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ETiDOP[®]

Egyptian Trademarks and Industrial
Designs Office Project

Trademarks National Protection The example of Greece

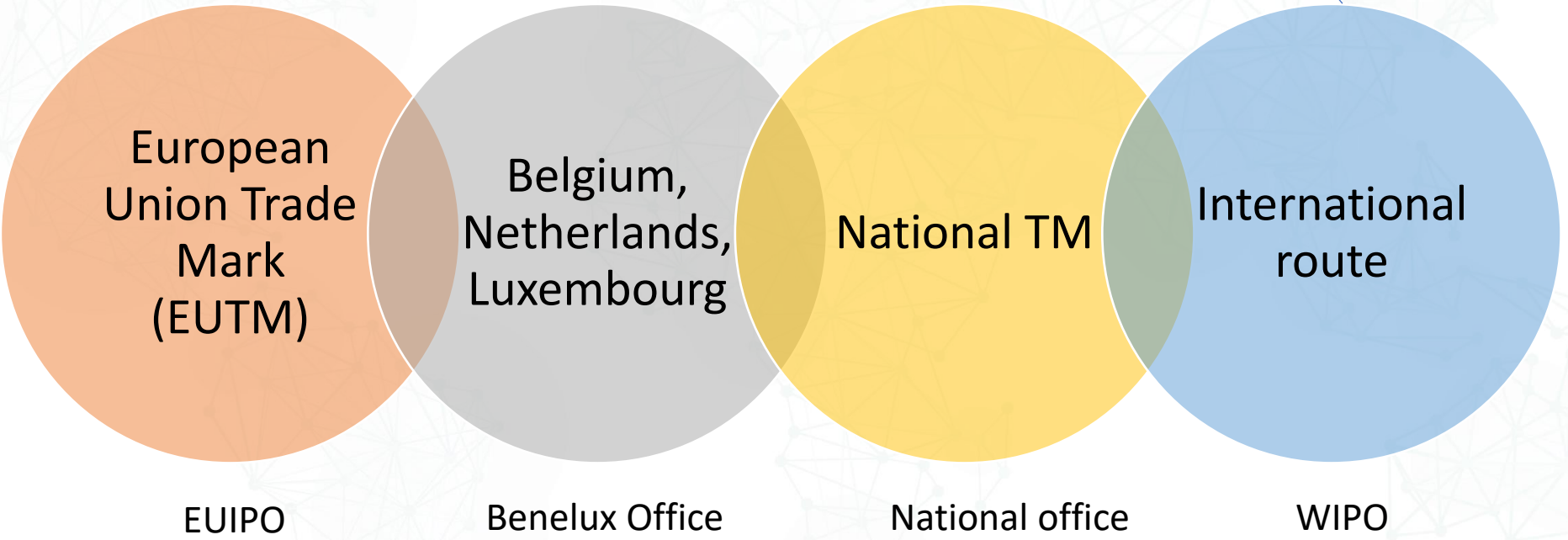


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INTRODUCTION

Expand your protection internationally, to any country that is a signatory of the Madrid Protocol, by using a national, regional or EU trade mark application





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EUTM:

- The EUTM Regulation 2017/1001
[includes EUIPO-related fees]
- The EUTM delegated regulation
2018/625
- The EUTM implementing
regulation 2018/626

National TMs:

Directive approximating the laws of
the Member States relating to trade
marks (Directive (EU) 2015/2436
(the Trade Marks Directive))

Implementation: January
15, 2019, with the
exception of administrative
cancellation proceedings
(until January 15, 2023)



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ITDA
Internal Trade Development Authority
جهاز تنمية التجارة الداخلية



- types of signs qualifying as TMs
- prerequisites for registration
- absolute and relative grounds for rejection of trademarks applications
- likelihood of confusion and dilution, the trademark licensing,
- limitation of trademark rights,
- cancellation,
- parallel imports etc.

Harmonised





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Legislation

on Trademarks Designs



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TMs in Greece



EUTM

National TM





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Law 4072/2012

Directive
2015/2436

Law
4679/2020

- Greece abandoned the concepts of imitation and falsification and adhered to the concept of likelihood of confusion
- Introduction of the concept of dilution, as an alternative ground for trademark infringement in addition to likelihood of confusion
- Changes in relation to famous trademarks
- Parallel imports since Greece moved from national exhaustion of trademarks rights to community exhaustion



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Registered TMs

- Legal rights all over Greece
- Need to be registered
- In connection to goods or services
- Trademark law
- Irrespective of any business establishment in Greece
- Irrespective of any use in Greece

Unregistered Distinctive Signs

- Company names and other distinctive signs
- Through use in course of trade
- Apply only in the geographical area where use is situated – need to prove adequate use in the course of trade
- Protection by unfair competition
- Business establishment in Greece
- Use of non-registered distinctive sign in Greece



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How can a foreign applicant acquire trademark rights in Greece?

a) national registration

- National treatment.
- Foreigners may apply under same conditions and according to same procedures as a Greek national. Establishment in Greece is not required and foreigners may claim priority for their applications on the basis of a mark applied in their country of origin.

b) International registration through WIPO

c) EU Trademark



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Registered EU Trademark

International Trademark registered in EU

International Trademark registered in Greece

National Trademark

Distinctive signs protected by Unfair Competition Law



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What is a trademark?

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods or sounds, provided that such signs are capable of:

- distinguishing the goods or services of one undertaking from those of other undertakings;
- being represented on the Register of trade marks ('the Register'), in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.



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Function of TM

Economic function

- indicate ownership
- advertise goods
- assist the consumers' purchasing among the diversity of market offers and ensure fidelity

Origin function

Promoting commerce by informing the customer of the origin of the products

Quality guarantee function

Often this may imply a certain quality, which the customer may be looking for.

Advertisement function

Valuable assets & marketing tool used by producers to attract consumers



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Prerequisite for registration: **distinctiveness!**

Words
Drawings
Figurative elements
Slogans
Abbreviations
Colour combinations
Colours as such

Not necessarily graphically represented

A sign can permitted to be represented in any appropriate form, using generally available technology and thus not necessarily by graphic means



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Word Mark. A word mark consists exclusively of words or letters, numerals, other standard typographic characters or a combination thereof that can be typed

ADIDAS

PHILIPS

LEVI'S

Figurative Mark. It is a trade mark where non-standard characters, stylisation or layout, or a graphic feature or a colour are used, including marks that consist exclusively of figurative elements





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Figurative Mark Containing Word Elements. A figurative mark consisting of a combination of verbal and figurative elements



FUJITSU



Shape Mark. A shape mark consists of, or extends to, a three-dimensional shape. It can include containers, packaging, the product itself or its appearance.





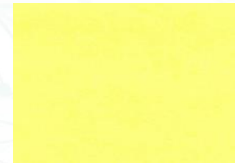
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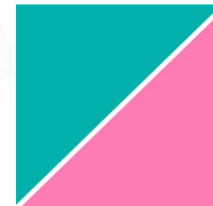
Pattern mark. A pattern mark consists exclusively of a set of elements which are repeated regularly



Colour (single) Mark. A colour single mark is just that – a trade mark which consists exclusively of a **single colour** (without contours)



Colour (combination) mark. A trade mark which consists exclusively of a **combination of colours** (without contours)



PANTONE: 326 C
PANTONE: 211 C
RGB (255, 255, 255)



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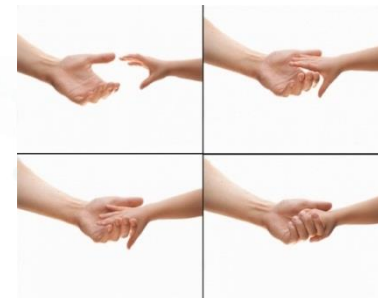


Slogan

Sound Mark. With the abolition of the graphical representation requirement, as and from 1 October 2017, EUTM applications for sound marks can only be an audio file reproducing the sound or an accurate representation of the sound in musical notation

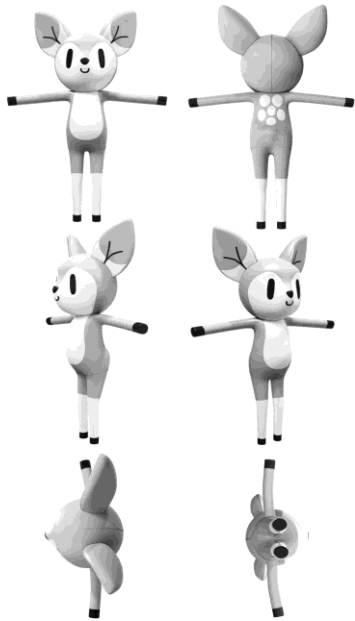
Motion Mark. The Office accepts the following file format: MP4 (video), JPEG (for series of still sequential images)

NOKIA
Connecting People

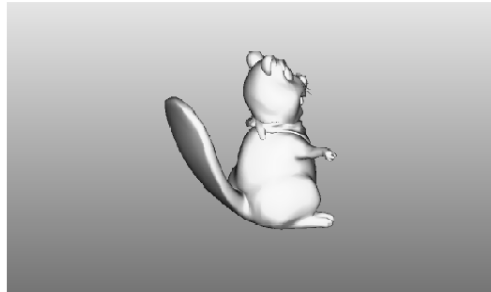




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3D dynamic view



Move the 3D dynamic view with your mouse or keyboard to change the camera viewpoint as per the controls below



Mouse controls



Keyboard

Basic keyboard controls:

- Perspective view
- Fixed view
- Back view
- Left view
- Right view
- Top view
- Bottom view

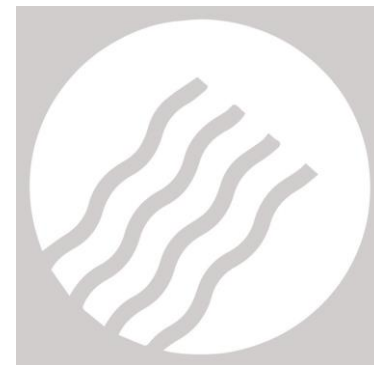
3-D mark

Position marks



Multimedia Mark and Hologram Mark

Other (under the condition it can be represented)





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Registration process



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Ηλ. Αίτηση EFGR202100000452308

Τόμος _____

ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ
ΥΠΟΥΡΓΕΙΟ ΑΝΑΠΤΥΞΗΣ ΚΑΙ ΕΠΕΝΔΥΣΕΩΝ
ΤΜΗΜΑ ΚΑΤΑΘΕΣΗΣ ΣΗΜΑΤΩΝ
ΔΗΛΩΣΗ ΚΑΤΑΘΕΣΗΣ ΕΘΝΙΚΟΥ ΣΗΜΑΤΟΣ

Αριθμός Σήματος : _____

Ημερομηνία _____

Ωρα _____

Συμβατική προτεραιότητα
Ημερομηνία _____

Αριθμός Κατάθεσης _____

Χώρα _____

Στοιχεία Δικαιούχου (Ονοματεπώνυμο ή Επωνυμία)

Κατοικία ή έδρα (Οδός,αριθμός,πόλη,Τ.Κ.)

Επικοινωνία (τηλέφωνο,φάξ,email)

Στοιχεία Πληρεξούσιου Δικηγόρου (αν ορίζεται)

Κατοικία ή έδρα (Οδός,αριθμός,πόλη,Τ.Κ.)

Επικοινωνία (τηλέφωνο,φάξ,email)

Στοιχεία Αντικλήτου

Κατοικία ή έδρα (Οδός,αριθμός,πόλη,Τ.Κ.)

Επικοινωνία (τηλέφωνο,φάξ,email)

Αιτούμαι την καταχώριση στο Μητρώο Σημάτων της Γ.Γ. Εμπορίου του κατωτέρω σήματος

- Λεκτικό
- Απεικόνιση
- Αριθμός
- Ηχητικό
- Συσκευασία
- Με ορισμένη έγχρωμη σύνθεση
- Συλλογικό
- Τρισδιάστατο

Προϊόντα και Υπηρεσίες (ταξινομημένα κατά κλάση και αναγραφή της οικείας κλάσης)
Κλάσεις:

Κλάσεις:

Αριθμός παραβόλου Δημοσίου Ταμείου
Αριθμός Απόφασης

Ο Καταθέτης/ Ο Πληρεξούσιος Δικηγόρος

Ο Προϊστάμενος



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ΓΕΝΙΚΗ ΓΡΑΜΜΑΤΕΙΑ ΕΜΠΟΡΙΟΥ
Υπουργείο Ανάπτυξης και Ανταγωνιστικότητας

Ελληνικά(el) Έξοδος

Δήλωση Κατάθεσης Εθνικού Σήματος

- 1 Στοιχεία σήματος
- 2 Προϊόντα και υπηρεσίες
- 3 Παρόμοια σήματα
- 4 Στοιχεία προσώπων
- 5 Επιβεβαίωση και πληρωμή

Στοιχεία σήματος

Σε αυτό το στάδιο, επιλέγετε την κατηγορία του σήματος.

Κατηγορία σήματος

Ποια από τις ακόλουθες κατηγορίες περιγράφει καλύτερα το σήμα για το οποίο θέλετε να υποβάλετε δήλωση;



Λεκτικό σήμα

Το λεκτικό σήμα αναπαρίστανται με λέξεις, γράμματα, αριθμούς ή οποιουδήποτε άλλους χαρακτηριστικούς χαρακτήρες δυναμένους να τυπωθούν.

[Διαβάστε περισσότερα](#)



Απεικονιστικό σήμα

Το απεικονιστικό σήμα αναπαρίστανται με φωτογραφίες, γραφικά ή εικόνες και δεν περιέχει λέξεις ή γράμματα.

[Διαβάστε περισσότερα](#)



Απεικονιστικό σήμα με λέξεις

Όταν ένα απεικονιστικό σήμα περιλαμβάνει λεκτικά στοιχεία, συνδυάζει τη χρήση φωτογραφιών, γραφικών ή εικόνων με λέξεις ή γράμματα. Τα λεκτικά και απεικονιστικά στοιχεία αποτελούν ενιαίο σύνολο.

[Διαβάστε περισσότερα](#)

Απεικονιστικό σήμα

Παρακαλούμε προσθέσετε το σήμα σας

Επισύναψη αρχείων

Προσθήκη αρχείων

Περιγραφή σήματος

Μπορείτε να προσθέσετε περιγραφή του σήματος για το οποίο υποβάλλετε δήλωση.

- Συλλογικό σήμα
- Με ορισμένη έγχρωμη σύνθεση
- Συσκευασία

[Προηγούμενο](#)

[Επόμενο](#)

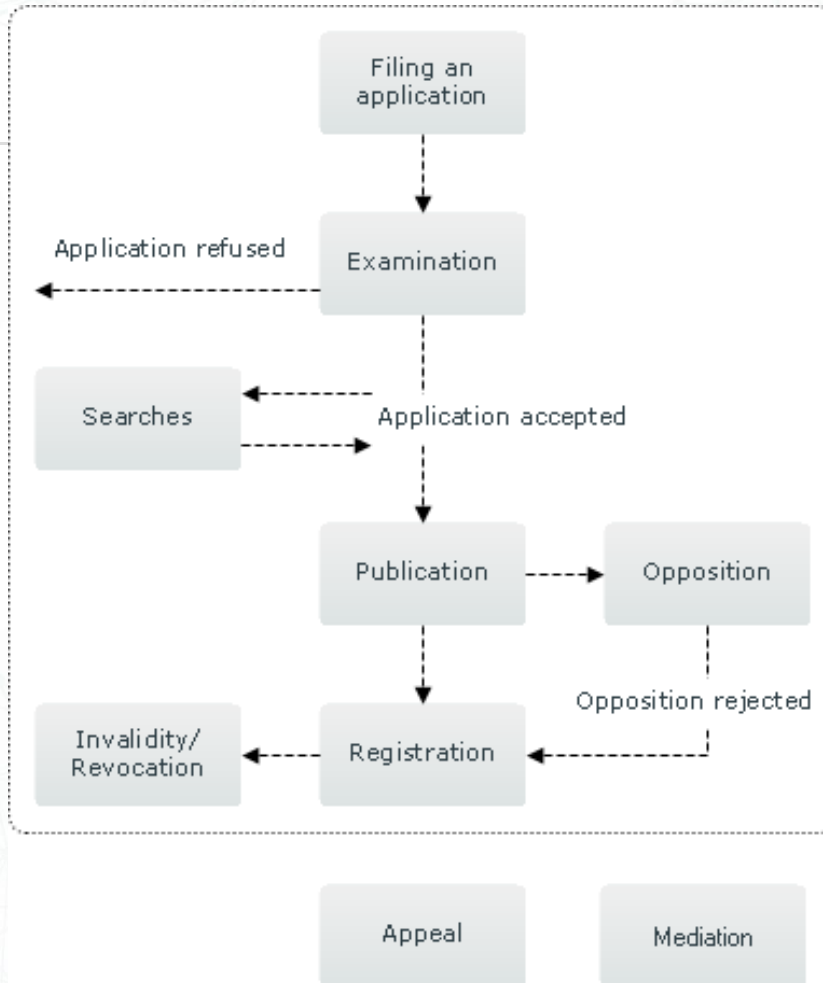
[Προηγούμενο](#)

[Επόμενο](#)





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Ex-officio search of prior rights and earlier trademark registrations

(which before 2020 was leading to rejection of an application and now to information by any available means of the owners of earlier trademark to file an opposition)

Examiner decides on absolute grounds

If the examiner is satisfied that there are no grounds for rejection the application is published and remains open for opposition for a 3-months period.

If the the examiner rejects on the basis of absolute grounds, the decision is challenged before the **Trademark Committee** which is a 3-member administrative body.

The judgement of the Trademark Committee can be appealed before the administrative courts

Registration occurs if no opposition is filed within 3 months period or when the judgement on the opposition becomes final



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Auditor

Checks the conditions for granting a filing date and other formal conditions

Researcher*

Examiner

Checks the existence of absolute grounds of refusal

Registrar

Mark is registered in the register by an act of the Registrar

Departments of the Office



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Auditor:

- If errors, invites the applicant to correct within 30 days.
- If corrections are made, the application receives, either the date of the correction or the initial date.
- If errors not corrected, the application is filed or rejected and the depositor is informed of the Auditor's decision.
- Appeal before TMC within 60 days from the day after the notification of the decision to the applicant

Examiner:

- No reason for inadmissibility, the trademark application is accepted and published within 50 days. Otherwise the applicant is invited to submit comments within 30 days
- If the reason for refusal ceases, the TM is published within 30 days from the day following the submission of the comments. If not, the trademark application is rejected and the applicant is informed.
- Appeal before the TMC within 60 days from the notification of the decision
- Appeal before the Administrative Courts within 60 days from the notification of the decision



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Registrar:

The trademark declaration is registered:

- (a) when the declaration is published on the website of the Ministry of Development and Investment and the deadline for filing an objection has elapsed, or
- (b) when, following an opposition, the declaration is accepted by a decision of the Administrative Trade Marks Committee and the time limit for appealing against that decision to the administrative courts has elapsed without action, or
- (c) where, following an appeal to the administrative courts, the declaration is upheld by a decision which has become final

Researcher:

During the examination of the application, the Researcher of the Trademark Department identifies previous trademarks (or application) including the international registrations designating Greece, and informs by any appropriate means, including e-mail, the rightholders so that they can, if they wish, oppose to the application.



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Courts

Administrative Committee (DES) of TMs:

- opposition,
- appeal against a rejection decision of the Examiner,
- application for revocation,
- application for invalidity,
- intervention in any procedure before the TMC
- resolution of a disputes between the International

Administrative Courts:

- Acceptance or rejection of an appeal against decisions of the TMC to objections
- acceptance or rejection of an appeal against decisions of TMC in appeals against a rejection decision of the Examiner

Civil Courts:

- (a) for disputes relating to trade mark infringement;
- (b) for objections against decisions of the TMC on applications for the revocation or invalidity of a trademark
- (c) for counterclaims and counterclaims for annulment or invalidity of a trade mark;
- (d) for actions for assignment of the mark during circumstance
- (e) for actions for the right to information



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Classification

A valid application for a trade mark must contain a list or indication of the goods and/or services for which protection is sought. For administrative purposes, those goods and services are classified in accordance with the internationally applicable Nice Classification System.

Same rules in all Member States and should be aligned to those applicable to EU trade marks for reasons of legal certainty. The designation of goods and services should be sufficiently clear and precise. The use of general terms should be interpreted as including only goods and services clearly covered by the literal meaning of a term.

In line with the CJEU decision in the IP Translator case (case C-307/10), the wording of trade mark specifications is to be interpreted literally and therefore goods and services must be identified with sufficient clarity and precision



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Classification

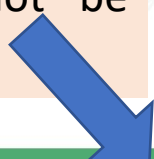
DECLARATION NATIONAL OFFICE

Using the Nice Agreement category titles in the list of products and services means applying for all the products or services listed in the alphabetical list of each category in the Nice Classification.



ANNOUNCEMENT 1/13 OF THE PRESIDENT OF THE EUIPO:

- If the applicant intends to claim all the products and services listed in the alphabetical list in a class, he/she must expressly state this by indicating all such products and services, explicitly.
- A general statement stating the applicant's willingness to cover all products and services listed in the alphabetical list will not be accepted.





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JOINT ANNOUNCEMENT OF NATIONAL OFFICES AND EUIPO (February 2014):

How EUIPO interprets the scope of Greek trade marks including heading:

Trademarks registered before IP TRANSLATOR: the heading of the class covers the literal meaning of the terms and in addition the alphabetical list of the specific class at the time the trademark is filed

Signals filed after IP TRANSLATOR: the terms are interpreted to the letter

Classification

EXPLANATORY STATEMENT

The provisions of Article 23 will apply to new declarations submitted after the entry into force of the law. However, even the marks that were submitted before the entry into force of the law and include the entire heading of a class are occupied by the new regulation. Otherwise, the purpose of Article 23 could not be fulfilled and an unjustified distinction between the old and the new marks would be introduced



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Examination

Absolute Grounds



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Absolute Grounds of Refusal

The absolute grounds for refusal of trade mark registrations consist of a set of situations under which the Trademarks Office may refuse to grant the trade mark or may later invalidate the trade mark.



They are justified because of the concern to protect freedom of competition



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Absolute Grounds of Refusal

lack of distinctiveness

descriptiveness

deceptiveness

marks consisting exclusively
of signs or indications which
have become customary

marks consisting of a shape
required by the product
itself and other
characteristics*

Protected Designations of
Origin (PDOS), GIs,
traditional terms for wine
and traditional specialities
guaranteed as well as prior
plant varieties

* This addresses any functionality issues of non-conventional trade marks. [ex. a sound mark representing the sound of a motorbike for motorbikes could be captured by this new provision if the sound results from the nature of the goods (in the sense of its technical performance)]



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Absolute Grounds of Refusal

filing for registration made in bad
faith

trade marks which have not been
authorised by the competent
authorities

the trade mark includes badges,
emblems and escutcheons other
than those covered by Article 6ter of
the Paris Convention and which are
of public interest, unless the consent
of the competent authority to their
registration has been given

the trade mark includes a sign of
high symbolic value, in particular a
religious symbol



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Some remarks

- Most of the marks applied for trademark registration contain some descriptive or generic elements or elements that are customary in trade, while at the same time also contain some unique, genuine and novel elements. Only few trademarks are totally unique and novel.
- This stems from the fact that a totally fictitious, genuine and novel mark may comply with the legal conditions required for trademark registration, but it is not so useful from a marketing and advertising perspective, nor does it adequately help a manufacturer to make his goods easily recognisable by consumers.
- It is less expensive to promote a mark which already contains in itself some specific information about the goods to which is attached to and thus is able to transmit some feedback about such goods to consumers. Trademark proprietors chose between various marks according to advertising and investing criteria instead of purely legal criteria.

It is only marks **devoid of any distinctive character** that are barred from trademark registration.

This means that absolute grounds prohibiting registration apply only when it is amply evident that a mark is merely descriptive, generic, customary etc.

→ **level of descriptiveness!**



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Level of Descriptiveness

Imaginary marks: They are purely imaginary and do not have any particular meaning.



KODAK, POLAROID, XEROX, ADIDAS



Cannot be descriptive at all
Their distinctive character is not
contested

Common marks that are used in an unusual way: They have a certain meaning but they are not used according to their customary usage or in a descriptive way.



BLACK & WHITE, WHITE HORSE for alcoholic beverages, RED BULL for non-alcoholic beverages, PAPAGALOS (meaning parrot) for coffee, CAMEL for tobacco products etc.



Distinctive
No relevance between them and
the goods thereby distinguished



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Level of Descriptiveness

Laudatory marks: These are marks that contain a laudatory (flattering) message about the goods thereby distinguished. This includes also marks that are not laudatory *per se* but distinguish some products by providing a description or a particular characteristic or a particular quality, indirectly or subconsciously through symbolisms and parallelisms

BEAR for warm clothing, ASPROS SIFOUNAS (white hurricane) for cleaning products, NEW LOOK for tobacco, PLAYBOY for adult magazines, POLYCOPY for copying machines

Symbolisms novel and unique and hence must be legally protected (EUCFI VITALITE and ULTRAPLUS are eligible)



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Level of Descriptiveness

Descriptive marks: They describe *directly* the kind, origin, quality, destination of the respective goods. The use of such descriptive signs should be free and accessible to all prospective market competitors.

DOUBLEMINT descriptive - ineligible for trademark registration – need to protect freedom of competition

Descriptive marks can be registered as trademarks only on the grounds of acquired distinctiveness (or acquired secondary, i.e. ancillary meaning)

Generic marks: They are regarded to be devoid of any distinctive character and are not eligible for registration

Marks falling within this class (i.e. VIDEO GUIDE) are generic terms



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Absolute grounds appreciation

Appreciation in view of the particular goods or services for which the mark is applied for.

DIESEL

- no distinctiveness or descriptive for fuel, motor engines
- distinctive for fashion goods and clothing.

Decision made based on the circumstances of each case /products



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Absolute grounds appreciation

Combination of more than one element (i.e. combination of words, or combinations of words with drawings and colours etc.) distinctiveness, descriptiveness and other absolute grounds are appreciated **on the basis of the overall impression** of the mark. If one part of the mark is prevailing over the others, the overall impression is determined mainly by that prevailing element.

Common vocabulary words can be registered, if used in connection with goods/services with which they cannot be reasonably be associated. For example, PAPAGALOS (meaning parrot) for coffee, FANTASIA (meaning imagination) for olive oil, THALASSA (meaning sea) for spa services

Foreign vocabulary words may be distinctive and registrable in Greece if the average Greek consumer is not familiar with them.

CLUSTERS is considered descriptive of a particular type of cereals for an English speaking consumer, is a trademark in Greece (Greek consumers are not familiar with the term CLUSTERS)



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Absolute grounds appreciation

Laudatory marks, like SUPRA, EXTRA, GOLD, SILVER, PLATINUM, PLUS, ULTRA are usually found to be registrable by the majority of court authorities, if they do not make any direct implication to the qualities of the respective goods/services, i.e. if they do not describe goods/services as such.

VELVET DE LUXE and MASTER SOUND have been found to be registrable.

Geographical terms are usually rejected either as descriptive or as deceptive terms. There are, however, geographical terms which cannot be reasonably associated with certain products.

EVEREST for foodstuffs is registrable - the consumer cannot reasonably believe that foodstuffs originate from an area like Everest.

Colour combinations are usually found to be distinctive and registrable.

Gucci colour combination (three horizontal stripes of green, red and again green) has been considered to be registrable by the Greek Trademark Committee

Three dimensional marks, usually consisting in the shape of the product are also registrable, provided that **the shape is not functional**, i.e. it is not necessary to achieve a certain technical result. Usually, they consist of the shape of bottles for beverages or fragrances.



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Absolute grounds appreciation

The time by which distinctiveness must have been acquired is not the date of filing of the application, but the date of its examination.

Acquired distinctiveness cannot be invoked in favour of marks that are deceptive.

According to case law, a mark is distinctive, as long as it performs the **origin function** and the **quality guarantee function**, i.e. if the mark allows consumers to identify that the goods thereby distinguished originate from a particular undertaking and to identify the particular qualities of such goods



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Relative grounds

An earlier trade mark or **earlier right*** exists with which the applicant's later trade mark would **conflict** if it were used in the course of trade in connection with **identical, similar or complimentary** goods and/or services

*Earlier rights:

- Trademark rights
- EU Trademark rights,
- Rights related to other non-registered distinctive signs, such as corporate names, distinctive titles

May lead to opposition or invalidation

Assessment of likelihood of confusion between the mark applied for and earlier rights

Earlier **marks with a reputation**, can conflict with the applicant's later mark, **irrespective of whether the goods or services involved are identical with, similar to, or not similar** to those for which the earlier trade mark is registered.



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Relative grounds appreciation

The central issue on relative grounds is likelihood of confusion and, in case of famous marks, dilution. Likelihood of confusion and dilution are also the grounds of trademark infringement invoked before civil courts.

All intellectual property rights (i.e. trademarks, company names etc.) are equal and none of them is by itself more important than the other.

Rights acquired through registration are equal with rights acquired through use.

The comparison as to the time the right was created is not easy, because, although the acquisition of registered rights such as trademarks is rather straightforward and dates back to the date of filing, the acquisition of non-registered rights is more complicated.

The creation of the right occurs when the use has been so strong that the average consumer associates the respective sign with a particular trader.



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Opposition



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Opposition

Within a period of 3 months from the publication of the application

- If relative grounds: only by the owners of the TMs.
- If absolute grounds: by anyone, including associations of consumers and chambers of commerce, no need to prove legitimate interest.

TMC decides – appeal is possible

The party that files an opposition based on an earlier TM, may have to prove that it has used his earlier TM within a period of five years preceding the filing date or date of priority of the later trade mark, or that proper reasons for non-use existed

Possible amicable settlement - minimum of two months to allow the possibility of a settlement in relation to the trade mark under dispute

Possibility of mediation



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Revocation



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Revocation

The grounds for revocation:

- a) **non-use** for a period of **five** consecutive years;
- b) as a result of acts or inactivity of the proprietor, it has become the **common name in the trade** for a product or service in respect of which it is registered;
- c) as a result of the **use made** of it by the proprietor of the trade mark or with the proprietor's consent in respect of the goods or services for which it is registered, it is liable to **mislead the public, particularly as to the nature, quality or geographical origin of those goods or services**

Can be filed by anyone

Revocation becomes **effective as from the date of the application for revocation**

- Earlier date, on which one of the grounds for revocation occurred, may be fixed in the decision on the application for revocation, at the request of one of the parties



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Invalidity



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Invalidity

A trade mark may be declared invalid after having being registered **on absolute and relative grounds for refusal**

- Applications for a declaration for invalidity and revocation decided by the TMC
- An appeal can be filed before **Civil Courts!**

Partial invalidity is possible

If TMC decides invalidity the TM shall be deemed not to have had, as from the outset, any effects

Application for invalidation may not succeed:

- where an earlier trade mark had not acquired a distinctive character;
- where an earlier trade mark had not become sufficiently distinctive to support a finding of likelihood of confusion;
- where the earlier trade mark had not acquired a reputation.



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Cancellation



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Cancellation

Prerequisites for a trademark to become customary:

- Passive conduct on behalf of the proprietor and evidence that TM is commonly used
- Customary use must be general and absolute by reference to consumers
- Consumers are using this trademark to describe a particular class of products

Cancellation files before the TMC

In case of doubt, the registered trademark remains registered and the proprietor shall retain his rights (protection of competition)

→ Trademarks, which perform a strong advertisement function and possess a high advertising value are only rarely and exceptionally cancelled on this ground

WALKMAN (for portable audio devices), NESCAFE (for instance coffee), JEEP (for SUV vehicles), ASPIRIN (for pain alleviators), MICKEY MOUSE (for comics addressed to children), CELLOFAN (for transparent sheet), TEFAL and TEFLON (for cookware equipment)

Products coming from a single producer,: IPOD, BLACKBERRY
Greece: CHLORINE, ASPIRIN, OLYMPIAKOS, BLANCO no cancellation



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Likelihood of confusion

Likelihood of confusion

It is the criterion for providing two different types of legal protection to trademark owners:

- protection against subsequent trademarks applications in the context of the administrative procedure for trademark registrations and
- protection against trademark infringement before the civil courts.

Test for likelihood of confusion





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Step 1: Public / Consumer

Identifying the **public to which the products are addressed** and the **level of attention of the average consumer** from this public

Degree of attention!

Depending on the type of the product it could be high (pharmaceuticals, expensive products such as domestic appliances, products addressed to specific cycles of trade, entrepreneurs or experts and professional users but not to consumers in general etc.) or low (not expensive products of everyday use like food, detergents, sodas etc.)



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Is it the average consumer?

Vague legal concept to be interpreted.

It is not the average consumer in the sense that the average consumer pays no attention (and rarely has the two marks readily before him, so as to make a direct comparison).

The Courts are looking for the perception of a reasonably (which could be interpreted as “to a limited extent”) informed user.

In very general lines it will depend on the type of the product.

The Greek jurisprudence does not seem to present a stable position on this issue. Many TMs that were registered in the past are today descriptive and there are many concerns whether they should have been registered in the first place.

The idea of “well informed consumer” is an attempt to strike a balance of fairness in cases where marks that are rather descriptive or generic have achieved registration.



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Step 2: Comparison of marks

On the basis of their visual, oral and conceptual similarity. Conceptual: if there are two words that have the same meaning (i.e. TORNADO and TYPHOON) they should be regarded confusingly similar, even though they look quite different and are pronounced differently.

→ **Overall impression.** The “overall impression” principle can be used either to establish or reject likelihood of confusion.



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Step 3: Comparison of goods or services

based on the respective circle of consumers to which the respective goods or services are addressed. For example, fashion clothing, cosmetics, jewellery are addressed to the same consumers.

Important if the goods directly competitive or not (coffee and tea // Cheese, milk, yogurt and ice cream are all made from milk and are confusingly similar but not directly competitive. Chocolate, biscuits, ice creams, cereals are all foodstuffs and are confusingly similar.



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Step 4: Global appreciation

Assessing the above factors and others, such as the channels of distribution, the acquired distinctiveness of the TM through use, family of TMs, coexistence of the two marks in the trade etc

Greek Courts do not always proceed with the overall appreciation.



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Other types of likelihood of confusion

Likelihood of confusion

Likelihood of confusion in strict sense:
confusion of the origin of the product

Likelihood of association

when the public makes a connection
between the proprietors of the sign and
those of the mark and confuses them
(average consumer concludes that the
two companies bearing similar marks are
associated)

Other types of confusion

→ After sales confusion

→ Reverse confusion

Initial confusion in relation to look
alike products



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Rights attributed



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Rights attributed

- Use of the TM
- Affix it to the products which it is intended to distinguish, to characterize the services provided, to the wrappers and packaging of goods, to postal paper, to invoices, to price lists, advertisements, all kinds of advertisements, as well as other printed material
- Use it in electronic or audiovisual media or social media. Including:
- Use it in a form which differs in respect of elements which do not alter the distinctive character of the mark in its registered form
- Affix of the mark to products or packaging solely for export purposes
- Importation of products having been released in the Greece coming from third countries and bearing identical TM or a TM which is indistinguishable in its essential aspects from that registered TM

The registration of a trade mark may be renewed for indefinite periods of 10 years.



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Transfers and Licenses



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Transfer of registered trade marks

- Trademark assignments should be **in the form of a written deed** and **recorded with the trademarks' registry**. This registration is not a legal prerequisite for its effects and legal consequences between the parties.
- Trademark assignment can be **for all or only part of the goods or services** in connection to which the mark is applied or registered
- Transfer of a business includes obligation to transfer any registered trade mark, unless there is agreement to the contrary or it is clear in all circumstances that this presumption should not apply.
- Trademarks can be **pledged**, they can also be **seized**



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Licensing Trademarks

- Possible for all or only part of the goods or services specified in the trademark registration.
- May refer to either the whole of Greece or only a part of the country and may be of indefinite duration or for a fixed term.
- It can be exclusive or non-exclusive. It is also possible to grant the right to sub-license, but this has to be stated expressly in the license agreement.
- Trademark licenses should be recorded with the trademark registry. Licenses not registered bring legal effects only between the contracting parties
- **In case of an exclusive license, the licensee is entitled to seek legal protection against third parties, even if the license is silent on this matter**



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Remedies



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Remedies

- Cease and desist order: even in the absence of fault on the part of defendant.
- Damages are awarded always only if fault (i.e. either negligence or intent) is established (difficulty to prove the volume of the loss suffered)
- Damages for moral prejudice (tort) and torts can always invoke damages for moral prejudice
- Seizure of counterfeit goods and the machinery used to produce them or an order for their destruction.
- Penalty in case that the defendant violates the court order.



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Specific types of TMs

Certification TM

Collective TM



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Certification TMs

- Are capable of distinguishing the products or services certified by the proprietor of the mark, in terms of material, method of manufacture of products or services, quality, accuracy or other characteristics, with the exception of geographical origin
- Purpose of certification marks: the products or services bearing it comply with a given standard (standard) regardless of the identity of the company using the certification mark
- It guarantees of special features of certain products and services
- Rightholder: any natural or legal person not carrying out an activity related to the provision of products or services of the type that is certified: duty of
- Prerequisite: drafting regulation of use (contains information about the certification system, and therefore determines the object of the mark)
- Additional reasons to revoke, cancel, reject



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Collective Marks

- A collective mark distinguishes the goods and services of members of the association which is the proprietor of the mark from those of other undertakings
- Purpose: whoever uses it is a member of the legal entity that is the proprietor of the mark
- It distinguishes products and services of the members of the association (and not the commercial origin)
- Rightholder: cooperatives, organizations of manufacturers, producers, service providers or traders, legal entities under public law (excluding natural persons)
- Geographical origin: the existence of such an indication is accepted
- Prerequisite: drafting regulation of use it contains information on the use and operation of the mark
- Additional reasons to revoke, cancel, reject



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Some cases



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Word Mark - rejection

"GIVE LIFE TO YOUR WARDROBE"

cl. 3 (bleaches, cleaning preparations, soaps, etc.)

Administr. Courts First Inst. A12798 / 2016 25th Trim.

The mark consists of words which, as a **whole**, indicate the **quality of the products it distinguishes**, while it **does not have any additional element** capable of making it as a whole, suitable for distinguishing the applicant's products from the products of other undertakings, therefore has discreet power.



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Word Mark - rejection

"Good Nutrition-Better Life"

cl. 5 (pharmaceutical, veterinary, etc.), cl. 29 (vegetables, jams, dairy, etc.), class 30 (coffee and coffee preparations, bakery products, ice cream, etc.), class 32 (mineral water, fruit juices, etc.), class 41 (education, organization of seminars on nutrition, etc.), class 43 (cafes, restaurants, etc.)

Administr. Courts First Inst. A14853 / 2018 25th Trim.

The mark consists of a **combination of words**, which **can be used in many cases of food products and services related to nutrition**, since they are words common in colloquial Greece and are not presented in such a way as to distinguish the overall final result from the usual way of identifying the relevant products and services and consequently the public to be able to identify the origin of the distinguished products and services. **The mark lacks a distinctive character, even if it was used as a slogan for advertising purposes.**



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Word Mark - rejection

"RESPONSIBLE NEXT TO YOU"

cl. 9 software and computer programs, magnetic and debit cards, PCs, cash registers etc), etc. 16 (checkbooks), class 35 (provision of financial information and forecasts, statistical information in financial, providing advice and information in relation to personnel management, etc.), class 36 (banking, financial services, brokerage, etc.), class 38 (providing access to financial information, telecommunications, access to websites, etc.), etc. 41 (training and education in financial, economic and investment matters), class 42 (search engine operation, investment and related services, class 45 (legal services in financial matters).

Administr. Courts First Inst. A5039 / 2918 33rd

The **words** that make up the mark are **common** and compose a **phrase that conveys a common message** without originality and without the ability to set in motion a certain cognitive process, so that it can be **imprinted in the consciousness of the average consumer** and linked to the applicant's business, so it does not have the discretion to personalize the products and services that come from a certain business.



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Word Mark - rejection

"RAGADES CREAM"

cl. 3 (cosmetics, essential oils, soaps, perfumes, stretch marks), cl.5 (pharmaceutical preparations, hygiene preparations for medical uses)

Administr. Courts First Inst. A5056 / 2018 33rd

The mark consists of the word RAGADES renders the Greek word "stretch marks" in Latin characters and the English word "CREAM" which is easily translated for the Greek consumer public, and is intended to distinguish products of the class. 3 and 5, including creams for the treatment of stretch marks, in which case it has a **descriptive character** of the type and properties of the products to be distinguished and **lacks a distinctive character**.



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Word Mark - approved

"TEN 10"

cl. 33 wines, alcoholic, liqueurs

Administr. Courts First Inst. A10124 / 2016 25th

The mark is **sufficiently specialized** and has a **distinctive power**, since, in common experience, **the number** of which it consists **cannot** be used to **declare the type, quality and other properties of the products** it distinguishes.



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Word Mark - approved

FranchiseAwards

class 16 (printed), 35 (advertising services), 41 (education, entertainment services).

Admin. Court of Appeal 801/2019 14th Trim.

Both in the sense as a whole, and in the sense of each of the words that make it up separately, **Franchise (franchise) and Awards (awards), is not indicative of the type, quality, properties, etc. of the products or services.**

This conclusion is not invalidated by the fact that publications and services of advertising, education, etc. have as a general object the system of sales and promotion of products and services corresponding to the term Franchise, which is part of it.

Both the term Franchise and the term Awards each have the above meaning, but have not been established in the colloquial to declare the distinguished products or services to apply paragraph 1 d)

The mark has a **distinctive character** according to par. 1b), without requiring any originality or inventive indication.



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Word Mark - approved

THE JOY OF MOVEMENT

cl. 5 pharmaceutical, veterinary, hygienic preparations, patches, dietary substances, disinfectants, baby food, etc.

Admin. Court of Appeal 13th Trim.2159 / 2019

Both in the sense as a whole, and in the sense of each of the words that make it up separately is **not indicative of the type, quality and other properties of the products** for which it was submitted. As a whole it consists of an **expression that can not be considered commonplace**, nor widely used, especially in commerce.

Marks consisting of signs or indications which are also used as advertising slogans, quality signs or verbal buying prompts, may not be subject to stricter criteria for assessing distinctive character than other marks.

The mark in the **overall impression it creates (visual, audio, conceptual) is sufficiently specialized and able to be imprinted in the memory of the public and nevertheless has the minimum required distinctive character**, as it can be used to determine the origin of the declared products from the company of the calling company, according to par. 1b).



Μικρο
σκοπήση





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Figurative Mark - rejected

Administr. Courts First Inst. 19205/2018 22o

The signal consists of the combination of 3 words of the English language, "your" = yours, "Tax" = tax, "net" = network, united in one word, which dominate visually and acoustically, and are common words, easily translatable (your tax network) giving a certain meaning perceivable for the average Greek consumer who has the usual information and is reasonably careful and informed (in view of their similarity to the term Taxisnet, which is associated with its information system Ministry of Finance, used by taxpayers) and therefore, even as a single word complex, regardless of whether it is lexically original or not, it is not sufficiently specialized and lacks any discretion. The rest of the words "ACCOUNTING & DEPARTMENT SERVICES LEGAL ADVICE" are **common, descriptive and refer directly to the distinguished services**. And the illustration with the use of orange & gray color and placement of rectangular rectangles can not be considered to have such a distinctive ability, to prevail over its verbal, as it is a secondary element of it.



class 35 (commercial services, advertising, etc.),
class 36 (financial services, insurance, etc.)
class 45 (personal and social services, insurance and legal services).



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Figurative Mark - rejected

Administr. Courts First Inst. 8365/2018 17th

- The mark consists of the foreign languages and common in the colloquial words "Athens Eye Clinic", which are rendered in the Greek language as "Athens Ophthalmological Clinic" and have no special significance for the average Greek consumer.
- The words "**Athens Eye Clinic**" play a dominant role in the overall visual and audible impression, indicating only the type of ophthalmic medical services provided and their geographical origin (Athens), with the result that the mark is identical with the distinguished services. and their geographical origin
- The illustrative element **does not show sufficient originality, and in combination with the above words** they are not a characteristic and idiosyncratic whole, capable of giving a distinctive power.

cl.44





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Figurative Mark - rejected



Administr. Courts First Inst. 4816/20128 17th

The mark is intended to distinguish different forms of spirulina, which is a type of edible seaweed

The word "SPIROULINA", which indicates the type of product to be distinguished, plays a dominant role in the overall display and sound impression of the brand.

Both the addition of the word "platensis", which is a species of the genus spirulina, and the depicting element of a complex of calligraphic Latin letters on a round background with a lace border **are not a characteristic set capable of giving the brand distinctive power and ability to personalize the product** by a specific company.

cl. 5 (pharmaceuticals, dried spirulina tablets), class 29 (tablets, powder and flakesdried spirulina), class 31 (tablets, powder and flakes of dried spirulina).

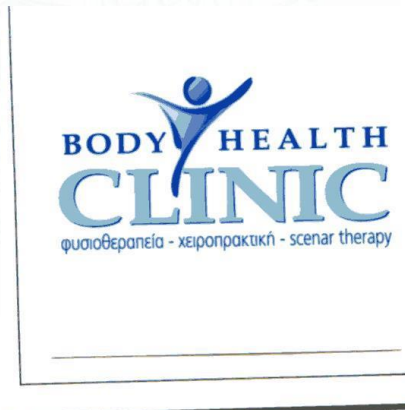


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Figurative Mark - approved

cl. 10 medical tools, 44 medical services
Administr. Courts First Inst. 2876/2016 25th



The signal, although according to its verbal part (BODY HEALTH CLINIC, physiotherapy, chiropractic, scenar therapy) consists of words that indicate the type of services, which is intended to distinguish, **also includes a special illustration and color composition** and specifically the blue color with wavy sides, inverted triangle at the top of which there is a circle, which creates the impression of a human figure in motion.

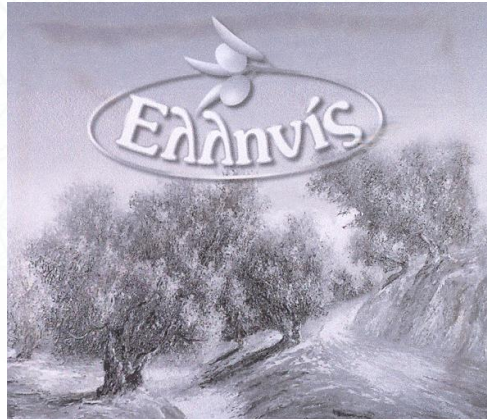
In its overall impression it is sufficiently specialized and has a distinctive power.



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Figurative Mark - approved



Administr. Courts First Inst. 11206/2015 9th

Since the mark was first registered on 17.10.2000 and since then, as it appears from the submitted data, **the products it distinguishes (olive oil) circulate in the Greek market, while it also won an award** in the global label competition FINAT to 2012, regardless of the badge of character, has **acquired a distinctive power due to its use.**



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Rejected

«ΔΩΡΕΑΝ» «ΑΡΙΣΤΟ» «ΑΛΦΑ-ΑΛΦΑ» «ΠΑΜΦΘΗΝΟ»

LEGAL ADVICE SERVICES



Legal services



Sport events



Ice cream



24 HOUR FITNESS



city
↑

Άρθρο 123(1)(γ). Σήματα που περιγράφουν τα χαρακτηριστικά των προϊόντων / υπηρεσιών

Η λέξη FITNESS περιγράφει τον προορισμό των υπηρεσιών που το σήμα διακρίνει (αδυνατίσμα) και δεν μπορεί να γίνει δεκτό για Ινστιτούτα Αισθητικής και Αδυνατίσματος. Η προσθήκη των όρων 24 HOUR δεν προσδίδει διακριτική δύναμη γιατί αναφέρεται σε άλλο χαρακτηριστικό των προσφερόμενων υπηρεσιών (αδυνατίσμα όλο το 24ωρο).

Αντίθετα, το σήμα αυτό μπορεί να γίνει δεκτό για π.χ. συσκευές φωτισμού και θέρμανσης ή για ηλεκτρονικούς υπολογιστές κλπ

PURE

for food & agricultural products, mineral waters, liqueurs



Fruits



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Accepted - distinctive





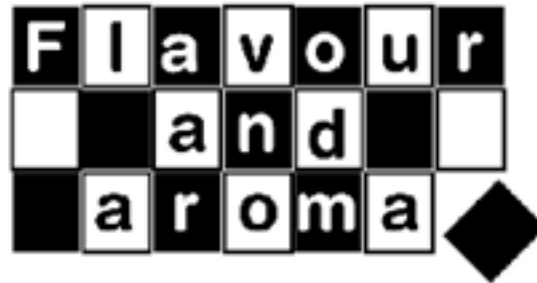
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Accepted



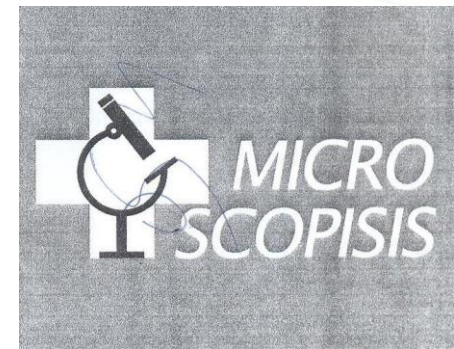
F d
l n
a a
v m
o
r u
A r



Rejected



Flavour
and
Aroma





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Conflicting Marks

FORMA

FORMA PIZZA FORMA TOAST

HELLENIC
LAURUS
NOBILIS
BY GEORGIUO

LAURANOBILIS

Play & Learn
together early english





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Conflicting Marks

Davidoff

B *Durfee*

MANDARINA  DUCK

mandarino



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Thank you!