



## Introduction

The registration of Trade Marks in Libya is governed by the Law No.40 of 1956. In fact it is almost identical with the Egyptian Law, except for very minor additions.

The registration process remained in abeyance for almost 22 years, during which time, the applications for registration were only received but without a registration being issued.

The Libyan Trade Mark Office was in the course of re-organization and the Registrar of Trade Marks decided to cancel all applications filed from 1981 through 2002, and have only begun to receive applications starting August 2003.

The Libyan authorities received many complains from the Trade Mark Attorneys whose clients lost their applications/ registrations, and it has subsequently been decided that applicants who have prior rights to their marks are advised to present a certificate of the corresponding registration in the country of origin or in any other county together with the new application to the Libyan Trade Mark Office in order to prove such prior rights; the said prior registration will also help in expediting the registration process.

The system in the Trade Mark Office is now automated, the matter which will facilitate the examination process.



### **1-What are the procedures for the registration of a Trade Mark?**

Once the application is filed, it will be examined as to the formalities, i.e. either presenting the documents required for filing, the payment of the application fees and compliance with the requirements of the application form.

After the application passes the formal examination, the Trade Mark Office will start the substance examination as to the inherent registrability of the mark and whether it conflicts with any prior rights. The Official decision will then be issued according to the findings of the examination report.

If the mark is accepted, it will be published in the Official Trade Mark Gazette, and after the lapse of the opposition period, the Certificate of registration will be due for issuance.

In case the mark is rejected an appeal may be filed within 30 days; said appeal is examined by a special Committee and the applicant will be called upon to attend a session with the Committee to defend his mark.

The decision of the Committee is administratively final, but can only be appealed in front of the Court.

### **2-What can be registered as a Trade Mark?**

A Trade Mark can be any sign which distinguishes the goods/services of one undertaking from those of others in the same course of Trade; it can be signature, words, numerals, seals, designs, symbols, combination of colours. In general this list is not exhaustive.

The following Trade Marks are also registrable in Libya.

- Collective marks
- Certification marks (subject to certain procedures).
- Series of marks

### **3-What are the documents required for filing the application?**

1. A Power of Attorney signed by the Applicant and duly legalized up to the Libyan Consul
2. A Legalized Certificate of Inc. of the applicant issued by the Secretary of State of the State of Inc. or a Legalized Extract from the Commercial Register, and certified by the Chamber of Commerce.



3. A certified copy of Home registration, legalized up to the Libyan Consul.
4. Priority document, ( if any)
5. The said documents must be filed together with the application; the extension of time for filing the documents is not available. The translation of the documents will be handled locally.
6. 10 prints of the mark.

#### **4-Can a Priority of a Trade Mark be claimed?**

Since Libya is a member in Paris Convention, claiming a priority is available.

#### **5-How are the goods/services classified?**

Although Libya is not a member in NICE Agreement, the international classification of goods and services is followed.  
There are no restrictions as to the registration of alcoholic drinks.

#### **6-Is search available before filing?**

The availability search is possible and advisable before filing the application.  
The search will only take a few days to be completed.

#### **7-Is multi-class application acceptable?**

The Trade Marks Act does not allow the registration of multi-class application, which means that an application for each class of goods/services should be filed.

#### **8-Does the Law provide for opposition?**

The Trade Marks Act provides for the possibility of filing an opposition against the registration of a mark upon advertisement of same in the Trade Marks Gazette. The opposition should be filed within 3 months from the issuance of the relevant gazette.

#### **9-What are the use requirements?**



Use is not a prerequisite for filing the application or for renewal.  
It is not administratively possible to cancel a registration for non-use as long as the renewal fees are timely paid.  
A mark may be challenged on the basis of non-use if its owners have not made a serious use of same for any five consecutive years during the lifetime of the registration. Such application for cancellation should be filed with a competent Court of justice.

There is no time limit for raising a court action for the cancellation of a mark which has been registered in bad faith.

#### **10-What legal effect does a Trade Mark registration confers?**

The registration of a Trade Mark confers on its owners the right to prevent others from using the same or similar mark in the same channels of Trade.

#### **11-Is there any special protection for well know marks?**

The well known mark is protected in Libya according to Article 6 bis of Paris Convention.

There are no incidences available in this regard.



### **12-Is Assignment recordal necessary?**

The recordal of an assignment of a mark is advisable to enable the Assignee to enjoy the rights assigned to him. The recordal of the assignment will enable the assignee to act against an infringer. A Monetary penalty is imposed for a delay for more than three months in recording the assignment.

The Trade Marks Office does not require the inclusion of a monetary consideration in the Assignment Deed.

The documents required for the recordal of assignment are:

- The Legalized Deed of Assignment signed by both parties i.e. the Assignor and the Assignee and certified by the Chamber of Commerce.
- The Legalized Power of Attorney of the Assignee
- The Legalized Certificate of Incorporation or the Legalized Extract from the Commercial Register of the Assignee, certified by the Chamber of Commerce.

### **13-Is license recordal necessary?**

The licensee of a mark may either be a Libyan or a foreign company, the local presence is not necessary for the grant of a license.

The recordal of a license is advisable in order to be valid against a third party as far as the use requirements are concerned.

The rights of the licensee can not be assigned to another party unless otherwise agreed.

The documents required for the recordal of the License are:

- The Legalized License agreement signed by both parties i.e. the Licensor and the Licensee and certified by the Chamber of Commerce.
- The Legalized Power of Attorney of the Licensee.
- The Legalized Certificate of Inc. or the Legalized Extract from the Commercial Register of the Licensee, certified by the Chamber of Commerce.

The License should be recorded within 3 months from the date of execution; otherwise, a fine will be added to the official fees.

Compulsory license does not exist as regards Trade Marks in Libya.



#### **14-What are the requirements for the renewal of a Trade Mark?**

The protection period of a mark is 10 years starting from the date of filing the application.

An application for renewal may be filed during the last year of protection period. After the expiry date, the mark may still be renewed with fine within a period of three months subject to payment of an extra fees.



### **15-What are the penalties for Trade Mark Infringement?**

There are two remedies available in case of infringement:

1. The civil proceedings which are summarized in filing an application before the Court of urgent matters to obtain a court order for the attachment of the infringing products, followed by raising a civil action to discuss the merits of the case.
2. Criminal proceedings by way of reporting the infringement to the Trade Fraud Office and following up the matter until it is referred to the criminal court where a penalty of imprisonment and/or a fine might be adjudged.
- 3.

### **16-What are the International Agreements to which Libya acceded?**

Libya is a country member in the following agreements/conventions:

- Paris convention for the protection of industrial property
- Berne Convention for the protection of literary and artistic works.



## CLASSIFICATION OF GOODS AND SERVICES

### Goods

Class 1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.

Class 5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of cannon metal not included in other classes; ores.

Class 7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.

Class 8. Hand tools and implements (hand operated); cutlery; side arms; razors.

Class 9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images;



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magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

Class 10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.

Class 11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12. Vehicles; apparatus for locomotion by land, air or water. Class 13. Firearms; ammunition and projectiles; explosives; fireworks.

Class 14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

Class 15. Musical instruments.

Class 16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

Class 17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and traveling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.



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Class 20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Class 21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23. Yarns and threads, for textile use.

Class 24. Textiles and textile goods, not included in other classes; bed and table covers.

Class 25. Clothing, footwear, headgear.

Class 26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.

Class 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

Class 31. Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.



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Class 3Z. Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33. Alcoholic beverages (except beers)

Class 34. Tobacco; smokers' articles; matches.

**Services**

Class 35. Advertising; business management; business administration; office functions.

Class 36. Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37. Building construction; repair; installation services.

Class 38. Telecommunications.

Class 39. Transport; packaging and storage of goods; travel arrangement.

Class 40. Treatment of materials.

Class 41. Education; providing of training; entertainment; sporting and cultural activities.

Class 42. Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes .