Yearbook 2020/2021
A global guide for practitioners

Greece
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We believe in Excellence
We build on our History
We deliver Success

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Patents
Utility Models
SPC’s
Plant Breeders’ Rights
Trademarks
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Copyright
Anti-Counterfeiting & Anti-Piracy
Litigation
Licensing
Franchising
Commercial and Corporate Services
Internet
E-Commerce and Domain Names
Competition Law
Advertising/Consumer Protection
Foreign Jurisdictions
Consultancy
Legal framework
The most important pieces of legislation governing trademarks in Greece are:
• the Trademark Law (4072/2012, Part 3), as amended by Law 4155/2013;
• the Unfair Competition Law (146/1914), as amended by Law 3784/2009;
• relevant EU legislation (e.g., the EU Trademark Regulation (2017/1001) governing substantive aspects of EU trademarks and secondary legislation such as the EU Delegated Regulation (2018/625) and the EU Implementing Regulation (2018/626) governing some procedural aspects);
• Chapter C of Law 2943/2001, which establishes the Greek Community trademark courts;
• Law 213/1975 ratifying the Paris Convention for the Protection of Industrial Property;
• Law 2505/1997 ratifying the Nice Agreement on the Classification of Goods and Services;
• Law 2290/1995 ratifying the Agreement on Trade-Related Aspects of Intellectual Property Rights; and

Unregistered marks
Protection
Unregistered signs can constitute relative grounds for refusal and are protected under Articles 13 to 15 of the Law on Unfair Competition. In particular, protection is offered to signs that are deemed to have become a distinguishing feature of the goods or services that they cover.

Use requirements
In order to obtain protection, an unregistered sign must have distinctive character and must have been used in commerce. No specific statutory conditions outline the extent and type of use that will satisfy these criteria; hence, courts rule on a case-by-case basis. The guiding principle is that use should be systematic, continuous and substantial.

Registered marks
Ownership
Any individual or legal entity may file for the registration of trademarks, while clubs and associations may apply for the registration of collective trademarks.
particular, a trademark may consist of, among other things, words, names of natural or legal persons, pseudonyms, acronyms, slogans, designs, letters, numerals, colours, sounds (including musical phrases) or the shape of goods or their packaging.

**Absolute grounds for refusal**

Article 123 of the Trademark Law provides that the following cannot be protected as trademarks:

- signs that are devoid of distinctive character;
- signs that are descriptive, commonly used, customary or functional – distinctive character may be acquired though use, except in the case of signs that consist exclusively of the shape of the goods or a shape which is necessary to obtain a technical result or gives the goods substantial value. Distinctive character will be assessed at the time of filing;
- signs which may deceive the public as to, among other things, the nature, quality or geographical origin of the goods or services intended to be covered;
- signs that are against public policy or morality; and
- signs that consist of the flags, emblems, symbols, escutcheons, signs or hallmarks of the Greek state or any other state covered by Article 6ter of the Paris Convention, and signs of great symbolic value and special interest – particularly religious symbols, representations and words.

Electronic services

The Greek Trademark Office has implemented e-filing for trademarks. The e-filing system allows trademark applications to be filed 24 hours a day, seven days a week.

Electronic services of the office include renewal and recordal of changes pertaining to the owner’s details. The office has yet to implement further e-services, including recordal of changes of ownership and filing of oppositions, cancellations and invalidation actions.

**Power of attorney**

The trademark application must be signed by the applicant or its authorised attorney, whose appointment is optional. However, applicants must designate an addressee for the service of documents. If a lawyer is appointed, a signed power of attorney is required, which is valid for five years and may be used for further applications.

**Declaration under EU General Data Protection Regulation**

Following the entry into force of the EU General Data Protection Regulation, the Trademark Office must notify applicants or owners (who are natural persons) that their personal data which has been entered into the Hellenic Trademarks Register is considered to be in the public interest and is therefore accessible by any third party. Such data is accessible by any third party and will be stored indefinitely. Personal data not included in the Trademarks Register, but which is nonetheless provided by trademark applicants, owners or other parties to procedures before the Trademarks Office and the Administrative Trademarks Committee, is also stored indefinitely unless the interested data subject requests its deletion two years from the expiry of the trademark or on completion of the relevant procedure. Therefore, along with their trademark application, applicants must file a related declaration that they have duly taken note of the above.

**Scope of protection**

The graphical representation requirement still applies in Greece. A trademark must be capable of being represented graphically and of distinguishing the goods or services of one undertaking from those of another. In particular, a trademark may consist of, among other things, words, names of natural or legal persons, pseudonyms, acronyms, slogans, designs, letters, numerals, colours, sounds (including musical phrases) or the shape of goods or their packaging.
All decisions are advertised on the website of the General Secretariat of Commerce. The examiner’s decision to reject an application can be challenged before the Administrative Trademark Committee within 60 days (90 days in the case of foreign entities) of publication of the decision. The committee’s decision is subject to further recourse before the Administrative Court of First Instance.

A smooth application from filing to registration, when no opposition is filed, will usually take five to seven months.

**Opposition**

Third parties may oppose a registration of a trademark on both absolute and relative grounds. The term for filing an opposition is three months from the date of publication of the decision on the website of the General Secretariat of Commerce. If no opposition is filed, the trademark proceeds to registration. Proof of use is provided as a defence during opposition proceedings. If the trademark on which the opposition is based has been registered for more than five years, the applicant can call on the opponent to submit evidence of use of the mark in respect of the relevant goods or services on which the opposition is based in the five years preceding the date of publication of the opposed application, or to prove that there are proper reasons for non-use. Failure to meet these requirements will result in rejection of the opposition for procedural reasons. Trademark Committee decisions are subject to recourse before the Administrative Court of First Instance within 60 days (90 days in the case of foreign entities) of notification of the decision.

**Registration**

A trademark is registered when it is accepted by a decision of the examiner or the Trademark Committee, subject to no further legal remedies or by a final decision of the administrative courts. A registered mark is granted protection for 10 years as of the date of filing of the application and is indefinitely renewable every 10 years. If renewal is not requested within the specified period, the trademark can still be renewed up to six months later on payment of a fine.

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**Procedures**

**Examination**

An examiner checks the application with respect to both absolute and relative grounds of refusal. If there are no grounds for refusal, the application is accepted. If grounds for refusal exist, the applicant is notified and may revoke the application, limit the trademark to the extent that it becomes acceptable or submit its observations within one month of notification. If the applicant fails to reply or comply within the set term, the application is rejected.

Letters of consent to the registration and use of a later mark have a binding effect and can be submitted at any stage of the examination process.
Surrender: The owner may surrender the trademark for all or part of the goods or services for which it is registered at any time. If the mark is subject to a licence, the owner must prove that the licensee has been duly informed of its intentions to surrender the mark.

Enforcement
A registered trademark confers exclusive rights on its owner, which is entitled to prevent all third parties from using in transactions without its consent any sign which:

• is identical to the mark in question in relation to identical goods or services;
• is identical or similar to the mark in relation to identical or similar goods or services, provided that a likelihood of confusion exists, including a likelihood of association; or
• is identical or similar to a trademark which has acquired reputation and whose use would take unfair advantage of the reputation of the mark without due cause or would cause detriment to the distinctive character or reputation of the famous mark, irrespective of whether the sign will cover goods or services which are similar to those of the earlier mark.

The owner of a prior trademark cannot oppose the use of a later mark if it has acquiesced to the use of the later mark for five successive years while being aware of such use, unless registration of the later mark was obtained in bad faith.

The trademark holder is entitled, among other things, to prevent the transit of counterfeit goods through Greece or the import

Even though the necessary modifications introduced by EU Directive 2015/2436 were due to be transposed into national law by January 2019, a new law has yet to be put to the vote but is expected to be passed in the near future
of counterfeit goods into Greece with the intention to re-export them.

Special divisions have been established for EU trademarks in the civil first and second-instance courts of Athens and Thessaloniki. These divisions also hear national trademark infringements when they are competent ratione loci.

Civil court actions
In cases of trademark infringement, the following actions may be pursued before the civil courts.

Temporary restraining order: This is available only in cases of extreme urgency where the rights holder seeks a temporary court order as soon as the infringing activities have come to its attention in order to enjoin such activities until adjudication at the injunctive stage. The judge may invite the respondents to appear at the hearing, although proceedings may also take place ex parte. Restraining orders may be requested only if an injunction petition has also been filed simultaneously.

Injunction: A petition for injunction requires that the situation be urgent. The procedure is more formal than that for a temporary restraining order, as the hearing involves the examination of witnesses from each side and the optional submission of sworn affidavits, as well as relevant pleadings and exhibits. The court will also examine the merits of the case in some detail and decide on the likelihood of an infringement having occurred.

The trademark owner may require the disclosure of information under the suspected infringer’s control.

In case of commercial-scale infringement, the court may order even ex parte the provisional seizure of the infringer’s assets, the freezing of its bank accounts and the disclosure of its bank, financial or commercial documents or due access to this information. In this respect, the trademark owner must prove that there are circumstances that may jeopardise actual payment of the indemnification. The filing of a related main infringement action is a prerequisite.

Main infringement action: Proceedings are initiated via an introductory writ filed with the competent first-instance court and served on the defendant. Parties must file their written arguments and evidence within 100 days (or 130 days for parties residing abroad), the action and a reply to each other’s arguments and evidence must be filed within a further 15-day period. Witness testimonies are submitted in the form of sworn affidavits. With the expiry of this term, the file is deemed closed and within a further 15 days the judge in charge of the case is appointed. The hearing takes place within the next 30 days, without examination of witnesses in court, unless the bench decides that this is absolutely necessary.

The first-instance decision may be appealed before the Court of Appeal within 30 days of the notification of the decision or within 60 days of its notification if the party resides abroad. In case no notification of the decision took place, the term is two years of the publication of the decision.

An appeal in cassation, only on specific points of law, may be filed before the Supreme Court.

Until the issuance of a first-instance decision, civil proceedings take on average between 10 and 14 months. Appeal proceedings usually last between eight and 10 months.

Damages
Damages may not be sought during the injunctive stage, but may be awarded as part of the claims during a main infringement action for actual loss and/or moral damages. The court will take into account, among other things, the negative economic consequences suffered by the rights holder, including any undue profits made by the infringer. Undue profits may be awarded to the claimant, regardless of the infringer’s liability (unjust enrichment). Damages may also be calculated on the basis of hypothetical royalties.

Customs procedures and simplified procedure under domestic law
EU Customs Regulation 608/2013 is directly applicable in Greece and sets out the domestic customs intervention procedure.

Law 4155/2013 provides for a simplified procedure with respect to the seizure and expedited destruction of counterfeit goods (analogous to the one set out in EU Regulation 608/2013), which is implemented by a number of enforcement agencies (eg, Customs, the
The prosecution does not take place ex officio. Professional and commercial-scale infringement can be considered as aggravating circumstances.

**Mediation**
Mandatory mediation in a number of civil and commercial disputes, including trademark infringement disputes, was first introduced in Greece by Law 4512/2018 in an attempt to lighten the heavy burden on the overcrowded Greek judicial system. However, the entry into economic crime unit, market control agencies, the police and the coast guard). The consent (express or presumed) of the owner of the infringing goods is a necessary prerequisite and implementation of the procedure depends on the discretion and availability of the competent authorities.

**Criminal penalties**
Criminal penalties are provided for various acts of trademark infringement. However, criminal prosecution does not take place ex officio. Professional and commercial-scale infringement can be considered as aggravating circumstances.

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Ownership changes and rights transfers
Ownership changes (e.g., assignments, mergers) and various other changes (e.g., changes of name, address and legal form of the rights holder) must be recorded with the Trademarks Office in order to be enforceable against third parties. A trademark may be partially assigned, provided that such assignment does not mislead consumers.

Assignment of an earlier trademark which has been cited against the registration of an application will allow registration of that application, irrespective of when such assignment takes place and even during proceedings before the Administrative Court of Appeal. A pledge or other right in rem may also be recorded against a trademark.

Such recordal may also be brought about by the receiver following a bankruptcy order.

There is no longer any need for the Trademark Committee to examine and approve licence agreements. Such agreements must be executed in writing and may be recorded on the petition of either the licensor or the licensee, duly authorised by the licensor.

Recordal of a trademark licence is necessary in order for the licensee to claim and enforce its rights against third parties.

Related rights
There are clear areas of overlap between trademarks and other IP rights. The object of trademark protection can also be protected by other IP rights, provided that the protection criteria of such rights are met.

Shapes of products or their packaging, trade dress, logos and business names, as well as other unregistered rights, may under certain circumstances enjoy similar protection to that afforded to trademarks under unfair competition law. If certain conditions are met, these may all be regarded as non-registered marks and acquire rights of priority and protection in this manner.
Online issues
The regulation of telecommunications in Greece is vested in the Hellenic Telecommunications and Post Commission. The main legal framework can be found in the Regulation on the Management and Assignment of Domain Names, which was most recently amended in March 2018. The regulation sets out the procedures for registering domain names in the country code top-level domain ‘.gr’ or ‘.ελ’ and the grounds for cancellation petitions that are heard by the commission, which may also include a request for the transfer of the contested domain name to the petitioner. Commission decisions can be appealed to the Athens Administrative Court within 30 days of their official notification to the parties.

Prospective changes
Even though the necessary modifications introduced by EU Directive 2015/2436 were due to be transposed into national law by January 2019, and notwithstanding the fact that a related draft law was put to public deliberation, the bill has yet to be put to the vote and its content has therefore not been finalised. This has led to delays in the required harmonisation of certain aspects of national law with the directive and, consequently, it has resulted in a certain amount of frustration and uncertainty as to the precise future content of the forthcoming changes in legislation. According to widespread speculation and expectations, it will not be too long before the new law is put to the vote and enters into force, hence we should have a clearer picture of the aforementioned changes in the coming months.
### Examination/registration

<table>
<thead>
<tr>
<th>Representative requires a power of attorney when filing? Legalised/notarised?</th>
<th>Examination for relative grounds for refusal based on earlier rights?</th>
<th>Non-traditional marks registrable?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes/No</td>
<td>Yes</td>
<td>3D (shape of products or package); colours.</td>
</tr>
</tbody>
</table>

### Unregistered rights

<table>
<thead>
<tr>
<th>Protection for unregistered rights?</th>
<th>Specific/increased protection for well-known marks?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
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</tbody>
</table>

### Opposition

<table>
<thead>
<tr>
<th>Opposition procedure available? Term from publication?</th>
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<tbody>
<tr>
<td>Yes: three months from publication on Trademark Office website.</td>
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</table>

### Removal from register

<table>
<thead>
<tr>
<th>Can a registration be removed for non-use? Term and start date?</th>
<th>Are proceedings available to remove a mark that has become generic?</th>
<th>Are proceedings available to remove a mark that was incorrectly registered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes: five years' non-use from registration or suspension of use.</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Enforcement

<table>
<thead>
<tr>
<th>Specialist IP/trademark court?</th>
<th>Punitive damages available?</th>
<th>Interim injunctions available? Time limit?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td>Yes: urgency required.</td>
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</tbody>
</table>

### Ownership changes

<table>
<thead>
<tr>
<th>Is registration mandatory for assignment/licensing documents?</th>
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<tbody>
<tr>
<td>No; but highly recommended.</td>
</tr>
</tbody>
</table>

### Online issues

<table>
<thead>
<tr>
<th>National anti-cybersquatting provisions?</th>
<th>National alternative dispute resolution policy (DRP) for local ccTLD available?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No; but concept of cybersquatting applicable to bad faith.</td>
<td>Yes: Hellenic Telecommunications and Post Commission.</td>
</tr>
</tbody>
</table>