

Opposition system in Bulgaria - four years later



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Implementation of opposition procedure

Since 2011 the trade mark registration system in Bulgaria has changed through the implementation of the opposition procedure. The amendments of the Law on Marks and Geographical Indications came into force on 10 March 2011 while the Ordinance for the implementation of the opposition procedure was adopted two months later on 30 May 2011.

With the implementation of the opposition system the Bulgarian patent office (BPO) waived the ex-officio examination of trade marks on relative grounds. The Bulgarian patent office does not inform the owners of earlier registered trade marks for possible conflicting applications as it is done by the OHIM.

Oppositions

According to the Bulgarian Law on Marks and Geographical Indications, oppositions may be

filed by the holder of an earlier mark, exclusive licensees of earlier marks, owners of non-registered marks used in commercial activity within Bulgaria (but already applied for registration) or holders of marks applied for by an agent or representative of the holder.

Oppositions against national applications may be filed within three months following the publication of the trade mark in the official bulletin of the Bulgarian patent office. Oppositions against international applications, designating Bulgaria may be filed between the 6th and the 9th month after the publication of the international registration in the official bulletin of the Patent Office. The official bulletin of the BPO is issued once monthly on the last working day of the month.

The decision of the opposition department does not concern costs - so each party undertakes its own costs for participating in the procedure - no matter the outcome, which is a difference between the oppositions in Bulgaria and before the OHIM.

When an opposition is filed, the BPO informs the trade mark applicant but does not provide a copy of the opposition itself until the formal examination is completed, which is also different from the procedure followed by the OHIM where the applicant is notified for the filed opposition and is presented a copy of the opposition. That difference is sometimes crucial as the examination on formal grounds and requirements before the BPO may last months and during that period the applicant does not know why the opposition was filed and on what grounds.

Cooling-off period

Another difference between the procedures before the BPO and the OHIM is that the cooling-off period lasts 3 months in Bulgaria as opposed to 2 months according to the CTMR. The cooling-off period can be extended twice upon submitting a request filed by both parties and is subject of payment of fee for a maximum term of 9 months.

The decision of the Opposition department can be appealed within three months after the notification before the Disputes department. The decision of the Disputes department can be appealed before the Sofia Administrative Court in three months term. The decision of the Sofia Administrative Court can be appealed before the Supreme Administrative Court in fourteen days.

The decisions of the opposition and the dispute department are not public and cannot be accessed by third parties. (On the contrary, the decisions of the administrative and Supreme Court after that are public and freely accessible). This is a situation that continues to be evaluated going forward.



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