgyzstan, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malawi, Malaysia, Mexico, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Netherlands New Zealand, Norway, Paraguay, Poland, Portugal, Republic of Korea, Republic of Macedonia, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Serbia, Singapore, Sint Maarten, Slovakia, Slovenia, Spain, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan.

⁷⁸ Frequently Asked Questions: Nice Classification : <http://www.wipo.int/classifications/nice/en/faq.html>

⁷⁹ The African Intellectual Property Organization (OAPI), the African Regional Intellectual Property Organization (ARIPO), the Benelux Organization for Intellectual Property (BOIP) and the European Union Intellectual Property Office (EUIPO).

⁸⁰ International (Nice) Classification of Goods and Services: From Wikipedia, the free encyclopedia.

⁸¹ Some classes have short lists of goods or services, other classes contain very long lists. For example, class 27 contains twenty five items in its alphabetical list, whereas class 9 includes around eight hundred fifty terms.

⁸² Nice Classification (trade marks): <https://euipo.europa.eu> Page last updated 24-02-2018.

⁸³ Frequently Asked Questions: Nice Classification : <http://www.wipo.int/classifications/nice/en/faq.html>

More specifically the Nice Classification consists of the following:

- Class Headings: the class headings are general indications relating to the field to which, in principle, the goods or services belong;
- Explanatory Notes: the explanatory notes explain which goods or services are meant or not meant to fall under each particular class number;
- The Alphabetical List: is a list of goods and services, in alphabetical order, with an indication of the class number under which they should be grouped;
- General Remarks: the general remarks explain what criteria should be applied if a term is not found in the alphabetical list and cannot be classified in accordance with the explanatory notes⁸⁴

The alphabetical list functions in two official languages, English and French⁸⁵.

The Agreement set up a Committee of Experts⁸⁶ in which all members of the Union are represented. The main task of the Committee is the periodical revision of the Classification.

The Nice Agreement also created a Union, which has an Assembly⁸⁷. Every State that is a member of the Union and has adhered to the Stockholm Act or the Geneva Act of the Nice Agreement is a member of the Assembly. Among the most important tasks of the Assembly is the adoption of the biennial program and budget of the Union⁸⁸.

The International Bureau provided for in Article 6 of the Nice Agreement is in charge of the administrative affairs of the Special Union, among other things, preparing the meetings and other tasks entrusted to it.

According to publication in print The Nice Classification is no longer published in paper. The tenth edition, published in June 2011, was the last printed edition.⁸⁹

⁸⁴ EXAMINATION GUIDELINES CONCERNING THE CLASSIFICATION OF GOODS AND SERVICES IN INTERNATIONAL APPLICATIONS March 2017(WIPO Publication)

⁸⁵ For more information please see Article 1 (4) of the Nice Agreement.

⁸⁶ For more information please see Article 3 of the Nice Agreement.

⁸⁷ For more information please see Article 5 of the Nice Agreement.

⁸⁸ Summary of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957):

http://www.wipo.int/treaties/en/classification/nice/summary_nice.html

⁸⁹ The Trademark Reporter® THE INTERPRETATION OF THE NICE CLASS HEADINGS IN THE EUROPEAN UNION, OR THE ART OF ONE HAND CLAPPING By André Pohlmann* July–August, 2015 Vol. 105 No. 4.

Version 2018 of the eleventh edition of the Nice Classification (NCL 11-2018) came into force on 1 January 2018, which updates the eleventh edition of the Nice Classification (NCL 11-2017) of 1 January 2017.

The International Bureau of WIPO will apply the 2018 version of the eleventh edition of the Nice Classification to: – any application for international registration that is received by the Office of origin on or after January 1, 2018; – any application for international registration that is received by the International Bureau of WIPO on or after January 1, 2018, when the said application is received by the International Bureau of WIPO after the two-month time limit referred to in Article 3(4) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks⁹⁰.

2.4. The Legal aspects of Directive 89/104/EEC of 21/12/88, on Trade Marks

Trademarks are one of the most valuable assets of a business. The national laws on trademarks of the Member States⁹¹, unfortunately, had wide disparities and thus an adverse impact on the internal market. Therefore, the creation of a unitary trademark system in the Community was a logical development in the creation of a Common Market. The First Council Directive 89/104/EEC was introduced with the aim of reducing the differences between national trade mark systems which result in barriers to trade and which affect free movement of goods and services⁹². Whereas all the Member States of the Community are bound by the Paris Convention for the Protection of Industrial Property; where it is necessary that the provisions of the Directive are fully compliant with those of the Paris Convention⁹³.

⁹⁰ New Nice Classification - WIPO has announced that a new version of the 11th edition of the Nice Classification has entered into force on 1 January 2018- (07 January 2018) www.herreroyasociados.com

⁹¹ List of 28 European Union member countries Austria (1995) Belgium (1958) Bulgaria (2007) Croatia (2013) Cyprus (2004) Czech Republic (2004) Denmark (1973) Estonia (2004) Finland (1995) France (1958) Germany (1958) Greece (1981) Hungary (2004) Ireland (1973) Italy (1958) Latvia (2004) Lithuania (2004) Luxembourg (1958) Malta (2004) Netherlands (1958) Poland (2004) Portugal (1986) Romania (2007) Slovakia (2004) Slovenia (2004) Spain (1986) Sweden (1995) UK (1973).

⁹² Master of European Affairs programme, Law Master Thesis Special Trade Marks – Legislation and the Situation in the European Community by Nguyen Nhu Quynh Supervisor Ass. Professor Hans Henrik Lidgard Field Intellectual Property Rights Law Spring 2002

⁹³ http://www.wipo.int/wipolex/en/text.jsp?file_id=126842

Council Directive 89/104/EEC⁹⁴ was adopted by the European Council on December, 21 1988 after almost ten years of debate. The first draft of the Directive was published in December 1980. Council Directive 89/104/EEC, 1980 O.J. (C 351/1)⁹⁵. An attempted “final proposal” was submitted to the Council in December of 1985. Council Directive 89/104/EEC, 1985 O.J. (C 215/4). Following the comments of several Member States, a new text was drafted in October 1986 and discussed by the Working Group. In December 1987 an amended text, strongly influenced by the Dutch delegation, was published and subsequently approved by the Council in June of 1988. Following the advice of the Economic and Social Committee in October of 1988 and the Opinion of the European Parliament in December of 1988, the Council adopted the Trademark Directive on December 21, 1988. Council Directive 89/104/EEC, 1988 O.J. (L 40/1).⁹⁶

The Directive is intended to limit to some extent the problems of free movement which are likely to arise when products bearing national trade marks try to cross the borders. Despite its welcome by harmonization enthusiasts for its wide coverage, many areas were left unsettled by the Directive, such as the national trademark office’s *ex officio* handling of grounds for refusal⁹⁷.

First Council Directive to Approximate the Laws of the Member States Relating to Trademarks is contained in Article 17. The Scope of this Directive is that the Directive shall apply to every trade mark in each nation of the European Union, including international marks having effect in a Member State and marks registered in the "Benelux Trademark Office"⁹⁸. Article 2 define a trademark as: any sign capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings⁹⁹. Articles 3 and 4 dictate the terms governing the grounds for denial or

⁹⁴ First Council Directive See *supra* note 1

⁹⁵ Official Journal of the European Communities English edition Information and Notices ISSN 0378-6986 c 354 Volume 42 7 December 1999

⁹⁶ Trademark Exhaustion in the European Union: Community-Wide or International? The Saga Continues Irene Calboli Marquette University Law School, Irene.Calboli@marquette.edu

⁹⁷ Master of European Affairs programme, Law Master Thesis Special Trade Marks – Legislation and the Situation in the European Community by Nguyen Nhu Quynh Supervisor Ass. Professor Hans Henrik Lidgard Field Intellectual Property Rights Law Spring 2002 (Page 16)

⁹⁸ Benelux Office for Intellectual Property :<https://www.boip.int/en>

⁹⁹ See Article 2 of the First Council Directive.http://www.wipo.int/wipolex/en/text.jsp?file_id=126842

invalidation of a trademark registration. Article 3 sets forth the absolute grounds for refusal or invalidity, while Article 4 governs the relative grounds¹⁰⁰. Article 5 of the Trade Mark Directive is perhaps the most substantively important article. It sets forth the substantive rights to be conferred by a trademark in member states and introduces the criteria for infringement. Article 8¹⁰¹ provides for the granting of "exclusive or nonexclusive" licenses of trademarks," and Article 9¹⁰² provides that if the proprietor of an earlier trademark has knowingly acquiesced in the use of the later registered trademark for five consecutive years, then the earlier proprietor loses her rights to apply for a declaration of invalidity. Article 10¹⁰³ is a key provision in that it requires genuine use of the trademark within five years of registration. Once a trademark has been registered, it may be revoked if not used. According to Article 16¹⁰⁴ Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 28 December 1991 they shall immediately inform the Commission thereof.

2.5. The Legal aspects of Regulation (EC) 2868/95 of 13/12/95 on the implementation of Regulation (EC) 40/94¹⁰⁵

Amended by Commission Regulation (EC) No 782/2004 of 26 April 2004¹⁰⁶, Commission Regulation (EC) No 1041/2005 of 29 June 2005¹⁰⁷, Commission Regulation (EC) No 355/2009 of 31 March 2009¹⁰⁸, Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015¹⁰⁹

The Commission Regulation (EC) No 2868/95³⁶ is also an important legal text besides the Harmonization Directive¹¹⁰ and Council Regulation (EC) No 40/94 of 20

¹⁰⁰ Timothy W. Blakely Beyond the International Harmonization of Trademark Law: The Community Trade Mark as a Model of Unitary Transnational Trademark Protection, 149 U. Pa. L. Rev. 309 (2000).

¹⁰¹ First Council Directive See *supra* notes 1 Article 8.

¹⁰² First Council Directive See *supra* notes 1 Article 9.

¹⁰³ First Council Directive See *supra* notes 1 Article 10.

¹⁰⁴ First Council Directive See *supra* notes 1 Article 16.

¹⁰⁵ OJ L 303, 15.12.1995, p. 1–32 [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1995R2868:20090501:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1995R2868:20090501:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1995R2868:20090501:EN:PDF)

¹⁰⁶ (OJ L 123 27.4.2004, p. 88)

¹⁰⁷ (OJ L 172 5.7.2005, p.4)

¹⁰⁸ (OJ L 109 30.4.2009, p.3)

¹⁰⁹ (OJ L 341, 24.12.2015, p. 21–94)

¹¹⁰ It is referred for First Council Directive 89/104/EEC See *supra* notes 1.

December 1993 on the Community trade mark¹¹¹. It contains the necessary provisions on the registration procedure for a CTM¹¹², as well as on the administration of EUTM, on appeals against decisions of the Office¹¹³ and proceedings for the revocation or invalidation of a EUTM¹¹⁴. The Commission Regulation (EC) No 2869/9538 lays down the fees payable to the Office.

The Regulation is consisted by 3 Article and 101 Rules. In Article 1 are explained all 101 Rules. The Transitional Provisions we can find in Article 2¹¹⁵, According to Article 3 “This Regulation shall enter into force on the seventh day following that of its publication in the Official Journal of the European Communities. This Regulation shall be binding in its entirety and directly applicable in all Member States”¹¹⁶.

This Regulation is also known as regulation which lays down the fees payable to the Office, so the Rule 4 says:

The fees payable for the application shall be:

- (a) The basic fee; and
- (b) A class fee for each class exceeding three to which the goods or services belong¹¹⁷.

On 14 June 2017, the European Parliament and the Council of the European Union adopted Regulation (EU) 2017/1001 of 14 June 2017 on the European Union Trade Mark¹¹⁸. The new regulation will repeal Regulation (EC) No 207/2009 and shall apply from 1 October 2017. This new regulation introduced, among other things:

- The notion of the ‘European Union Trademark’ and the ‘European Union Intellectual Property Office’ replacing the ‘Community Trade Mark’ (CTM)

¹¹¹ 90J L 11, 14.1.1994, p. 1.)

¹¹² In Article 1 of Regulation (EC) No 207/2009 is amended as follows:

(1) In the title, ‘Community trade mark’ is replaced by ‘European Union trade mark’.

¹¹³ In Article 2 of Regulation (EC) No 207/2009 is amended as follows: (A European Union Intellectual Property Office (“the Office”) is hereby established. All references in Union law to the Office for Harmonization in the Internal Market (trademarks and designs) shall be read as references to the Office).

¹¹⁴ Master of European Affairs programme, Law Master Thesis Special Trade Marks – Legislation and The Situation in The European Community By Nguyen Nhu Quynh Supervisor Asst. Professor Hans Henrik Lidgard Field Intellectual Property Rights Law Spring 2002. (Page 16-17).

¹¹⁵ See Rule 2 of Regulation No 2868/9536 of 13 December 1995

¹¹⁶ See Rule 3 of Regulation No 2868/9536 of 13 December 1995

¹¹⁷ See Rule 4 of Regulation No 2868/9536 of 13 December 1995

¹¹⁸ OJ L 154, 16.6.2017, p. 1–99

and the 'Office for Harmonization in the Internal Market' (OHIM), respectively;

- An amendment of the fee structure by setting up a new 'one-class-per-fee' instead of the old option of paying for a 'class' for each additional product class applied beyond the third; and
- The abolition of the requirement that a trade mark should be represented graphically

This new regulation therefore constitutes a very useful tool for all trademark practitioners¹¹⁹.

2.6. Law on Industrial Property of Macedonia¹²⁰ (Official Gazette no. 21/2009

It is generally known that without the protection of industrial property, it is very difficult to develop a market economy. From the history we observe it can be concluded that all types of industrial property originated from the need for promotion of the production and the economy. After the independence of the Republic of Macedonia it was concluded that it is necessary to prepare and adopt legislation that will regulate the protection of industrial property¹²¹.

The Republic of Macedonia started the procedure for passing the Law and ended so that the Parliament of the Republic of Macedonia adopted the Law on Industrial Property on July 1, 1993¹²².

Pursuant to Article 75, paragraphs 1 and 2 of the Constitution of the Republic of Macedonia, the President of the Republic of Macedonia and the President of the Assembly of the Republic of Macedonia issue:

Decree for promulgation of the Law on Industrial Property passed by the Assembly of the Republic of Macedonia at its session held on February 12, 2009.

¹¹⁹ Codification of the European Trademark Regulation Post on 27 July 2017 <https://www.wildgen.lu/our-insights/article/codification-european-trademark-regulation>

¹²⁰ Official Gazette of the Republic of Macedonia No. 21 dated February 17, 2009 <http://www.slvesnik.com.mk/Issues/C3D11644FEC5F54884C427AC57F6BAB8.pdf>

¹²¹ D-r Aqimovska Polenak Mirjana, D-r Anastasovska Daboviq Jadranka, D-r Buckovski Vlado, D-r Pepeljugoski Valentin, D-r Varga Liliana. "Pravo na industriska sopstvenost"- Izbor na tekstovi-. Praven fakultet "Justinijan Prvi", Skopje, 2003, str.58

¹²² <http://www.slvesnik.com.mk/Issues/17b20c14431049e1ab45198e93825150.pdf> (is not in force).

LAW ON INDUSTRIAL PROPERTY (LIP)

The Law on Industrial Property has thirteen sections and 326 articles. The first section deals with general provisions such as, for example, the content of the law, which regulates this law¹²³, defines certain definitions used in this law and the new meaning, subjects and rights of the industrial property entities. Article 9 of the LIP mentions the competent institution in this case works in connection with the acquisition and protection of industrial property rights that is carried out by the State Office of Industrial Property¹²⁴, and the work of the Office¹²⁵ has been described up to Article 24.

In the second part of the LIP, the patent is explained. This section starts from Article 25 to Article 126. The subject of patent protection is described; Article 26 of the Law includes the exceptions from the patent protection and in Article 32 the term inventor¹²⁶. In the other articles, the content of the patent application is explained, and in the following few articles, the application procedure, the register of patents, the procedure before the Office, the validity, the certificate, etc. are explained and described in details.

The third part of the LIP is about industrial design. This section starts from Article 127 to Article 174. The object of protection is the industrial design which according to Article 127 paragraph (1) protects a design that is new and has an individual character. In other members explains the term novelty of the design, the individual character of the design, and Article 130 discusses the design of the design. The design cannot be protected if there are absolute and relative reasons for refusal. The procedure for acquiring the right to industrial design under Article 134 may be initiated by the author or his legal successor. If the design is the creation of several authors, then the right to initiate a procedure referred to in paragraph (1) of this Article shall be made by all authors or their legal followers is defined as the natural person who created the design with his creative work¹²⁷.

¹²³ According to the Law on Industrial Property (Official Gazette of the Republic of Macedonia No. 21 dated February 17, 2009), the Industrial property rights are: patent, industrial design, trademark, appellation of origin and geographical indication.

¹²⁴ The State Office of Industrial Property was established in 1993 within the Ministry of Development.

¹²⁵ See *supra* note 6.

¹²⁶ A finder is a natural person who created the invention with his invention work.

¹²⁷ See Article 135 of the LIP.

The fourth part of the LIP is dedicated to the trademark part in which we will keep more because this topic covers most of this paper. It begins with Article 175 and ends with Article 225. Subject to protection are trademarks which according to Article 175 are protected a sign which can be graphically displayed and which is suitable for distinguishing the goods or services of one undertaking from those of the other undertakings. Trademark shall protect signs capable for distinguishing, in particular: words, letters, numerals, pictures, drawings, combinations of colors, three-dimensional forms, including shapes of goods or their packaging, as well as combinations of all of the above-mentioned signs¹²⁸.

The fonts and letters (2) can be written in any language and with any letter. The sign should be suitable for distinguishing if the goods or services in comparison with them give a distinctive character; this is explained in Article 176 of the LIP. Certainly there are reasons when a trademark cannot protect a sign. These reasons are divided into absolute¹²⁹ and relative¹³⁰.

¹²⁸ As a three-dimensional sign in general, the shape of the Coca Cola bottle and the sign of Mercedes Benz are known.

¹²⁹ According to Article 177 of the LIP, absolute reasons for deduction are included (1) a trademark cannot protect a sign: 1) whose publication or use is contrary to public order or morality; 2) Who cannot be graphically displayed 3) Who is not distinctive, i.e. eligible for differentiation of the goods and services in the supply 4) Who is the only type of goods or services, their purpose, timing or manner of production, geographical origin, quality, price, quantity and weight; 5) who has remained regular in everyday speech or in the established commercial practice for marking certain type of goods or services; 6) consisting exclusively of a form that arises from the type of goods or the form of the goods necessary for achieving a particular technical result, or a form which gives the essential value of the goods; 7) which, with its appearance, may create confusion in the supply, and in particular, mislead the average consumer with regard to the geographical origin, the type, quality or other properties of the goods or services; 8) containing or consisting of a geographical indication which serves to label wines or spirits of alcoholic beverages, 9) which contains a seal or stamp, official signs or points for control and quality assurance, or imitates it; 10) which contains a state or other public coat of arms, a flag or an emblem, name or abbreviation of the name of an international organization, as well as their imitation, within the meaning of Article 6-ter of the Paris Convention, except with the permission of the competent authority of the State or organization concerned; 11) which contains the name or abbreviation of the name, the state coat of arms, the flag, the emblem or other official sign of the Republic of Macedonia, as well as their imitation, except with the permission of the competent state administration body, 12) which contains or imitates a character or a name of a historical or deceased famous person from the Republic of Macedonia, except with the permission of a competent state administration body; 13) which contains or imitates a name, shape or other recognizable part of the protected cultural heritage of the Republic of Macedonia, except with the permission of a competent body of the state administration; 14) Who contains religious symbols or imitates them; (2) The signs referred to in points 3), 4), and 5) of paragraph 1 of this Article may be protected as a trade mark only if the applicant proves that the sign has acquired distinctiveness over the course of many years of use. (3) the competent authority for issuing the license referred to in paragraph (1) items 11) and 12) of this Article shall be the Ministry of Justice. (4) The competent authority for issuing the license referred to in paragraph 1, item 13 of this Article, for the protection of cultural heritage.

Character and the brand name of the trade mark. (5) A trademark may not protect a sign that violates previously acquired rights of:

In order to recognize the right to recognition of a trademark under the LIP, an application must be filed to the Office. According to Article 181, the application must contain: request, data for the applicant, appearance of a familiar list of goods and services for which protection is requested, etc. The trademark application shall be entered in the register of applications. After consideration of the application, the Office shall inform the applicant that the conditions for recognition of the right have been fulfilled and shall invite him to pay the fee with validity of up to ten years in a period of 30 days. If the fees and expenses are not paid by the applicant, the Office will reject the application.

According to Article 202 of the LIP, the right to a trademark is acquired by adopting a decision for recognition and registration of the mark in the register. The Office of the holder of the trademark right issues a document within six months after

¹³⁰ According to Article 178 of the LIP, as relative reasons for refusal are counted (1) A trademark cannot protect a sign: 1) which is identical with the earlier registered or registered trademark of another person for the same kind of goods or services, and 2) which is identical or similar to an earlier registered or registered trademark of another person for the same or similar type of goods or services, if that similarity can create confusion with the average consumer, including the possibility of association with the earlier reported or earlier registered trademark. (2) The earlier trademark shall be the reason for refusal within the meaning of paragraph (1) of this Article only if it is registered.

(3) The term "earlier registered or registered trademark shall mean:

1) Trademarks that enjoy the priority right according to the provisions of this Law;

2) Earlier internationally registered trademarks with an effect in the Republic of Macedonia, and

3) Trademarks that at the time of filing the trademark application for the sign referred to in paragraph 1 of this Article are well known in the Republic of Macedonia within the meaning of Article 6-bis of the Paris Convention, ie Article 16 (2) of the TRIPS Agreement. (4) A trademark cannot protect a sign that is identical or similar to an earlier registered trademark of another person, for goods or 56 services that are not identical or similar to the goods or services for which the sign is reported , if the earlier registered trademark has a reputation in the Republic of Macedonia, and if the use of that sign without a justified reason would constitute unfair competition or would harm the distinctive 1) the trademark owner registered in a member state of the Paris Union or the WTO, for which in the Republic of Macedonia his representative or representative filed a complaint without his consent; 2) a natural person whose name, surname or character is identical or similar to the published sign; 3) the holder of an earlier protected industrial property right, if the subject of that right is identical or similar to the published sign and

4) The person having the copyright in a work that is identical or similar to the published sign.

(6) A trademark may not protect a sign that is identical or similar to the trademark whose validity has expired due to the expiration date, and the right holder did not apply for extension of the validity within the prescribed deadline and did not pay the prescribed fee , if the trademark application is filed before the expiration of nine months, counting from the day of the termination of the validity of the trademark, unless the protection of that sign is requested by the holder on whose behalf the trademark was registered, or his legal complaint en.(7) The reasons for exclusion from the trademark protection under this Article may be invoked only by the applicant of the earlier filed application or the holder of an earlier acquired right.

the adoption of the decision for recognition. According to paragraph (2) of Article 206, the trademark owner has the right besides the trademark to use the well-known symbol "®).

The trademark shall cease to be valid when the right holder, without justified reasons, does not use the mark. The procedure for termination of validity is initiated upon request of an interested person in writing to the Office. Article 215 explains that after the conducted procedure, the Office shall issue a decision for termination of the validity of the trademark or for rejecting the application.

In the fifth part of the LIP there is a geographical name. It starts from Article 226 to Article 264. Geographical name is protected with a designation of the origin of the product and a geographical indication. The geographical name refers to the products produced by natural or legal persons in a certain geographical area. Article 227 defines the term designation of origin as the geographical name of the country, region or place indicating the product originating in that area and whose quality and special properties are exclusively or predominantly conditioned by the geographical environment, including natural and human factors and whose production, processing and preparation as a whole take place in a certain limited area of origin. Geographical indication is the geographical name of the country, region or place designating a product whose quality, reputation or other characteristics can essentially be attributed to geographical origin. Protecting the geographical name applies indefinitely.

The sixth part of the law explains the continuation of the procedure and the return to the former state. It starts with Article 265 to Article 270.

The seventh part of the LIP is devoted to the enforceability of industrial property rights, starting with Article 271, which explains the transfer agreement, and Article 272 deals with the license agreement. The contracts referred to in Articles 271 and 272 of this Law, except for the provisions of this Law, shall apply to the Law on Obligatory Relations.

The topic of the eighth part is the announcement of a solution for the recognition of industrial property rights. According to Article 275, the decision for recognition of the right to industrial property shall be declared null and void if it is established that there were no conditions provided for in Article 25 paragraph (3), Article 26, Article 27,

paragraph 3, Article 30, Article 74, Article 132, Article 133, Article 177, Article 178, Article 232 and Article 233 paragraph (1) of this Law for recognition of that right.

In the ninth part, there is talk about representation, that is, persons who can act in accordance with the law on industrial property. Starting from Article 279 to Article 290.

The tenth part is dedicated to judicial protection. And starting from Article 291 and ending with A Achieving protection of the right of a person whose right has been violated by this Law is violated shall have the right to protection by filing a lawsuit before the competent court. As an infringement under paragraph 2, Article 291 shall mean any unauthorized use, disposition, restriction, imitation, association, harassment of rights and the like the injury, and at the latest within five years of the violation.

According to Article 300, the goods may be required to be withdrawn from circulation, confiscated or destroyed. However, alternative measures referred to in Article 301¹³¹.

Eleventh part of the LIP is devoted to supervision and pursuant to Article 316; the implementation of the provisions of this Law and the regulations adopted on the basis of this Law shall be carried out by the Ministry of Economy. The State Market Inspectorate shall execute ex-post supervision on the official duty at the request of the holder of the right.

In Article 318 of the LIP, if the inspectorate finds that the industrial property rights have been violated, a decision will be made to withdraw the products from circulation and set a deadline for their withdrawal.

(4) The seized objects after the final decision of the court decision shall be destroyed in accordance with the law on execution of sanctions¹³².

In the twelve part of the LIP the misdemeanor charges imposed by the competent court to the legal entity for misdemeanor starting from Article 321 to Article 322 are explained.

In the final thirteenth part of the LIP are transitional and final provisions.

¹³¹ Article 301, as alternative measures, include: (1) At the request of the defendant, the competent court may determine the payment of a monetary compensation to the injured party as an alternative measure, in place application of the withdrawal measures from the commercial channels and finally Removal from commercial channels and destruction measures, payment of Monetary claim of the damaged party.

(2) The court may determine the measure referred to in paragraph (1) of this Article if the person acted inadvertently and without care, if the execution of the measures in question would cause him disproportionate damage and if the injured party is satisfied with Money allowance.

¹³² Official Gazette of the Republic of Macedonia 02/2006.

2.7. Regulation on Trade Mark¹³³

In this Regulation we can find information about form and content of the trademark application also regulates the content and manner of maintaining the Register of trademark application, the content of the request for division of the trademark application; the content of the request for priority right on trademark the content of trademark certificate¹³⁴.

If you want to apply for granting a trademark you can do by filling application form on DZIS-TM1¹³⁵ with requested data according to this Regulation also you need appearance of the sign for which protection is sought and list of goods or services¹³⁶.

If you file an application to protect a verbal sign such as words, letters, numbers, or a combination of them, it should be indicated on the application. If the protection of a figurative sign is required, for example, a color mark or with a special shape of letters and other figurative elements, it should also be indicated on the application itself. If the sign for which protection is requested is color, the colors of the sign should also be indicated.

If the protection of a three-dimensional sign from the representation of the sign is required, its three-dimensionality should be clearly seen, and the colors should also be indicated if the sign is to be in color.

The State Office of Industrial Property keeps registers¹³⁷ of registered and recognized industrial property rights. The register is kept in electronic form and the data published in the register are public. The register¹³⁸ lists data such as the date of filing the application, the address for correspondence data for the applicant, appearance of the sign for which protection of data for paid fees and expenses is requested, the decisions of the Office are also recorded in the register, as well as data for the judicial decision and decisions of the Administrative Court and others.

¹³³ Published in "Official Gazette of the Republic of Macedonia" number 92 from 24/07/09

¹³⁴ For more information please see on Article 1 of this Regulation.

¹³⁵ Appendix A (1) The request for granting trade mark Form DZISTM1 and Appendix I (1*)

¹³⁶ According to the Nice Classification of goods and services.

¹³⁷ LIP (Article 16).

¹³⁸ About the content and the manner of maintaining the register of trademark please see Article 10 of the Regulation.

If an interested person needs an Extract¹³⁹ from the Register of trademark applications, he may refer to the Office with a request with the assignment of the TM number after submitting proof of paid fees.

Each applicant for registration of a trademark may request the Office to issue a Certificate for priority¹⁴⁰ right to use the sign applied for protection. The certificate contains data for the person filing the request, TM number, filing date of the trade mark application, appearance of the sign indicating that the certificate data is identical with the data from the trademark application.

The data from the trademark application are published in the Official Gazette of the Office such as: TM number, date of filing the application and other information from the application. The data are marked with INID¹⁴¹ codes.

If interested parties wish to object to the published trademark application, they may do so by submitting a written opposition¹⁴², explaining the reasons for filing the complaint and submitting appropriate documentation to the Office. The complaint should contain general information about the applicant.

If you wish to apply for an extension¹⁴³ of the trademark validity, you can do this by filling out the DZIS-TM3 Form, on A4 paper, and two copies should also be accompanied by proof of paid appropriate administrative fee.

If you are applying for a cancelation of trademark validity, the reasons should be stated in the application for the cancelation of the validity of the trademark as well as the general information of the applicant.

Since the Republic of Macedonia is a signatory of the International Agreements for registration of trademarks, this means that the citizens of Macedonia have the right to apply for an international application by submitting an application for international registration to the Office.

¹³⁹ Article 11 of Trademark Regulation.

¹⁴⁰ Article 13 and 14 of Trademark Regulation.

¹⁴¹ The bibliographic data in respect of international marks are identified by the WIPO INID codes (INID stands for "Internationally agreed Numbers for the Identification of Data"), that is, the codes of Standard ST.60 ("Recommendation concerning bibliographic data relating to marks") and Standard ST.3 ("Recommended standard two-letter code for the representation of States, other entities and international organizations issuing or registering industrial property titles"). The dates are given in Standardized DD.MM.YYYY format.

¹⁴² Article 17 of Trademark Regulation.

¹⁴³ Article 28 of Trademark Regulation.

The application for international registration of the trademark contains a request Form DZIS-MTM4¹⁴⁴, on A4 paper in three copies. The data from the international application should be identical with the data from the Register of trademarks of the Republic of Macedonia¹⁴⁵.

Upon receipt of the application, the Office shall examine¹⁴⁶ whether the application has been submitted in accordance with the provisions of the Trademark Regulation. The Office shall submit¹⁴⁷ the formal application to the International Bureau of the World Intellectual Property Organization in accordance with the provisions of the Madrid Agreement or the Madrid Protocol. At the request of the applicant, the Office shall forward the application for registration in the International Register of any changes provided for in the Madrid System.

The holder of the internationally registered trademark may apply for the extension¹⁴⁸ of that trademark, directly to the International Bureau of the World Intellectual Property Organization or through the Office.

2.8 The Progress Reports of the Republic of Macedonia from the European Commission

This part will look at the progress reports of the Republic of Macedonia from the European Commission¹⁴⁹. We will review the reports from 2012 to 2015; in particular we will look at the part of the report on the right of intellectual property which is the main topic of this paper.

All reports adopted by the European Commission on progress follow the same structure and content and consist of: Introduction as Chapter 1, Political Criteria Chapter Two, Economic Criteria as Third Chapter, and Chapter Four in the Ability to take on the obligations of membership where under Chapter 7 is the Intellectual Property Law.

¹⁴⁴ Article 31 of the Trademark Regulation.

¹⁴⁵ Article 32 of the Trademark Regulation.

¹⁴⁶ Article 33 of the Trademark Regulation.

¹⁴⁷ Article 34 of the Trademark Regulation.

¹⁴⁸ Article 36 of the Trademark Regulation.

¹⁴⁹ The European Commission is an institution of the European Union, responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU.

We will dwell on this chapter only.

2.8.1 Progress Report¹⁵⁰ on the Republic of Macedonia 2012 by the European Commission Brussels, 10.10.2012.

The Commission regularly reports to the Council and Parliament on the progress made by countries in the Western Balkan region. The progress reports for membership preparations achieved by the Republic of Macedonia are following the same structure.

Report:

- Briefly describes the relations between the Republic of Macedonia and the Union;
- Analyzes the situation in the Republic of Macedonia in relation to the political criteria for membership;
- Analyzes the situation in the Republic of Macedonia based on the economic criteria for membership;
- Reviews the capacity of the Republic of Macedonia to fulfill the obligations of membership, i.e. the *acquis* laid down in the agreements, secondary legislation and policies of the Union.

Many sources and contributions have been used in the preparation of the Report, especially from the Government of the Republic of Macedonia, the EU Member States, the reports of the European Parliament and various information from international and non-governmental organizations.

Intellectual Property Law (Chapter 7)

According to the report (Progress Report on the R.M) further progress was noted in the field of industrial property rights. The London Agreement on the Application of Article 65 of the European Patent Convention was ratified, which aims to reduce the costs of translation of the patent.¹⁵¹

¹⁵⁰ European Commission Progress Report on the Republic of Macedonia for 2012. <http://www.sep.gov.mk>

¹⁵¹ On September 26, 2011, the Parliament of the Republic of Macedonia adopted the Law on Ratification of the Agreement for Application of Article 65 of the European Patent Convention-London Agreement Official Gazette of the Republic of Macedonia No. 132/2011.

The State Office of Industrial Property¹⁵² (SOIP) continued its cooperation with the World Intellectual Property Organization, the European Patent Organization, the European Patent Academy and other appropriate bodies. Training and awareness-raising activities related to intellectual property rights continue. The country has seen significant progress in the field of industrial property rights.

Some progress has been made in the area of intellectual property both in terms of the legislative framework and administrative capacity. The level of awareness of Industrial Property Rights between the institutions and the public remains low. In general, preparations in the field of IPR are moderately advanced.

There is evidence of investigation, prosecution and investigation of violations of IPR. There are shortcomings in the procedure for investigating counterfeiters. The awareness of IPR between institutions and the public remains low. Preparations in the field of IPR are moderately advanced.

2.8.2 Progress Report on the Republic of Macedonia from the European Commission Brussels 16.10.2013¹⁵³

The report covers the period from October 2012 to September 2013. Progress is measured on the basis of decisions taken, the adoption of legislation and the implemented measures.

The report is based on information collected and analyzed by the Commission. Many sources are also used, for example, Reports of the European Parliament¹⁵⁴ and information from various international and non-governmental organizations.

Intellectual Property Law (Chapter 7)

In the area of industrial property rights, the WIPO Electronic Document Management System was adapted to the State Office of Industrial Property and linked to an automated judicial information system for the management of court cases that applies to all courts. In 2012, the Academy of Judges and public prosecutors trained 218

¹⁵² In 2007, the Coordinative Body for Protection of Intellectual Property Rights was established; the main goal of this body is to increase intergovernmental cooperation in the field of protection of intellectual property rights. This body consists of representatives from all state institutions working on the implementation of protection of intellectual property rights and is headed by a representative from the State Office of Industrial Property.

¹⁵³ European Commission Progress Report on the Republic of Macedonia for 2013. www.pravda.gov.mk

¹⁵⁴ A reporter for the Republic of Macedonia is Mr. Richard Howitt.

members of the judiciary for the protection of intellectual property rights (IPR). In the field of industrial property rights, the country is advanced.

There is evidence of investigation, prosecution and investigation of violations of IPR. There are shortcomings in the procedure for investigating counterfeiters. The awareness of IPR between institutions and the public remains low. Preparations in the field of IPR are moderately advanced.

2.8.3 Progress Report on the Republic of Macedonia 2014 from the European Commission Brussels 08.10.2014¹⁵⁵

Until July 1, 2014, the reporter for the Republic of Macedonia was Mr. Richard Howitt. The current reporter is Mr. Ivo Vajgl.

In December 2005, the European Council granted the Republic of Macedonia the status of a candidate country. The Stabilization and Association Agreement between the Republic of Macedonia and the EU entered into force in April 2004.¹⁵⁶

The Republic of Macedonia participates in the stabilization and association process, the country implements its obligations under the Stabilization and Association Agreement (CCA) with the EU.

Intellectual Property Law (Chapter 7)

The Law on Industrial Property Rights was amended to regulate intellectual property rights in accordance with the Innovation Strategy¹⁵⁷. The system for electronic filing of patent applications was put into operation. The State Industrial Property Institute does not have sufficient staff to provide quality service in relation to business activities and to support innovation.

As regards the implementation, the Coordinative Body for Intellectual Property launched 16 proceedings in 2013 and seized about 2000 counterfeit items.

Some progress has been made in the legislation in the field of intellectual property law. The enforcement efforts by all institutions continue, but the complexity of the enforcement system impedes the effective protection of intellectual property rights. Public awareness remains limited in relation to violations of intellectual property rights.

¹⁵⁵ European Commission Progress Report on the Republic of Macedonia for 2014.

<http://www.pravdiko.mk/izvestai-od-ek/>

¹⁵⁶ Official Gazette of the Republic of Macedonia No. 46 from 20.06.2005.

¹⁵⁷ Strategy for Innovation of the Republic of Macedonia 2012-2020. <http://arhiva.vlada.mk>

The evidence of investigations, the criminal prosecution of intellectual property rights is not yet available.

2.8.4 Progress Report on the Republic of Macedonia 2015 by the European Commission Brussels, 10.11.2015¹⁵⁸.

This report covers the period from October 2014 to September 2015. By law, the legislation or measures that are in the process of preparation or what waits approved by the Assembly are not taken into account¹⁵⁹.

Intellectual Property Law (Chapter 7)

Regarding industrial property rights, the State Office of Industrial Property participated in several projects with the Office for Harmonization in the Internal Market and with the European Patent Office, but data on the trademarks of the first two should be better integrated.

Some progress has been made in the enforcement of intellectual property rights. About 30 misdemeanor cases have been submitted to the courts, but the absence of credible enforcement records hampers information to monitor the undertaken activities.

The country is moderately prepared in this area. Some progress has been made in the implementation of customs measures. There is an insufficient engagement from investigations, prosecutions and court proceedings on piracy and counterfeiting. In the next year, the country should in particular step up efforts to investigate and prosecute offenses against intellectual property.

¹⁵⁸ European Commission Report on the Republic of Macedonia for 2015 (10.11.2015) www.pravdiko.mk

¹⁵⁹ This rule is followed in all progress reports of the Republic of Macedonia.

PART III Case Studies

3.1. Case of SEE University

South East European University (SEEU) is private, public, not for profit higher education institution, consisting of faculties, centers and institutes as its integral part, specialized in socio-economic sciences. The University is located in Tetovo.

University governing bodies are the Board of the University, the Rector, University Senate and the Rector's Council.

SEEU has five faculties: Faculty of Contemporary Sciences and Technologies, Faculty of Languages, Cultures and Communication, Faculty of Law, Faculty of Contemporary Social Sciences and Faculty of Business and Economics.

South East European University is ranked third in the national level among 19 universities of the Republic of Macedonia. This ranking was carried out by the external evaluator, the Shanghai Jiao Tong University.

The Mission of the University is to contribute to higher education in the Albanian language, through a mutual interethnic understanding and aims to provide a multilingual and multicultural approach to teaching and research by developing study programmers' according to broad European and international standards.

Branding as a global trend, not only in trade but also in higher education and also as a theme that is not sufficiently treated in our region was the main incentive for me to focus on this topic. South East European University with its unique structure in the region, being in step with global trends, has seen the necessity to follow the steps of branding, according to the procedures in the country. Branding is a phenomenon that has become increasingly common in higher education over the last few years. It entails defining the essence of what a university "is", what it "stands for", and what it is going to be known for, requiring precision and consistency in the formulations as well as internal commitment to the brand.¹⁶⁰

As well known in the world practice, the consequences of the misuse of brands, ie Universities, they have had negative effects on the name renowned and casual stigmatization of certain names. The latter, in the case of universities, it was observed

¹⁶⁰ Defining the essence of a university: lessons from higher education branding Higher Education, 2009, Volume 57, Number 4, Page 449 Arild Wæraas, Marianne N. Solbakk

that brought to mislead potential applicants, students in reaching a decision on registration. On the other hand, enrollment in the University is an important step not only for interested applicants, but also for the University itself as such. In this way, the University to maintain the image created for years, invention in maintaining the brand and benefits in the process. The branding process is a procedure in itself, which provides some steps that allow the University to register as a strong brand. Our work focuses exactly on this point clarifies the procedures and commitments made in connection with registration.

Registration, in accordance with the relevant trademark law, gives the company or in our case the Universities the exclusive right to prevent others from advertising identical or similar “products” under the same or confusingly similar trademark. Without registering a trademark, your investment in the marketing of a product may become unprofitable, since competing companies may use the same or confusingly similar trademark for identical or similar products¹⁶¹, The same applies to the University, if the created brand is not protected it will lead to abuse of the name and can lead to confusion of interested candidates and thus damage the University itself. While identifying the problem that due to the name or brand, it will already be late for the institution to miss the deadline for applying for applicants, and thus also incur a financial loss and this will affect the University staff because the quality of service will be decreased and other disadvantages that lead at first glance a very small mistake, but very important if the whole process is being analyzed.

For the trademark to be protected, it must be entered in the Register of trademarks maintained within the State Office of Industrial Property of the Republic of Macedonia. The bill is a body authorized by the state responsible for the protection of all intellectual property rights. The registration the trademark authorizes the owner to use and dispose of it, receive compensation for its use and prevent unauthorized use by third parties for a period of 10 years from the moment of registration.¹⁶²

¹⁶¹ Trgovskata Marka - Pravni Aspekti Avtor: Asistent m-r Marjan Gaberov (Evropski Univerzitet R.M. - Fakultet za pravni nauki) Mart, 2015 g.

¹⁶² Trademark Protection Guide: The American Chamber of Commerce in Macedonia

The procedure for obtaining a trademark may be initiated by a domestic and foreign legal and natural person¹⁶³. Domestic legal and natural persons can directly undertake all activities before the State Office of Industrial Property of the Republic of Macedonia regarding the protection of their right, but they can exercise their rights and through authorized persons i.e. Attorney who is a domestic legal or natural person registered for representation in the field of industrial property.

The procedure for recognition of a trademark shall be initiated by filing an application for a trademark with the State Office of Industrial Property of the Republic of Macedonia, in particular for each sign for which a trademark is sought. In this case, with the same trademark application for one and the same sign, protection for more products and services may be required. The procedure for granting a trademark right may also be initiated by filing an application in accordance with the Madrid Agreement and the Madrid Protocol¹⁶⁴.

¹⁶⁵The trademark application must include:

- 1) Request for recognition of the trademark right;
- 2) Data for the applicant;
- 3) Appearance of the sign for which protection is requested and
- 4) A list of the goods and services for which protection is sought. Other ingredients and attachments are also submitted to the application.

When an application is filed to the State Office of Industrial Property of the Republic of Macedonia, which is composed in the legally prescribed form, that date shall be considered as the filing date of the application and the State Office of Industrial Property of the Republic of Macedonia shall enter the application register of trademark applications.¹⁶⁶

Upon receipt of the application, the State Office of Industrial Property of the Republic of Macedonia shall examine whether the application is correct and whether there are any absolute obstacles to the registration of the mark. If the application meets

¹⁶³ LIP, (Published on 03.09, 2013) Article 179.

¹⁶⁴ LIP, (Published on 03.09, 2013) Article 225.

¹⁶⁵ What should the application contain? <http://www.ippo.gov.mk>

¹⁶⁶ Postapka za priznavanje na trgovska marka. Objavljeno na 22/11/2013
<http://www.pravdiko.mk/postapka-za-priznavanje-na-trgovska-marka/#more-1697>

the requirements, the Office is obliged to invite the applicant to pay the costs for publishing the data in the official newsletter within a certain period of time not exceeding 30 days. Upon receipt of the information that the holder has paid the expenses, the State Office of Industrial Property of the Republic of Macedonia shall be obliged to publish the data from the application within 90 days.¹⁶⁷

If the applicant pays the fee and expenses within the determined deadline, the State Office of Industrial Property of the Republic of Macedonia shall issue a decision for granting the right to a trademark and shall declare the recognized right in the register of trademarks¹⁶⁸.

3.1.1 Research Overview

In this part of the research we will explain the path we followed for the realization of our goal from the moment of applying to the final document. The documents listed below are numbered starting from 1 to 8 for the first application with number 2012/923 and for the second application with number 2012/924 also numerated from 1* to 7*. The order is such as we have received and sent it and we will explain it in that order.

The documents for the first application with number 2012/923.

Document 1. Request for granting trade mark.

According to the Trademark Regulation, Article (1) Request for granting trade mark right shall be filed in the Form DZISTM1, the filing date of our application is 2012/923 from September 4, 2012

Document 2. Review of the Application.

¹⁶⁷ M-r Mateski Aleksandar "Registracija na trgovska marka i ekonomskite pridobivki za biznis zaednicata vo Republika Makedonija 2016.

¹⁶⁸ LIP, (Published on 03.09, 2013) Article 200.

In this document we were informed by the Office that our application has been reviewed and it has been noted that the application contains mandatory ingredients prescribed by Law and all the ingredients stipulated under Article 181 paragraph 1 of the Law on Industrial Property (Official Gazette of the Republic of Macedonia, No. 21/09 and 4/11). Accordingly, the date September 4, 2012 is defined as the date of filling the application. The deadline for registration if an error is registered by the Office is 15 days.

We received the notification on June 17, 2013. As it can be seen from the dates it means that a waiting period for receiving a response from the Office is 287 days or 9 months and 14 days.

Document 3. Fees for publishing the data from the application in the Official Gazette of the Office.

In this document, we were informed by the Office that our application fulfills the conditions provided for in Article 177 and Article 199 of the Law on Industrial Property and at the same time they state that within 15 days, we must pay the fees for publishing the data from the application in the Official Gazette of the Office¹⁶⁹ in amount of 750, 00 MKD according to the Tariff of the Office¹⁷⁰. The waiting period is the same as in the Document No. 2.

Document 4. Letter to the Office of Industrial Property for changing the address of University.

With this letter we addressed the Office with a request to change the address of the University, Bul. "Ilindenska" nn, to use the address Bul. "Ilindenska" no.335. The date when we sent the request for change of the address is January 7, 2013 and unfortunately we have not yet received an official response to the letter and all the

¹⁶⁹ State Office of Industrial Property starting from 31 January 2018, will publish the Official Gazette of the Office every month.

¹⁷⁰ Official Gazette of the Republic of Macedonia" No. 128/09.

letters that were received by the Office after the request are with the old address of the University.

Document 5. Payment of anticipated fees and costs for obtaining and maintaining the validity of law.

We were informed by the Office that our application meets the prescribed requirements for recognition of the trademark right and we are obliged in a period of 30 days to pay the anticipated fees for obtaining and maintaining the grant of a trademark for the first 10 years in the amount of 4,000.00 denars. Fees for publishing the data on a granted trademark in the Official Gazette of the Office in the amount of 380, 00 denars and fees for issuing a trademark certificate in the amount of 380, 00 denars shall also be paid. We received the notification on March 3, 2016. The University made a payment on 29th of March, 2016. So, from the moment of publishing the data from the application in the official newsletter and after payment of the fee within 15 days as stated in Document 3 until the notification according to the above mentioned in Document 5 * and after the payment from our side we waited 966 days or 2 years and 7 months.

Document 6. Cover letter information for anticipated fees.

We sent cover letter on March 29, 2016 to the Office where we have informed them for the performed payment in accordance to their request from Document 5.

Document 7. Decision on the grant of a trademark.

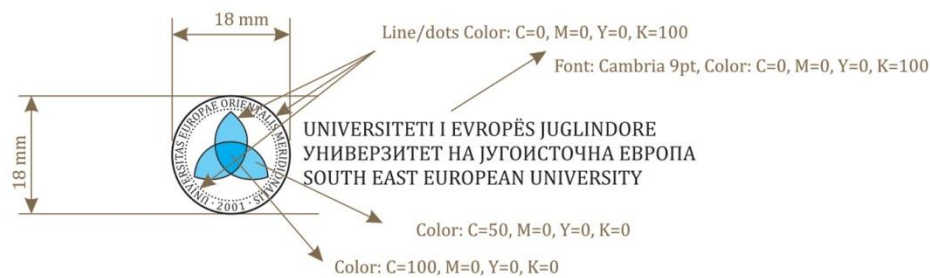
Within three months from the date of publication of the application in the Official Gazette of the Office, against the trademark application may be filed complaint. In Article 142, paragraph 1, item 1 - 6 of the Act, listed persons may appeal against the published application. After the deadline for objections, if an objection is filed the payment of anticipated fees and costs for obtaining and maintaining the validity of law, the Office will issue a decision on the grant of a trademark .The Decision for granted of a trademark based on Article 19 of the Law on Industrial Property no. 21/09 and 04/11,

the right to service, individual trademark TM 2012/923 from September 4, 2012 is granted. The Decision was issued on April 14, 2016. According to the Nice International Classification of Products and Services, our trademark belongs to class 41. Educational services, preparation of teaching. The granted right is registered in the Trademark register under the number 23316 and published in the Official Gazette of the Office on April 30, 2012. From the time we have paid the fees and costs for obtaining and maintaining the validity of law according to Document 6, and until the decision was issued, we waited only 16 days.

Document 8. Certificate.

The last document which is submitted according to Article 204 of the Law on Industrial Property (Official Gazette of the Republic of Macedonia, No. 21/09 and 4/11), which is by nature more a declaratory document and is issued after 6 months from the date of publication of the grant of the trademark. From the date of the decision on April 14, 2016, until the date of the grant of the trademark the certificate on November 16, 2016 we have been waiting 216 days, 7 months and 2 days.

Logo 1



Logo 2



Figure 1. The sign is prepared according to Article 7 of the Regulation on Trade mark part (4) The sign should be made in such a manner as to be placed in a square with side length of 80 mm, whereas the distance between the two farthest points of the sign (horizontally, vertically or diagonally), should not be less than 15 mm.

Documents for second application with number 2012/924

Document 1*¹⁷¹. **Request for granting trade mark.**

According to the Regulation on Trade mark, Article (1) the request for granting trade mark right shall be filed in the Form DZISTM1, the filing date of our application is 2012/924 from September 4, 2012.

Document 2*. **Review of the Application.**

This document is identical with document nr.2.

Document 3*. **Fees for publishing the data from the application in the Official Gazette of the Office.**

This document is identical with document nr.3.

Document 4*. **Letter to the Office of Industrial Property for changing the address of University.**

This document is identical with document number 4.

Document 5*. **Payment of anticipated fees and costs for obtaining and maintaining the validity of law.**

We were informed by the Office that our application contains the mandatory ingredients for condition for the grant of the trademark right and we are obliged in a period of 30 days to pay the fees and costs for obtaining and maintaining the validity of law for the first 10 years in the amount of 4,000.00 denars. Costs for publishing the data on a granted trademark in the Official Gazette of the Office and fees for issuing a trademark in the amount of 760, 00 denars shall also be paid. We received the notification on April 18, 2017. The University made a payment on July 14, 2017. From

¹⁷¹ The sign * lists the documents for the application for granting of trademark for the South East European University logo 2012/924 on September 4, (see picture on Document 7 *).

the date it can be seen that we have scheduled the payment for 87 days or 2 months and 26 days - the Office has expressed understanding about our delays, otherwise the Office has the right to adopt a Decision for rejecting the application due to an unpaid payment. (The Office is informed for the payment by official email). So, from the moment of publishing the data from the application in the official newsletter and after payment of the fee within 15 days as stated in Document 3 until the notification according to the above mentioned in Document 5 * and after the payment from our side we have waited 1401 days or 3 years and 10 months.

Document 6*. Decision on the grant of a trademark.

The document in the process of registration with the State Office of Industrial Property the Decision based on Article 19 of the Law on Industrial Property no. 21/09 and 04/11, the right to service, individual trademark TM 2012/923 from September 4, 2012 "South East European University" is granted. The Decision was brought on July 27, 2017 according to the Nice International Classification of Products and Services, our trademark belongs to class 41¹⁷². Educational services, preparation of teaching. The recognized right is registered in the Register of trademarks under the number 23316 and published in the Official Gazette on August 31, 2017. From the time we have paid the fees until the decision was received, we waited only 13 days.

Document 7*. Certificate

The last document which is submitted according to Article 204 of the Law on Industrial Property (Official Gazette of the Republic of Macedonia, No. 21/09 and 4/11), which is by nature more a declaratory document and is issued after 6 months from the date of adoption of the Decision for granting the trademark. From the date of the decision on July 27, 2017, until the date of the Identification document on January 29, 2018 we have been waiting 186 days, 6 months and 2 days.

¹⁷² See *supra* note 175.

As can be seen from the date of our first submission with number 2012/923 on September 4, 2012 until the notification that we fulfill the conditions dated February 29, 2016 and until the final document is received on the date November 16, 2016, exactly 1534 days or 4 years and 2 months have passed.

For the second submission with number 2012/924 on September 4, 2012 until the notification that we fulfill the conditions dated April 18, 2017 and until the final document is received on the date January 29, 2018, exactly 1973 days or 5 years 4 months and 25 days have passed.

From this we can note that the diligence on the part of the Office is not at all at the desired level and if the date of the application gives priority to the protection of the sign and in some way protects the applicants as from a financial perspective, this one cannot be justified access. From this we can conclude that the Law on Industrial Property (Official Gazette of the Republic of Macedonia, No. 21/09 and 4/11) does not determine the maximum period within which the application should be published as of the day of receiving the application.

3.1.2 Interview with EA for Information and Promotion¹⁷³

In order to prove the hypothesis that positive branding will have beneficial effect on recruitment and will increase competitiveness we had an Interview with the Executive adviser for information and promotion at South East European University.

These were the questions of the interview:

1. Which slogan from the experience was proved as the most successful in student enrolment process?
2. Which marketing strategy was the most successful in student recruitment and in the raising the reputation of the University?
3. Does rebranding have an influence on the student recruitment? Do you consider that it has a positive effect?

Regarding the first question it was stated that our slogan “Bringing knowledge to life” has meet the aim in student recruitment and was shown to be the most successful until now. It serves as a motivating instrument and at first it was very popular also among administrative and academic staff. Therefore, it was considered to use it as a slogan for the public and it had an effect for recruiting new students.

On the answer to the second question he pointed out that our marketing strategy is a set of physical and subjective values in the perceived target audience, which creates the overall image for us as a university. He said that we have selected several modalities that make our strategy sustainable in the perceptions of the target audience, such as:

- Strategic priority,
- Focus on differences,
- A leading position in higher education in Macedonia and elsewhere,
- The uniqueness of the study and service programs,
- Perceptions of the target audience.

The most popular criteria for this strategy are more or less tangible features of the offer and services. More than anything, we have made visible the benefits we have shown through our relationship with our Alumnus, by selecting successful and well-known graduates - people with a person who contest the competition.

¹⁷³ Interview was held with Ass. Prof. Demush Bajrami.

With regard to the third question he said that trends in Macedonia and the region show that the total number of students is decreasing from year to year, and on the other hand, the number of higher education institutions significantly increases. Thus, our university faces competition in this area. Also, he pointed that the potential decrease in students is due to increased mobility and migration of the population. New trends, such as the development of technology, had influenced students, which led to seeking new opportunities for higher education (online studies). This has mutual benefits - students are more easily choosing those higher education institutions that best meet their requirements, but universities also have more chances to choose students.

To ensure the future, we saw the need for re-branding as a special way to share the benefits and differences that SEEU has, to show everything that is different from the competition, in order to ensure good from the target groups, mainly from potential students. By exploring students' perceptions, we tried to highlight the main features of the University, namely its identity, to determine the fundamentals of the creation of university brands. Branding undoubtedly has an impact on the increasing reputation of the university, creating a suitable basis for the development. After all, we understood branding as a way of mutual benefit - for us and for the target group.

Based on this it can be concluded that fixing a position or changing the existing position on the market is a process that takes place over a certain period of time. As an entity we are aware that we are exposed to the increased number of requests regarding the offer, because if nothing works in this context, then we know that we can endanger the possible loss of confidence in our target group. In particular, we are careful not to make mistakes about the perception of the image of our university from the target audience.

3.2.2. Case from European Court related to trademarks

Trade mark registration is one of the most effective ways to build and defend a brand. Registering a trade mark is a way to ensure that no one else uses it¹⁷⁴.

¹⁷⁴ Trade mark protection in the EU. For more information please visit web page <https://ec.europa.eu>

On this part we are going to analyze a case from Community Trade Mark infringement between two Universities:

¹⁷⁵ **Regent University ('Regent US') v Regent's University London ('Regent's UK')**

(Mr Recorder Alastair Wilson QC; [2013] EWPCC 39; 06.09.13)

The Claimant is an American University based in Virginia¹⁷⁶, suing the Defendant private University, the Defendant being located in London (proximate to Regent's Park London), having been established since 1984, as a College¹⁷⁷. The Defendant was now running University courses and had acquired private University status, having only recently achieved that status in July 2012.

The Claimant is an American University, based in the State of Virginia, with a strong Christian ethos and outlook, providing a large range of undergraduate and graduate courses, and had committed itself to a significant investment in Massive Open Online Courses ('MOOCs')¹⁷⁸. The MOOCs would allow students outside the United States to enroll on its courses. However in relation to the 16,000 students enrolled, only 51 students enrolled came from the European Union – according to the evidence before the Court.

¹⁷⁵ For more information about this case you can find at <http://www.bailii.org/databases.html>

¹⁷⁶ Founded in 1978 and located on 70 acres in Virginia Beach, Virginia, Regent consists of seven schools and two colleges. Regent University topped the list of Best Online Bachelor's Programs in Virginia by U.S. News & World Report, 2018. It also ranked #1 among the Best Online Graduate Education Programs in Virginia. Regent ranked #4 among the Best Online MBA Programs in Virginia and #3 among the Best Online Graduate Business Programs (non-MBA) in the state, according to U.S. News & World Report, 2018. Regent University is recognized nationally as one of only 24 universities in the U.S. to receive an "A" rating by ACTA for its comprehensive liberal arts curriculum. <https://www.regent.edu/about-regent/>

¹⁷⁷ In 2012 Regent's College gained its own taught-degree awarding powers and the following year the institution was awarded university status, becoming Regent's University London in June 2013. <http://www.regents.ac.uk/about/who-we-are/>

¹⁷⁸ A massive open online course (MOOC) is a free Web-based distance learning program that is designed for the participation of large numbers of geographically dispersed students. A MOOC may be patterned on a college or university course or may be less structured. Although MOOCs don't always offer academic credits, they provide education that may enable certification, employment or further studies. The word *MOOC* was coined in 2008 by Dave Cormier, from the University of Prince Edward Island for a course offered by the University of Manitoba, "Connectives and Connective Knowledge." There were 25 tuition-paying students from university and 2,300 non-paying students from the general public who took the course online. There were RSS feeds for material and participation was facilitated through a variety of venues including Moodle (a learning management system), blog posts, Second Life and real-time online meetings. In 2011, the Massachusetts Institute of Technology (MIT) Open Courseware (OCW) became the first large collections of MOOC resources made available by a university. In 2012, MIT and Harvard spearheaded the ed initiative for the promotion of MOOCs. The acronym MOC is pronounced with a long *oo* sound, to rhyme with *kook* rather than *book*. The Oxford online dictionary added the term (as "Mooc") in August 2013. <http://whatis.techtarget.com/definition/massively-open-online-course-MOOC>

The Claimant was suing the Defendants for Community Trade Mark infringement, which was commenced in the Office for the Harmonization of the Internal Market (OHIM) for registration of a Community trade mark under class 41¹⁷⁹ (including educational services), and for an order for revocation of the Defendant's trademark. The Claimants also commenced proceedings in the UK Patents County Court¹⁸⁰. This was a case of parallel proceedings, with the aim of protecting the Claimant's trade mark in the UK and Europe (for the protection of its Community Trade Mark (CTM), and thirdly, by reason of the Internet, in the 'global marketplace' in education.

Regent University wrote letters of complaint to Regent's University London regarding its name and registered trade mark as 'Regent's University'. The Defendant ignored the Claimant's letters according to the evidence. There was a history of correspondence related to the Defendant seeking opinions of interested parties concerning its proposal to use the name of 'Regent's University London'. The Defendant's were keen to ensure that their Regent's College brand name was preserved in their name having been conferred University status (being one of the only two private Universities in the country – the other being the University of Buckingham).

The Defendants won. At least, they succeeded in obtaining a stay of proceedings, and the Claimants application for an interim injunction was rejected.

¹⁸¹The Judge decided that:

In these circumstances it does not seem to me that this is one of those cases where an injunction should be granted on the basis that the Defendant walked into its difficulties with its eyes open, and has to take the consequences of doing so, irrespective of what would otherwise be the normal principles relating to the grant of interim relief (and in particular the balance of convenience)."

In my judgment, therefore, the risk of unquantifiable (and thus uncommensurable) damage to the Defendant if an interim injunction is wrongly granted in this case greatly outweighs the risk of such damage to the Claimant if an interim injunction is wrongly

¹⁷⁹ Class 41. Education and Entertainment This class contains mainly services rendered by persons or institutions in the development of the mental faculties of persons or animals, as well as services intended to entertain or to engage the attention of others. http://www.tmweb.com/trademark_classes.asp#41

¹⁸⁰ Intellectual Property Enterprise Court <https://www.gov.uk/courts-tribunals/intellectual-property-enterprise-court>

¹⁸¹ CIPA Report October 2013, Katharine Stephens, Zoe Fuller and Hilary Atherton Reporters' note: We are grateful to our colleagues at Bird & Bird LLP for their assistance with the preparation of this report: Ahalya Nambiar, Toby Bond, Henry Elliott, Ning-Ning Li, Rachel Fetches and Emily Mallam.

refused. Accordingly this is not a case which merits the grant of an interim injunction forcing the Defendant to change its name.”

No argument was addressed to me on the possibility of the grant of any other kind of less far-reaching provision measures, but in the circumstances it seems to me that it would be appropriate to hear further argument on the possibility of such relief, including for example the following:

- (a) First, it seems to me important that the Defendant should not use the name ‘Regent’s University’ except when immediately followed by the word ‘London’ and that the word ‘London’ should appear with no lesser prominence than is already the case in most other promotional material. (I would point out in this connection that there are few instances in the extracts from the Defendant’s website in exhibit L12, where the name Regent’s University appears without the word London, which this provision would be intended to prevent).
- (b) Secondly whilst such a measure is never wholly effective, it seems to me that the risk of confusion would be reduced still further, if pending the, final outcome of these proceedings, the Defendants were to place a strap line on every page of their website, (and any other promotional material they issue) containing words to the effect that Regent’s University London has no connection with Regent University of Virginia USA. “

Mr Recorder Alastair Wilson QC granted a stay of Regent US's UK CTM infringement action, finding that although it had a respectable argument that there were 'special grounds' within the meaning of **Article 104(1)**¹⁸², they were not of sufficient weight to outweigh the strong presumption in favor of a stay. He also refused to grant interim injunctive relief against Regent's Uk.

¹⁸² A Community trade mark court hearing an action referred to in Article 96, other than an action for a declaration of non-infringement shall, unless there are special grounds for continuing the hearing, of its own motion after hearing the parties or at the request of one of the parties and after hearing the other parties, stay the proceedings where the validity of the Community trade mark is already in issue before another Community trade mark court on account of a counterclaim or where an application for revocation or for a declaration of invalidity has already been filed at the Office.

4. 1. CONCLUSION

This research paper is of particular importance since it is the first of its kind. As a key case study, South East European University and the whole process of trademark registration, reveals the process until the final results – a registered trademark by which we are eligible to be protected from misuse before the state justice system. The procedure of branding starts by applying at the head office of the State Office for Protection of Industrial Property in Skopje, through following the procedures envisaged by the Law on Industrial Property and Trademark Regulation, until the receipt of the final Decision and Certificate for granting the trademark. Following the analysis of the process—from the application day until the granting of the Trademark Certificate—we can conclude the following:

1. The waiting period for the registration of the trademark is too long. In our case, that period was 3 years and five months for the first sign [™] 2012/923; and for the second sign [™] 2012/924, 5 years 4 months and 25 days. This is an extremely irresponsible timeframe by the Office.

2. The neglect in analyzing the applications by the Office unfortunately leaves a lot of room for criticism addressed to them, as an extremely long waiting period cannot be justified.

3. In the Industrial Property Law 21/2009, in Part IV-Trademark, we cannot find a legal solution for the maximum deadline of the process from the moment of the application until the receipt of the Certificate.

4. From the progress reports of the Republic of Macedonia by the European Commission, we conclude that the basic problems identified by them (and of which problems we are aware) are: the small staffing capacity in the State Office of Industrial Property; the low level of public awareness about the protection of intellectual property rights; and the lack of cooperation among the institutions responsible for industrial

property. Institutions should also work in the direction of undertaking activities to prevent the entry of pirated and forged goods.

Branding for Higher Education is a process that is not accomplished in a short period of time, but is achieved only by investing a lot of work by all the employees of the University, starting with the academic staff, the administrative staff, the sectors that operate within the University, Alumni and others. This is achieved by building a reputation through trust and confidence, which will be transferred to potential applicants and, indeed, to their parents who are the people aware of what financial resources will be needed to actively participate in the creation of the brand and its extension (in the specific case of SEEU).

Today branding, which we face in day-to-day life, presents novelties in all spheres of life. In education, however, it has become a necessary process for the best universities in the country and the region, for the reasons that follow.

Firstly, it increases competition in the market, which has a crucial impact on the quality of teaching and the staff that each faculty provides, and graduates are of higher-level quality compared with graduates from other institutions.

Secondly, the aim of the process is to distinguish us from the group of competing universities, and to enable our graduates to be employed, to leave positive traces and worthily to represent our brand—the University.

Finally, a university, in order to be competitive in the market, to increase the number of applicants and to deserve the title branded University, should improve the following:

- Critical thinking of students;
- Flexible graduates;
- Communication skills;
- Analytical skills;
- Take initiatives;
- Motivate;
- Be creative;
- Be recruited by potential employers.

The Higher Education institution must emphasize creating the value of its brand, in order to acquire talented students at both the national and international levels, and thus enhance the overall economy of the nation.

We hope that all this work will serve as guidelines for other Higher Education Institutions.

The completion of this thesis is of theoretical as well as of practical value, as the thesis presents additional literature for all those who wish to know the value and importance of the process of branding and trademark registration of Higher Education Institutions, and also have a positive impact on the daily lives of citizens in the Republic of Macedonia.

Appendices

1. First application 2012/923

Appendix A (1) Request for granting trade mark Form DZISTM1 2012/923

Appendix B (2) Review of the Application

Appendix C (3) Fees for publishing the data from the application in the Official Gazette of the Office

Appendix D (4) Letter to the Office of Industrial Property for changing the address of University

Appendix E (5) Payment of anticipated fees and costs for obtaining and maintaining the validity of law

Appendix F (6) Cover letter (information for anticipated fees)

Appendix G (7) Decision on the grant of a trademark

Appendix H (8) Certificate

2. Second application 2012/924

Appendix I (1*) Request for granting trade mark Form DZISTM1 2012/924

Appendix J (2*) Review of the Application

Appendix K (3*) Fees for publishing the data from the application in the Official Gazette of the Office

Appendix L (4*) Letter to the Office of Industrial Property for changing the address of University

Appendix M (5*) Payment of anticipated fees and costs for obtaining and maintaining the validity of law

Appendix N (6*) Decision on the grant of a trademark

Appendix O (7*) Certificate


List of Appendices

Appendix A (1) Request for granting trade mark Form DZISTM1 2012/923

МК/Т/2012/923 Individual 04/09/2012 16:01 MajaP

Прилог 1

**БАРАЊЕ ЗА ПРИЗНАВАЊЕ НА ПРАВОТО НА ТРГОВСКА
МАРКА (ТМ-1)**
Државен завод за индустриска сопственост
(да се пополни со машина за пишување или електронски)

1. Подписител на пријавата Презиме, име и адреса за физичко лице односно фирма и седиште за правно лице, назив и седиште на производител Универзитет на југоисточна европа, ул. Илинденска б.б., Тетово, МК		Телефон	044 356 103
		Факс	044 356 111
		e-mail	
2. Адреса за кореспонденција Презиме, име или назив, адреса Универзитет на југоисточна европа, ул. Илинденска б.б., Тетово, МК		Телефон	044 356 103
		Факс	044 356 111
		e-mail	
3. Застапник		Регистарски број:	
4. Пријава за:		Изглед на знакот	
а) <input checked="" type="checkbox"/> индивидуална трговска марка <input type="checkbox"/> колективна трговска марка <input type="checkbox"/> сертификатна трговска марка б) <input type="checkbox"/> стоковна трговска марка <input checked="" type="checkbox"/> услужна трговска марка		 UNIVERSITETI I EVROPËS JUGLINDORE УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА SOUTH EAST EUROPEAN UNIVERSITY	
5. Податоци за знакот:			
<input type="checkbox"/> вербален со стандардни букви <input checked="" type="checkbox"/> фигуративен <input type="checkbox"/> тродимензионален <input checked="" type="checkbox"/> во боја (се наведуваат боите): сина, бела и црна			
6. Транслитерација на знакот		7. Превод на знакот	
8. Назначување на броевите на класите (доколку нема доволно простор списокот се поднесува на посебен додаток): Кл.41: Образовни услуги, подготвување настава.			

ОБ.ДЗИС ТМ-1 Уп. бр. 10-4626/1-2012 ТМ/2012/923 04.09.2012

1

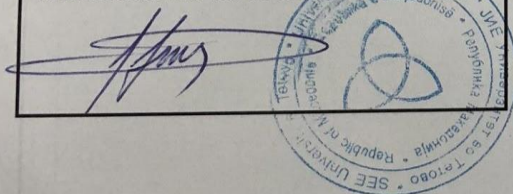
9. Побарано право на првенство и основот

- ☐ униско право (датум, држава и број на првата пријава):
- ☐ саемско првенство (име на изложбата или саемот и датум на првото изложување):

10. Прилози

- ☐ 3 примероци на списокот на производи и услуги
- ☒ 3 примероци на знакот
- ☒ доказ за платена такса
- ☐ општ акт за колективна/сертификатна марка
- ☐ полномошно на застапникот
- ☐ генерално овластување на застапникот претходно поднесено во Заводот
- ☐ доказ за правото на првенство
- ☐ пријавата претходно е поднесена во електронска форма

Потпис или печат на подносителот
Односно потпис или печат на застапникот




Потпис и печат на Државниот завод за
индустриска сопственост

РЕПУБЛИКА МАКЕДОНИЈА
Државен завод за индустриска сопственост
СКОПЈЕ

Примено: 04 09 2012			
Орг. Един.	Број:	Прилог:	Вредност:
10	4627/1	2	6000

Appendix B (2) Review of the Application



Република Македонија
Државен завод за индустриска сопственост

Universiteti i EUL në Tetovë - Republika e Maqedonisë
JUE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia
Tetovë-Tetovo-Tetovo

10-4626/3-2012
TM/2012/923

Бр. 17.06.2013

Дата _____


Примено Received			
20. 06. 2013			
Nj. org. Org. Eadm. Org. unit	Numër Broj No.	Shtetje Прилог Attachment	Vlera Вредност Value
03	397/	/	/

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово

Државен завод за индустриска сопственост
ул. 11 Октомври бр.25,
1000 Скопје,
Република Македонија
Тел. (02) 3103-601
Факс. (02) 3137-149
Сайт: www.ippo.gov.mk

Државниот завод за индустриска сопственост, постапувајќи по пријавата на трговска марка ТМ 2012/923 од 04/09/2012 за знакот УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед) на подносителот Универзитет на југоисточна европа, ул.Илинденска б.б., Тетово, МК утврди дека пријавата ги содржи потребните состојки предвидени во членот 181 став 1 од Законот за индустриска сопственост (Сл.весник на РМ бр.21/09 и 4/11). Според тоа денот: 04/09/2012, се утврдува како датум на поднесување на пријавата во смисла на членот 182 од Законот.

На втората страница од ова известување ви ги доставуваме податоците за трговската марка онака како што се внесени во базата на Заводот, кои треба да бидат идентични со податоците од поднесената пријава. Доколку забележите грешка во внесените податоци, потребно е за тоа да го известите Заводот во рок од 15 дена од приемот на ова известување.



РАКОВОДИТЕЛ НА СЕКТОР
Симчо Симјановски

[Signature]



Република Македонија
Државен завод за индустриска сопственост

ПОДАТОЦИ ЗА ТРГОВСКАТА МАРКА			
Број на пријава	Датум на поднесување на пријавата	Трговска марка	Подносител на пријавата
2012/923	04/09/2012	УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед)	Универзитет на југоисточна европа ул.Илинденска б.б., Тетово, МК

Број на пријава: 2012/923

Датум на поднесување
на пријавата: 04/09/2012

Трговска марка: УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед)

Подносител на пријавата:
Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово, МК

Застапник:


Броеви на класите според меѓународната класификација и список
на производи/услуги:

кл. 41 образовни услуги, подготвување настава
(Списокот на производи/услуги не е лекторирен)

Побарано право на првенство:

Назначување на боите: сина, бела и црна

Appendix C (3) Fees for publishing the data from the application in the Official Gazette of the Office



Република Македонија
Државен завод за индустриска сопственост

University at Tetovo - Republic of Macedonia
SEE University at Tetovo - Republic of Macedonia
Tetovo-Tetovo-Tetovo

Prilozh Received	Nomer Org. unit	Shtojce Attachment	Vlera Value
03	997/2	1	1

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово


Државниот завод за индустриска сопственост утврди дека пријавата на трговска марка ТМ 2012/923 од 04/09/2012 година, за знакот **УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед)**, на подносителот **Универзитет на југоисточна европа, ул.Илинденска б.б., Тетово, МК**, ги исполнува условите предвидени во членот 177 и членот 191 од Законот за индустриската сопственост.

Поради тоа, се повикува подносителот на пријавата во рок од 15 дена од денот на приемот на овој повик, да ги плати трошоците за објавување на податоците од пријавата во службеното гласило на Заводот во износ од 750,00 денари согласно тарифна ставка 3.3 од Тарифата на Државниот завод за индустриска сопственост.

Наведените трошоци, подносителот треба да ги плати на сметката на Заводот: сметка 1000000000063095; сметка на буџетскиот корисник 1100200213-787-13; приходна шифра и програма 724149-20; начин 1; даночен број на Заводот 4030994253825; депонент Народна банка на РМ.

Подносителот на пријавата треба во горенаведениот рок, до Заводот да достави докази за извршената уплата, со повикување на ТМ бројот на пријавата.

Доколку подносителот на пријавата во предвидениот рок не достави докази за извршената уплата, **ЗАВОДОТ ЌЕ ДОНЕСЕ РЕШЕНИЕ ЗА ОТФРЛАЊЕ НА ПРИЈАВАТА.**




РАКОВОДИТЕЛ НА СЕКТОР
Симјо Симјановски

10-4626/2-2012
TM/2012/923

Бр. _____
17.06.2013

Дата _____




Државен завод за индустриска сопственост
ул. 11 Октомври бр.25,
1000 Скопје,
Република Македонија
Тел. (02) 3103-601
Факс. (02) 3137-149
Сайт: www.ipso.gov.mk

ej

2013/6867

63

Appendix D (4) Letter to the Office of Industrial Property for changing the address of University



UNIVERSITETI I EVROPËS JUGLINDORE
УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА
SOUTH EAST EUROPEAN UNIVERSITY

До:

Државен завод за индустриска сопственост

Ул."11 Октомври" бр.25

1000 Скопје,

Република Македонија

Universiteti i EJT në Tetovë - Republika e Maqedonisë
JIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia

Nr.-Bp.-No. 03-997/3
01-07 20 13 viti-rod.-year
Tetovë-Tetovo-Tetovo

Тетово, 01.07.2013 година

Предмет: Податоци за Трговската Марка

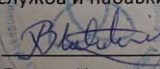
Почитувани,


Ве молиме на податоците за трговската марка ТМ 2012/924 од 04/09/2012 со знакот Универзитет на Југоисточна Европа (во изглед), бараме измена на адресата на подносителот на пријавата, наместо бул. "Илинденска" бб да биде бул. "Илинденска" бр. 335, Тетово.

Истотака бараме и право на првство на користење.

Ви благодариме однапред,



Со почит,

Универзитет на ЈИЕ,
Раководител на правна
служба и набавки,

Бесник Целадини




South East European University
Ilindenska nn. 1200 Tetovo

Tel: +389 44 356 000,
Fax: +389 44 356 001
www.seeu.edu.mk



Appendix E (5) Payment of anticipated fees and costs for obtaining and maintaining the validity of law



Република Македонија
Државен завод за индустриска сопственост


10-4626/5-2012
TM/2012/923

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово

Universiteti i EJT në Tetovë - Republika e Maqedonisë
JIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia
Tetovë-Tetovo-Tetovo

29.02.2016
Дата

Prilaz Примено Received	03-03.2016	Nj. org Org. Един. Org. unit	Númer Broj No.
		Shtojce Прилог Attachment	Vlera Вредност Value
		03	500 1




Државен завод за
индустриска сопственост
ул. 11 Октомври бр.25,
1000 Скопје,
Република Македонија
Тел. (02) 3103-601
Факс. (02) 3137-149
Сайт: www.ippo.gov.mk

Со оглед на тоа дека се исполнети со закон предвидените услови за признавање на правото на трговска марка, се повикува Универзитет на југоисточна европа ул.Илинденска б.б., Тетово, МК како подносител на пријавата на трговска марка ТМ 2012/923, од 04/09/2012 година, за знакот УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед), во рок од 30 дена да ја плати:

- таксата за стекнување и одржување на правото на трговска марка за првите 10 години во износ од 4.000,00 денари на сметката на буџетот на РМ: сметка 100000000063095; уплатна сметка (840; шифра на општина; 03135) и приходна шифра 722320.
- трошоците за објавување на податоците за признаена трговска марка во службеното гласило на Заводот во износ од 380,00 денари и трошоците за издавање исправа за трговска марка од 380,00 денари на сметката на Заводот: сметка 100000000063095; сметка на буџетскиот корисник 1100200213-787-13; приходна шифра и програма 724149-20; начин 1; даночен број на Заводот 4030994253825; депонент Народна банка на РМ.

Подносителот на пријавата треба во горенаведениот рок, до Заводот да достави докази за извршената уплата, со повикување на ТМ бројот на пријавата.

Доколку подносителот на пријавата во предвидениот рок не достави докази за извршената уплата, ЗАВОДОТ КЕ ДОНЕСЕ РЕШЕНИЕ ЗА ОТФРЛАЊЕ НА ПРИЈАВАТА.




ПОМОШНИК НА РАКОВОДИТЕЛ НА СЕКТОР
Елизабета Симоновска

da

2016/1792

Appendix F (6) Cover letter (information for anticipated fees)



UNIVERSITETI I EVROPËS JUGLINDORE
УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА
SOUTH EAST EUROPEAN UNIVERSITY

До:

Државен завод за индустриска сопственост

Ул. „11 Октомври“ бр. 25

1000 Скопје

Universiteti i Ejd ne Tetove - Republika e Maqedonisë
JIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia

Nr.-Bp.-No. 03-8101
29.03.2016 god.-year
Tetovo-Tetovo-Tetovo

Тетово, 28.03.2016 година

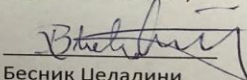
Попратно писмо

Во прилог на ова писмо ќе најдете потврда за уплатените средства за признавање на правото на трговска марка за Универзитет на југоисточна европа, за трговска марка ТМ 2012/923, од 04.09.2012 година.

Прилог:
-копија од уплатница

Со почит,



Универзитет на ЈИЕ
Одговорен на правна
служба и набавки,



Бесник Џеладини


South East European University
Ilindenska no. 335, 1200 Tetovo

Tel: + 389 44 356 000,
Fax: +389 44 356 001
www.seeu.edu.mk



Appendix G (7) Decision on the grant of a trademark

7



Република Македонија
Државен завод за индустриска сопственост

Universiteti i EJT ne Tetovo - Република Македонија
IIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia
Tetovo, Tetovo

Примено Received	26.04.2016	10-482677-2012	Број No.	1	Вредност Value	14.04.2016
Nj. org. Org. Edin. Org. unit	03	1138	Бр.	1		


Дата _____

Државниот завод за индустриска сопственост, врз основа на член 19 од Законот за индустриска сопственост (Службен весник на РМ бр. 21/09 и 4/11), постапувајќи по пријавата за трговска марка ТМ 2012/923 од 04/09/2012 на Универзитет на југоисточна европа ул.Илинденска б.б., Тетово, МК, поднесена преку застапникот , донесува


РЕШЕНИЕ

1. СЕ ПРИЗНАВА правото на, услужна, индивидуална трговска марка, по пријавата на трговска марка

ТМ 2012/923
од 04/09/2012
на подносителот на пријавата:
Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово, МК
застапуван од:



UNIVERSITETI I EVROPEJES JUGLINDORE
УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА
SOUTH EAST EUROPEAN UNIVERSITY



со право на првенство од: 04/09/2012 како ден на прием на пријавата за знак во боја односно комбинација на бои: сина, бела и црна

за следните броеви на класи и список на производи и услуги, спрема меѓународната класификација на производи и услуги:

кл. 41 образовни услуги, подготвување настава

2. Признатото право да се впише во регистарот на трговски марки под број: 23316

3. Податоците за признаеното право на трговска марка да се објават во гласилото на Заводот.

4. Согласно Тарифен број 113 од Тарифата на Законот за административни такси за стекнување и одржување на правото на трговска марка за првите 10 години е платена такса во износ од 4.000,00 денари.

5. Согласно Тарифна ставка 3.4 и 3.6 од Тарифата на Државниот завод за индустриска сопственост, за објавување на податоците за

2016/3578



Република Македонија
Државен завод за индустриска сопственост

признаеното право на трговска марка во службеното гласило на Заводот, се платени трошоци во износ од 380,00 денари и трошоци за издавање исправа на трговска марка во износ од 380,00 денари.

ОБРАЗЛОЖЕНИЕ

Лицето назначено во диспозитивот на ова решение е подносител на пријава на трговска марка.

Во текот на постапката за испитување на пријавата на трговска марка, Заводот утврди дека се исполнети сите услови предвидени со Законот за индустриската сопственост и со Заклучок го повика подносителот да плати такса за стекнување и одржување на правото за првите десет години и трошоци за објавување на податоците за признатото право на трговска марка во службеното гласило на Заводот.

Подносителот на барањето ги плати таксите и трошоците во предвидениот рок.

Врз основа на горенаведеното, Заводот одлучи како во диспозитивот на ова решение.

ПРАВНА ПОУКА: Против ова решение дозволена е тужба до Управниот суд на Република Македонија во рок од 30 дена од приемот на истото.

Изработил: *[Signature]*
Контролирал: *[Signature]*



ДИРЕКТОР

Д-р Саша Емрули

ДОСТАВЕНО ДО:

подносителот/застапникот
- архива

2016/3578

Appendix H (8) Certificate



Република Македонија
ДРЖАВЕН ЗАВОД ЗА ИНДУСТРИСКА СОПСТВЕНОСТ

ИСПРАВА

ЗА
ТРГОВСКА МАРКА



23316

Оваа исправа се издава врз основа на членот ²⁰⁴ од Законот за индустриската сопственост

Скопје,
16.11.2016 г.



Директор
Д-р Сафет Емрули



ДЗИС-ИТМ

ИСПРАВА ЗА ТРГОВСКА МАРКА

(111) 23316 (210) ТМ 2012/923

(732) На име на фирмата:

*Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово, МК*

Признато му е правото на трговска марка, за знакот, како на
втората страна на оваа исправа

(510) За производите и услугите од класата/ите:

41

според Меѓународната класификација на производи и услуги

(300) Со право на првенство од:

04/09/2012

(181) Правото на трговската марка важи до:

04/09/2022

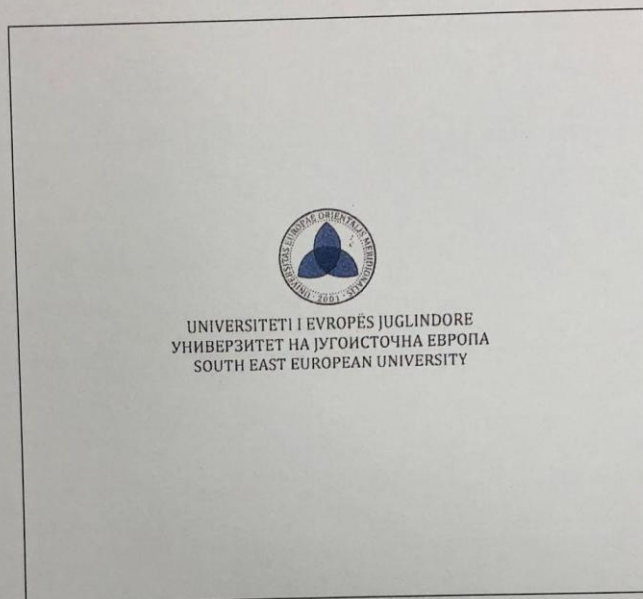
(450) Трговската марка е објавена во службеното гласило на
државниот завод за индустриска сопственост на ден:

датум

30/04/2012

16/11/2016 Државен завод за индустриска сопственост, Република Македонија

(540) Изглед на трговска марка:



16/11/2016 Државен завод за индустриска сопственост, Република Македонија

**(510,511) Список на производи и услуги, според меѓународната
класификација на производи и услуги (Ничански договор)**

кл. 41 образовни услуги, подготвување настава


Appendix I (1*) Request for granting trade mark Form DZISTM1 2012/924

МК/Т/2012/924 Individual 04/09/2012 16:01 MajaP

Прилог 1

БАРАЊЕ ЗА ПРИЗНАВАЊЕ НА ПРАВОТО НА ТРГОВСКА МАРКА (ТМ-1)

Државен завод за индустриска сопственост
(да се пополни со машина за пишување или електронски)

1. Подносител на пријавата	
Презиме, име и адреса за физичко лице односно фирма и седиште за правно лице, назив и седиште на производител Универзитет на Југоисточна Европа, ул.Илинденска б.б., Тетово, МК	Телефон 044 356 103 Факс 044 356 111 e-mail
2. Адреса за кореспонденција	
Презиме, име или назив, адреса Универзитет на Југоисточна Европа, ул.Илинденска б.б., Тетово, МК	Телефон 044 356 103 Факс 044 356 111 e-mail
3. Застапник	
Регистарски број:	
4. Пријава за:	
а) <input checked="" type="checkbox"/> индивидуална трговска марка <input type="checkbox"/> колективна трговска марка <input type="checkbox"/> сертификатна трговска марка б) <input type="checkbox"/> стоковна трговска марка <input checked="" type="checkbox"/> услужна трговска марка	Изглед на знакот
 UNIVERSITETI I EVROPËS JUGLINDORE УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА SOUTH EAST EUROPEAN UNIVERSITY	
5. Податоци за знакот:	
<input type="checkbox"/> вербален со стандардни букви <input checked="" type="checkbox"/> фигуративен <input type="checkbox"/> тродимензионален <input checked="" type="checkbox"/> во боја (се наведуваат боите): сина, бела и црна	
6. Транслитерација на знакот	7. Превод на знакот
8. Назначување на броевите на класите	
(доколку нема доволно простор списокот се поднесува на посебен додаток): Кл.41:Образовни услуги, подготвување настава	

Об.ЛЗИС ТМ-1

Уп. бр. 10-4627/1-2012 ТМ/2012/924 04.09.2012

1

9. Побарано право на првенство и основот

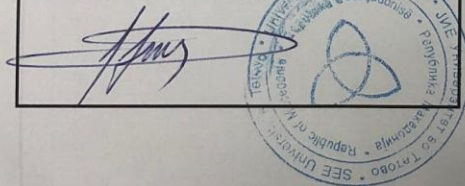
☐ униско право (датум, држава и број на првата пријава):

☐ саемско првенство (име на изложбата или саемот и датум на првото изложување):

10. Прилози

- ☐ 3 примероци на списокот на производи и услуги
- ☒ 3 примероци на знакот
- ☒ доказ за платена такса
- ☐ општ акт за колективна/сертификатна марка
- ☐ полномошно на застапникот
- ☐ генерално овластување на застапникот претходно поднесено во Заводот
- ☐ доказ за правото на првенство
- ☐ пријавата претходно е поднесена во електронска форма

Потпис или печат на подносителот
Односно потпис или печат на застапникот



Потпис и печат на Државниот завод за
индустриска сопственост
РЕПУБЛИКА МАКЕДОНИЈА
Државен завод за индустриска сопственост
СКОПЈЕ

Примено: 04 03 2012			
Орг. Един.	Број:	Прилог:	Вредност:
10	4627/1	2	6000

Appendix J (2*) Review of the Application

Република Македонија

Државен завод за индустриска сопственост

Universiteti i EUL në Tetovë - Republika e Maqedonisë
 JIE Универзитет во Тетово - Република Македонија
 SEE University at Tetovo - Republic of Macedonia
 Tetovë-Tetovo-Tetovo

Приемно
Received

20.06.2013

Nj. Org. Org. Един.	Numër Broj No.	Shifra Прилог Attachment	Vlera Вредност Value
03	997/1	1	1

10-4627/3-2012
TM/2012/924

Бр. 17.06.2013

Дата _____

Државен завод за индустриска сопственост
 ул. 11 Октомври бр.25,
 1000 Скопје,
 Република Македонија
 Тел. (02) 3103-601
 Факс. (02) 3137-149
 Сајт: www.ippo.gov.mk

Универзитет на југоисточна европа
 ул.Илинденска б.б., Тетово

Државниот завод за индустриска сопственост, постапувајќи по пријавата на трговска марка ТМ 2012/924 од 04/09/2012 за знакот **УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА** (во изглед) на подносителот **Универзитет на југоисточна европа, ул.Илинденска б.б., Тетово, МК** утврди дека пријавата ги содржи потребните состојки предвидени во членот 181 став 1 од Законот за индустриска сопственост (Сл.весник на РМ бр.21/09 и 4/11). Според тоа денот: **04/09/2012**, се утврдува како датум на поднесување на пријавата во смисла на членот 182 од Законот.

На втората страница од ова известување ви ги доставуваме податоците за трговската марка онака како што се внесени во базата на Заводот, кои треба да бидат идентични со податоците од поднесената пријава. Доколку забележите грешка во внесените податоци, потребно е за тоа да го известите Заводот во рок од 15 дена од приемот на ова известување.

РАКОВОДИТЕЛ НА СЕКТОР
 Сашко Симјановски

[Signature]

ej

2013/6864



Република Македонија
Државен завод за индустриска сопственост

ПОДАТОЦИ ЗА ТРГОВСКАТА МАРКА

Број на пријава	Датум на поднесување на пријавата	Трговска марка	Подносител на пријавата
2012/924	04/09/2012	УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед)	Универзитет на југоисточна европа ул.Илинденска б.б., Тетово, МК

Број на пријава:

2012/924

Датум на поднесување

на пријавата:

04/09/2012

Трговска марка:

УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед)

Подносител на пријавата:

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово, МК

Застапник:

Броеви на класите според меѓународната класификација и список на производи/услуги:


кл. 41 образовни услуги, подготвување настава
(Списокот на производи/услуги не е лекториран)

Побарано право на првенство:

Назначување на боите:

сина, бела и црна

Appendix K (3*) Fees for publishing the data from the application in the Official Gazette of the Office



Република Македонија
Државен завод за индустриска сопственост


Universiteti i EJT në Tetovë - Republika e Maqedonisë
JIE Универзитет за Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia
Tetovë-Tetovo-Tetovo

Prilaga: Примено Received		20-06-2013	
Nj. org. Org. unit	Number Broj No.	Shitojca Priklad Attachment	Vlera Вредност Value
03	097/2	1	1

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово

10-4627/2-2012
TM/2012/924

Бр. _____
Дата 17.06.2013



Државен завод за индустриска сопственост
ул. 11 Октомври бр.25,
1000 Скопје,
Република Македонија
Тел. (02) 3103-601
Факс. (02) 3137-149
Сайт: www.ippo.gov.mk


Државниот завод за индустриска сопственост утврди дека пријавата на трговска марка ТМ 2012/924 од 04/09/2012 година, за знакот УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед), на подносителот Универзитет на југоисточна европа, ул.Илинденска б.б., Тетово, МК, ги исполнува условите предвидени во членот 177 и членот 191 од Законот за индустриската сопственост.

Поради тоа, се повикува подносителот на пријавата во рок од 15 дена од денот на приемот на овој повик, да ги плати трошоците за објавување на податоците од пријавата во службеното гласило на Заводот во износ од 750,00 денари согласно тарифна ставка 3.3 од Тарифата на Државниот завод за индустриска сопственост.

Наведените трошоци, подносителот треба да ги плати на сметката на Заводот: сметка 100000000063095; сметка на буџетскиот корисник 1100200213-787-13; приходна шифра и програма 724149-20; начин 1; даночен број на Заводот 4030994253825; депонент Народна банка на РМ.

Подносителот на пријавата треба во горенаведениот рок, до Заводот да достави докази за извршената уплата, со повикување на ТМ бројот на пријавата.

Доколку подносителот на пријавата во предвидениот рок не достави докази за извршената уплата, ЗАВОДОТ КЕ ДОНЕСЕ РЕШЕНИЕ ЗА ОТФРЛАЊЕ НА ПРИЈАВАТА.




РАКОВОДИТЕЛ НА СЕКТОР
Сашко Симјановски

ej

2013/6865

Appendix L (4*) Letter to the Office of Industrial Property for changing the address of University

**UNIVERSITETI I EVROPËS JUGLINDORE**
УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА
SOUTH EAST EUROPEAN UNIVERSITY

До:

Државен завод за индустриска сопственост

Ул. "11 Октомври" бр.25

1000 Скопје,

Република Македонија

Universiteti i EJT në Tetovë - Republika e Maqedonisë
JIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia

Nr.-Bp.-No. 03 - 997/3
01.07. 2013 viti-rod.-year
Tetovë-Tetovo-Tetovo

Тетово, 01.07.2013 година

Предмет: Податоци за Трговската Марка

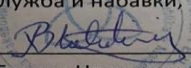
Почитувани,


Ве молиме на податоците за трговската марка ТМ 2012/924 од 04/09/2012 со знакот Универзитет на Југоисточна Европа (во изглед), бараме измена на адресата на подносителот на пријавата, наместо бул. "Илинденска" бб да биде бул. "Илинденска" бр. 335, Тетово.

Истотака бараме и право на првство на користење.

Ви благодариме однапред,



Со почит,

Универзитет на ЈИЕ,
Раководител на правна
служба и набавки,

Бесник Целадини



South East European University
Iilindenska no. 1200 Tetovo

Tel: +389 44 356 000,
Fax: +389 44 356 001

Appendix M (5*) Payment of anticipated fees and costs for obtaining and maintaining the validity of law

Република Македонија
Државен завод за индустриска сопственост

Univerziteti i EUL në Tetovë - Republika e Maqedonisë
JIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia
Tetovë-Tetovo-Tetovo

Бр. 10-4627/5-2012
Дата TM/2012/924

18/04/2017

SOIP

Државен завод за индустриска сопственост
ул. 11 Октомври бр.25,
1000 Скопје,
Република Македонија
Тел. (02) 3103-601
Факс. (02) 3137-149
Сайт: www.ippo.gov.mk

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово

24.04.2012

Prilozh Приложено Received	Nr. org. Org. Един. Org. unit	Numer Број No.	Shtojce Прилог Attachment	Vlera Вредност Value
03	970	1		

Со оглед на тоа дека се исполнети со закон предвидените услови за признавање на правото на трговска марка, се повикува Универзитет на југоисточна европа ул.Илинденска б.б., Тетово, МК како подносител на пријавата на трговска марка ТМ 2012/924, од 04/09/2012 година, за знакот УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА (во изглед), во рок од 30 дена да плати:

Такса за стекнување и одржување на правото на трговска марка за првите 10 години во износ од 4.000,00 денари на сметката на буџетот на РМ:

- сметка 100000000063095;
- уплатна сметка (840; шифра на општина; 03135) и
- приходна шифра 722320.

Трошоци за објавување на податоците за признаена трговска марка во службеното гласило на Заводот и трошоци за издавање исправа за трговска марка во износ 760,00 денари на сметката на Заводот:

- сметка 100000000063095;
- сметка на буџетскиот корисник 1100200213-787-13;
- приходна шифра и програма 724149-20;
- начин I;
- даночен број на Заводот 4030994253825;
- депонент Народна банка на РМ.

Подносителот на пријавата треба во горенаведениот рок, до Заводот да достави докази за извршената уплата, со повикување на ТМ бројот на пријавата.


Доколку подносителот на пријавата во предвидениот рок не достави докази за извршената уплата, ЗАВОДОТ ЌЕ ДОНЕСЕ РЕШЕНИЕ ЗА ОТФРЛАЊЕ НА ПРИЈАВАТА.

da

РАКОВОДИТЕЛ НА СЕКТОР
Симчо Симјановски

2017/4949

Appendix N (6*) Decision on the grant of a trademark



Република Македонија
Државен завод за индустриска сопственост

Universiteti i EJT në Tetovë - Republika e Maqedonisë
JIE Универзитет во Тетово - Република Македонија
SEE University at Tetovo - Republic of Macedonia
Tetovo-Tetovo-Tetovo

Primanje Received	29.08.2017		
Org. Eдини. Org. unit	Број No.	Прилог Attachment	Вредност Value
03	2175	1	✓


Бр. 10-4627/7-2012
TM/2012/924

Дата 27/07/2017


Државниот завод за индустриска сопственост, врз основа на член 19 од Законот за индустриска сопственост (Службен весник на РМ бр. 21/09 и 4/11), постапувајќи по пријавата за трговска марка TM 2012/924 од 04/09/2012 на Универзитет на југоисточна европа ул.Илинденска б.б., Тетово, МК, донесува

РЕШЕНИЕ

1. СЕ ПРИЗНАВА правото на, услужна, индивидуална трговска марка, по пријавата на трговска марка



UNIVERSITETI I EVROPES JUGLINDORE
УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА
SOUTH EAST EUROPEAN UNIVERSITY



TM 2012/924
од 04/09/2012
на подносителот на пријавата:
Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово, МК
застапуван од:

со право на првенство од: 04/09/2012 како ден на прием на пријавата за знак во боја односно комбинација на бои: сина, бела и црна

за следните броеви на класи и список на производи и услуги, спрема меѓународната класификација на производи и услуги:

кл. 41 образовни услуги, подготвување настава

2. Признатото право да се впише во регистарот на трговски марки под број: 24934
3. Податоците за признаеното право на трговска марка да се објават во гласилото на Заводот.
4. Согласно Тарифен број 113 од Тарифата на Законот за административни такси за стекнување и одржување на правото на трговска марка за првите 10 години е платена такса во износ од 4.000,00 денари.
5. Согласно Тарифна ставка 3.4 и 3.6 од Тарифата на Државниот завод за индустриска сопственост, за објавување на податоците за признаеното право на трговска марка во службеното гласило на

2017/7066



Република Македонија
Државен завод за индустриска сопственост

Заводот, се платени трошоци во износ од **380,00** денари и трошоци за издавање исправа на трговска марка во износ од **380,00** денари.

ОБРАЗЛОЖЕНИЕ

Лицето назначено во диспозитивот на ова решение е подносител на пријава на трговска марка.

Во текот на постапката за испитување на пријавата на трговска марка, Заводот утврди дека се исполнети сите услови предвидени со Законот за индустриската сопственост и со Заклучок го повика подносителот да плати такса за стекнување и одржување на правото за првите десет години и трошоци за објавување на податоците за признатото право на трговска марка во службеното гласило на Заводот.

Подносителот на барањето ги плати таксите и трошоците во предвидениот рок.

Врз основа на горенаведеното, Заводот одлучи како во диспозитивот на ова решение.

ПРАВНА ПОУКА: Против ова решение дозволена е тужба до Управниот суд на Република Македонија во рок од 30 дена од приемот на истото.



Б.Д. ДИРЕКТОР

Д-р Сафет Емрули

Изработил
Контролирал:

ДОСТАВЕНО ДО:
подносителот/застапникот
- архива

Appendix O (7*) Certificate



Република Македонија
ДРЖАВЕН ЗАВОД ЗА ИНДУСТРИСКА СОПСТВЕНОСТ

ИСПРАВА

ЗА

ТРГОВСКА МАРКА



24934

Оваа исправа се издава врз основа на членот 204 од Законот за индустриската сопственост

Скопје,
29.01.2018 г.



Директор
Д-р Сафет Емруни



ДЗИС-ИТМ

ИСПРАВА ЗА ТРГОВСКА МАРКА

(111) 24934 (210) ТМ 2012/924

(732) На име на фирмата:

Универзитет на југоисточна европа
ул.Илинденска б.б., Тетово, МК

Признато му е правото на трговска марка, за знакот, како на
втората страна на оваа исправа

(510) За производите и услугите од класата/ите:

41

според Меѓународната класификација на производи и услуги

(300) Со право на првенство од:

04/09/2012

(181) Правото на трговската марка важи до:

04/09/2022

(450) Трговската марка е објавена во службеното гласило на
државниот завод за индустриска сопственост на ден:

датум

31/08/2017

(510,511) Список на производи и услуги, според меѓународната класификација на производи и услуги (Ничански договор)

кл. 41 образовни услуги, подготвување настава

(540) Изглед на трговска марка:



UNIVERSITETI I EVROPES JUGLINDORE
УНИВЕРЗИТЕТ НА ЈУГОИСТОЧНА ЕВРОПА
SOUTH EAST EUROPEAN UNIVERSITY

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