

AI: “On the Procedure of Registration of Trademarks”

Newsletter



Administrative Instruction No. 08/2023 “On the Procedure of Registration of Trademarks”

Administrative Instruction No. 08/2023 “On the Procedure of Registration of Trademarks” (hereinafter the “AI”), has been issued by the Ministry of Industry, Entrepreneurship and Trade for the implementation of the Law No. 04/L-075 dated 2022 “On Trademarks” (hereinafter the “Basic Law”).

The AI was published in the Official Gazette of the Republic of Kosovo on 07.08.2023 and entered into force 7 (seven) days after its publication.

The introduction of this AI became imperative due to the Basic Law’s commencement last year. The newly adopted AI repeals the preceding Administrative Instruction No. 14/2016 “On the Registration of Trademarks”.

The AI provides clarity on various procedures and introduces new elements particularly concerning application content, application filing requirements, electronic application, and the grounds on which the Kosovo Industrial Property Agency (KIPA) retains the authority to decline a registration. KIPA can now refuse trademarks applied in bad faith or those known as well-known trademarks or with international reputation and registered internationally.

Therefore, the newly adopted AI has addressed the most important changes deriving from the Basic Law on Trademarks, *inter alia*, the following:

- Absolute and relative grounds for trademark rejection.
- Protection against infringement of rights of the trademark owner.
- Exhaustion of rights acquired by trademark protection.

In addition to attaching the list of goods and services along with and the evidence of fee which

are obligatory prerequisites for each application, AI also provides an extended list of documents that must be attached to the application depending on the type of trademark for which the applicant is seeking protection.

Whereas a Power of Attorney is mandatory only for foreign applicants or those engaging authorized trademark attorneys, certain aspects such as providing a sign's description or translating it into Kosovo's official languages are not obligatory.

In accordance with the Basic Law, AI provides further completion of the examination procedure on absolute grounds which is permissible both before and after the trademark registration, according to the Law on General Administrative Procedure.

Other new features introduced in the AI, as indicated above, is the refusal of application on grounds of bad faith filing or well-known international trademarks not registered in Kosovo. Moreover, a small issue to be noted, there is an obligation of parties to inform KIPA within 30 (thirty) days if a lawsuit is deposited with the competent Court against decision of the Complaint Committee of the Ministry in the opposition procedure, otherwise KIPA will consider the Complaint Committee’s decision as final.

Finally, the newly adopted AI is a welcome development. It is anticipated to streamline the process for applicants seeking to navigate procedures with KIPA. Furthermore, it is expected to facilitate the ability of Authorized Representatives to efficiently fulfill their obligations towards their clients.

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