

Greece: Trademarks Comparative Guide

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1 Legal framework

1.1 What is the statutory or other source of trademark rights?

The primary sources of trademark rights are the Greek Trademark Law (4072/2012, as currently in force) and the EU Trademark Regulation (2017/2001).

The Greek trademark legal framework also includes:

- 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
- Law 2783/2000, ratifying the Madrid Protocol on the International Registration of Marks.

1.2 How do trademark rights arise (ie, through use or registration)?

In Greece, trademark rights are acquired through registration. In the case of establishment of a designation or identifier through use, protection may be granted under the Greek Unfair Competition Law (146/194). Therefore, use-based rights (unregistered trademarks) are also protected under the Unfair Competition Law.

1.3 What is the statutory or other source of the trademark registration scheme?

The Greek Trademark Law and the EU Trademark Regulation constitute the main sources.

2 What constitutes a trademark?

2.1 What types of designations or other identifiers may serve as trademarks under the law?

Any character – in particular, words, names, images, letters, numbers, colours, the shape of a product or its packaging, sounds, slogans, patterns, combinations of the abovementioned elements or similar – may constitute a registered trademark.

2.2 What are the requirements for a designation or other identifier to function as a trademark?

Any designation or identifier that is capable of distinguishing the rights holder's goods or services from those of others, and which can be reproduced in the Trademark Register in a manner that makes it possible for the competent authority and the public to determine its scope of protection, may constitute a registered trademark.

2.3 What types of designations or other identifiers are ineligible to function as trademarks?

Under Greek law, designations and identifiers that are non-distinctive, descriptive or deceptive, or *contra bona mores*, are excluded from trademark registration. In general, a case-by-case assessment as to whether a relevant designation or identifier fulfils the abovementioned criteria is conducted.

3 Registration procedure

3.1 Which governing body (ie, trademark office) controls the registration process?

The Greek Trademark Office, which functions within the Ministry of Economy and Development, is the competent body.

3.2 What fees does the trademark office charge for an application, during prosecution and for issuance of a registration?

The official trademark application fee is €110 for one class and €20 for each additional class (up to 10 classes). There are no mandatory fees during prosecution or assessment of the application. The issuance of an official copy of a registered trademark is subject to a fee of €1.

3.3 Does the trademark office use the Nice Classification scheme?

Yes.

3.4 Are 'class-wide' applications allowed, or must the applicant identify the specific goods or services for which the mark will be used?

Class-wide applications are allowed. In this case the applicant shall identify the class headings. Following recent case law of the EU courts, the class headings are interpreted from 2012 onwards as covering only those goods and services that fall within the literal meaning of each term. Therefore, the applicant must indicate that the application covers the whole list of goods and services falling within the respective class.

3.5 Must an applicant have a bona fide intention to use the trademark for the goods or services identified in the application in order to apply for registration?

There is no requirement for intention to use when filing the application. The owner is free not to use the mark for five years following registration. After that, the mark is susceptible to cancellation for non-use. The Greek Trademark Law prohibits the registration of trademarks that are filed in bad faith; however, lack of intention to use the mark is not considered bad faith.

3.6 Does the trademark office perform relative examination of trademark applications (ie, searches for earlier conflicting marks)?

Yes. The Trademark Office examines the application on both absolute and relative grounds for refusal. If a conflicting mark is found, the Trademark Office will notify the applicant, which then has a period of one month to revoke or restrict the scope of protection sought. The applicant is also entitled to an appeal should the trademark application ultimately be refused.

3.7 What types of examinations does the trademark office perform other than relative examination?

The Trademark Office will check that all formal requirements in relation to the trademark have been satisfied and will examine it on absolute and relative grounds.

3.8 Apart from confusion with a senior mark, descriptiveness and genericness, are there other grounds under which a mark is ineligible for registration, such as public policy reasons?

The Trademark Office will also examine whether the mark:

- is deceptive;
- violates other laws, public order or morals;
- includes a coat of arms or national flag; or
- is protected as a geographical indication.

3.9 Is there a separate or supplemental register on which descriptive marks may be registered?

No.

3.10 Can a third party object to registration of a mark before the application has been published (eg, by letter of protest to the trademark office)?

Yes.

3.11 Must the applicant use the trademark commercially in order to obtain a registration?

No.

3.12 How much time does it typically take from filing an application to the first office action?

Usually, approximately three months.

3.13 How much time does it typically take from filing an application to publication?

Usually, approximately three to four months.

4 Appeals

4.1 If the trademark office refuses registration, can the applicant appeal? If so, to what body and by what procedure?

A registration refusal issued by the Trademark Office examiner may be appealed before the Administrative Trademark Committee within 60 days of notification to the applicant. The deadline is 90 days for applicants seated abroad.

4.2 What is the procedure for appealing a trademark office refusal?

An appeal before the Administrative Trademark Committee must be submitted in writing by any natural or legal person that demonstrates a sufficient interest in the case and receives a protocol number. Upon filing of the appeal, a hearing date is set before the Administrative Trademark Committee. The filing of an appeal is recorded in the Trademark Books.

4.3 Can the reviewing body's decision be appealed? If so, to what body and by what procedure?

Yes. Decisions of the Administrative Trademark Committee may be challenged before the Administrative Court of First Instance through an appeal, as per the Greek Administrative Procedural Law.

5 Oppositions

5.1 Can a third party oppose a trademark application?

Yes.

5.2 Who has standing to oppose a trademark application?

Any natural or legal person claiming sufficient interest in the case may file a notice of opposition based on absolute grounds for refusal of a trademark application, as those grounds are provided for under the Greek Trademark Law. Chambers and consumer unions are also entitled to oppose a trademark application based on certain absolute grounds for refusal. A trademark application may be opposed based on relative grounds for refusal by owners of previous trademarks or, conditionally, by licensed owners of previous trademarks.

5.3 What is the timeframe for opposing a trademark application?

An accepted trademark application may be opposed within three months of publication on the official website of the General Secretariat for Commerce of the Ministry of Economy and Development.

5.4 Which body hears oppositions?

Trademark oppositions are heard by the Administrative Trademark Committee.

5.5 What is the process by which an opposition proceeds?

The opposition must be submitted in writing before the Administrative Trademark Committee within the abovementioned timeframe, including all relevant grounds and payment of the applicable fee. Upon receipt, the Administrative Trademark Committee will decide on the date for the opposition hearing and notify the trademark applicant accordingly. Additional statements may be submitted up to 15 days before the hearing date and upon due notification of the other party. The Administrative Trademark Committee will issue a decision based on all evidence in its possession and may either totally or partially cancel the trademark application or reject the opposition. In the latter case, the trademark application shall be deemed accepted.

5.6 Can the decision on the opposition be appealed? If so, to what body and by what procedure?

Decisions of the Administrative Trademark Committee may be appealed before the Administrative Court of First Instance within 60 days, which starts to run from the day after official notification of the decision in question. If the applicant is seated abroad, the deadline is 90 days.

6 Rights of registered and unregistered marks

6.1 What, if any, protection is afforded to unregistered trademarks?

Under Greek law, unregistered trademarks may enjoy the same level of protection as registered trademarks, under the conditions set out in the Unfair Competition law.

6.2 What legal rights are conferred by a trademark registration?

Registration of a trademark does not confer additional legal rights on the owner, as compared to an unregistered trademark. However, it does afford benefits such as confirmation of the timing of the trademark's creation. Furthermore, the scope of protection may be broader, depending on the list of goods or services set out in the trademark application. A trademark registration is not subject to the condition of actual use of the trademark for a period of up to five years from registration. On the other hand, as far as unregistered trademarks are concerned, the scope of protection is specifically limited to those goods or services for which the trademark is used.

6.3 If there is a separate register for descriptive marks, what legal rights are conferred by registration therein?

There is no separate register for descriptive marks.

7 Enforcement and remedies for trademark infringement

7.1 What remedies are available against trademark infringement?

The trademark owner may claim:

- immediate termination of the infringement and an order for the future cessation of the infringement;
- damages for the unauthorised use of its trademark and moral damages, provided that the infringement was committed with negligence or intent;
- recall and/or destruction of infringing products;
- disclosure of information about the infringing use, including the scope of the same; and
- publication of the court judgment.

7.2 What remedies are available against trademark dilution?

The remedies are the same as those set out in question 7.1.

7.3 Does the law recognise remedies against other harms to trademark rights besides infringement and dilution?

No.

7.4 What is the procedure for pursuing claims for trademark infringement?

A trademark owner may file a civil claim against the infringer through ordinary court proceedings. It may also file for an injunction to the extent that urgency is established, including a request to secure evidence at the infringer's premises and a request for a preliminary injunction for cessation of the infringing practices and seizure of the infringing goods.

The trademark owner is also entitled to pursue criminal proceedings. Under the penal procedure, the trademark owner is not considered a party to the case and hence has limited scope of action concerning discourse of the case.

7.5 What typical defences are available to a defendant in trademark litigation?

The defendant may indicatively object that:

- there is no confusing similarity between the marks or the earlier mark does not enjoy a reputation;
- there is no risk of repetition of the infringement in the future;
- the allegedly infringing designation or identifier is not used on a commercial scale;
- the designation or identifier is used in a descriptive way and not as a trademark;
- the trademark is used in a legitimate way to inform customers that products under this trademark are being sold;
- the right of the trademark owner to seek a cease and desist order has lapsed, or there is no urgent need for a court decision (in preliminary measures proceedings); or
- the defendant has a right of its own to use the mark.

7.6 What is the procedure for appealing a decision in trademark litigation?

Decisions of a first-instance court may be appealed before the Court of Appeal. Decisions of the latter may be challenged through a cassation petition before the Supreme Court on points of law.

8 Maintenance and removal of registrations

8.1 What is the length of the initial term of registration and what is the length of renewal terms?

The term of protection lasts for 10 years, which starts to run from the day after the trademark application is filed. This term may be renewed for further 10-year periods from the date of expiry of the registration period.

8.2 What, if anything, must be submitted to the trademark office to maintain or renew a registration?

Renewal of a trademark application is subject only to payment of the relative official fee.

8.3 What are the grounds for cancelling a trademark registration?

A trademark registration may be cancelled on the grounds of non-genuine use for five years or on any of the relative or absolute grounds for refusal set out in the Greek Trademark Law. These indicatively include the following:

- The trademark has become generic;
- The trademark infringes third-party rights; or
- The trademark has become misleading to the public, especially regarding the nature, quality or geographical origin of the goods or services.

8.4 Under what circumstances may the trademark office cancel a registration on its own initiative?

The Trademark Office may not cancel a registration on its own initiative.

8.5 What is the procedure by which a third party may seek cancellation of a trademark registration?

Generally, any natural or legal person with a sufficient relative interest may file a cancellation or revocation action before the Administrative Trademark Committee based on absolute and/or relative grounds for refusal, or on the grounds of non-use. Chambers and consumer unions are also entitled to file a cancellation notice on certain grounds.

The cancellation or revocation action must be submitted in writing and becomes pending upon payment of the applicable official fee. An action based on registration that was contrary to good faith (or in bad faith) may be filed throughout the term of the trademark's protection. If the cancellation notice is filed by a previous trademark owner on the grounds of invalidity due to non-use and the owner of the later trademark so requests, the owner of the previous trademark must demonstrate genuine use of the latter trademark for five years preceding the date of filing the notice for cancellation on the grounds of invalidity. The Administrative Trademark Committee will issue its decision based on all evidence gathered.

8.6 What is the procedure for appealing a decision cancelling a registration?

The decision of the Administrative Trademark Committee is subject to an appeal before the Administrative Court of First Instance, which must be filed within 60 days, starting from the day after official notification of the decision in question. The deadline is 90 days if the party is seated abroad.

9 Licensing

9.1 Are there particular requirements, such as quality control by the licensor, for a trademark licence to be valid?

No, there are no particular requirements concerning the validity of a trademark licence. However, a trademark licence agreement must not be contrary to competition law rules; hence, it may not include clauses that lead to effects such as vertical price fixing of the trademarked goods or services.

9.2 Must trademark licences be recorded with the trademark office or other governing body?

Yes. Trademark licences must be recorded in the relevant records of the Trademark Office (the Trademark Books).

9.3 Can a licensor lose its rights in a trademark by failing to comply with its obligations under the licence, such as maintaining quality control?

No. However, depending on the nature of the trademark licensing agreement (eg, if it is part of a distribution agreement), different clauses may apply between the parties.

10 Protection of foreign trademarks

10.1 Under what circumstances may foreign trademarks not registered in the jurisdiction be enforced (eg, under unfair competition law)?

Where an application is filed contrary to good faith, according to the Greek Trademark Law and the Paris Convention, foreign trademarks may be enforced to the extent that:

- they are notorious marks (ie, worldwide famous marks); or
- the application was filed in bad faith or the mark was used *contra bona mores* (ie, unfair competition under the Greek Unfair Competition Law).

10.2 Does the trademark office permit registration of a mark based on a foreign or international (Madrid) registration?

Yes.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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