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Greece

Intellectual Property

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This country-specific Q&A provides an overview of intellectual property laws and regulations applicable in Greece.

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Greece: Intellectual Property

1. What different types of intellectual property rights exist to protect: (a) Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how); (b) Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees); (c) Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

a. Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how);

Protection of inventions that are new, involve an inventive step and are susceptible to industrial application can be obtained via patents. Inventions concerning novel and industrially applicable three-dimensional objects with a definite shape and form, such as tools, instruments, devices, apparatuses, or parts thereof, which are proposed as novel and industrially applicable and capable of giving a solution to a technical problem can be protected as utility models. In the case of patents for medicinal and plant protection products the duration of the patents can be extended for a period of (maximum) 5 years via Supplementary Protection Certificates (SPCs). A 6-month additional protection is also available for pediatrics. The law also provides protection of unregistered rights in confidential information, trade secrets and know-how. Inventions can also be protected under unfair competition law.

b. Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees);

Trademark rights are primarily acquired through registration, which can be done at the national, EU, or international level. However, the use of a sign in

commercial activities may also lead to the creation of a non-registered sign protected under unfair competition laws.

Collective marks can be filed by cooperatives, associations of manufacturers, producers, service providers, traders with legal capacity, and legal entities governed by public law. These marks serve to distinguish the origin of goods or services of their members, including their geographical origin, type, quality, or other properties.

The current Trademark Law 4679/2020, which implements Directive (EU) 2015/2436 into national law, has introduced certification marks. These marks distinguish goods or services certified by the mark's proprietor based on material, manufacturing methods, service performance, quality, accuracy, or other characteristics, except for geographical origin, from those that are not certified.

Protected designations of origin and geographical indications are regarded as quasi-intellectual property rights, meaning they do not create individual rights.

c. Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

Copyright and related rights receive specific legislative protection and do not require registration to be enforced. Both software and databases are protected under copyright law, with databases also benefiting from a sui generis right if they do not qualify for copyright protection. Trade secrets and know-how are safeguarded by Law 4605/2019.

In Greece, industrial designs can be protected at the international, EU, and national levels. Registered international designs, with Greece as a designated state, are treated as valid national registrations. Similarly, registered Community designs are automatically recognized as valid in Greece, and unregistered designs are also protected under EU law.

The topographies of semiconductor products are protected by specific legislation. For types of intellectual property not covered by specific legislation, such as

business names, protection is afforded under the law of unfair competition.

According to the prevailing opinion, the protection provided by unfair competition law operates concurrently with any specific legislative protections.

Regulation (EC) 2100/1994 concerning plant variety rights is directly applicable in Greece. However, national registration of plant varieties is currently not possible due to the absence of a presidential decree, which is necessary to implement Greek plant variety law 1564/1985.

2. What is the duration of each of these intellectual property rights? What procedures exist to extend the life of registered rights in appropriate circumstances?

- For national and secret patents the duration is twenty years from the day following the date of application, subject to the payment of annual fees. For patents of addition, the duration is the unexpired term of the main patent, which means that a patent of addition expires simultaneously with the main patent.
- Patents protecting pharmaceuticals, as well as patents for plant protection products, can be awarded additional protection for a maximum period of 5 years by way of supplementary protection certificates. A further 6-month extension is available for pediatrics.
- Utility models have a duration of 7 years, which is calculated as from the day following the filing of the utility model (or patent in case of conversion) application and are subject to payment of annual fees.
- Semiconductor topography rights remain valid for a non-renewable period of 10 years, which cannot be extended further.
- Plant varieties are valid for 15 years, or 18 years in the case of vine, fruit, and decorative tree species, starting from the date of grant. However, due to the absence of the implementing decree required by Greek plant varieties law, no national plant variety grants are currently available.
- Registered design rights have a maximum duration of 25 years, following the filing of the design application, provided that they are renewed every 5 years.
- Unregistered designs only grant protection for 3 years from the date of their first public disclosure within the EU territory.
- Trademark rights remain valid indefinitely, provided they are renewed every 10 years following the initial application.
- Copyright protection varies by the type of work. Generally, it lasts for 70 years after the death of the

author. For works governed by other national laws, the provisions of those laws are respected, particularly if the governing state is a party to the Berne Convention or based on the principle of reciprocity.

- Database rights last for 15 years from the date of compilation.
- Unregistered marks are protected as long as they remain in use.

3. Who is the first owner of each of these intellectual property rights and is this different for rights created in the course of employment or under a commission?

The inventor or his/her legal successor or assignee (individual, firm or corporate entity) and the joint inventors may apply for patent, utility model or design registration. The first applicant is considered to be the inventor.

If an invention is made by an employee who is bound by an employment contract with the purpose of carrying out inventive activities of the kind concerned, then such invention belongs entirely to the employer. If in such a case the invention is of particular benefit for the employer, the employee will be entitled to an additional reasonable compensation. If an invention is made by an employee where it was not his/her particular task to carry out inventive activities of the kind concerned, but the invention was made by making use of materials, methods or information belonging to the enterprise in which the inventor is employed, 40% of the invention will belong to the employer and 60% to the employee. In such a case the employer will have a preferential right to the exploitation of the invention against payment of compensation to the inventor based on the economic value of the invention and the profit brought by it. If such an invention is made, the inventor must inform the employer accordingly and furnish the necessary data for filing a joint patent application. If the employer does not, in due time inform the inventor in writing that he/she is interested in the filing of a joint application, the employee shall have the right to file a patent application alone and the invention shall then belong exclusively to the employee. If an invention is made by an employee who is not bound to carry out inventive activities of the kind concerned and the invention was not made by making use of materials, methods or information belonging to the enterprise in which the inventor is employed, such invention shall belong exclusively to the employee. Any agreement restricting the rights of an employee as referred to shall be null and void.

In the case of semiconductor topography rights, the first

owner of the rights is the employer, both in case of work made for hire and employee contract.

For copyright, if a work is created by an employee during the course of their employment, the employee is initially considered the owner of both pecuniary and moral rights. However, unless otherwise specified in the contract, pecuniary rights are automatically assigned to the employer. Moral rights remain with the employee, though they hold limited significance. This automatic assignment does not extend to forms of exploitation that were unknown at the time the work was created. In the case of commissioned works, the author retains copyright unless the contract stipulates otherwise.

As regards trademarks, the first owner is the applicant in whose name the trademark is registered.

4. Which of the intellectual property rights described above are registered rights?

Patents, SPCs, utility models, semi-conductor topography, registered designs, plant varieties and trademarks.

5. Who can apply for registration of these intellectual property rights and, briefly, what is the procedure for registration?

Any natural person or legal entity may file for registration of the IP rights in section A. Such person will be the creator, assignee or beneficiary of the right. The registration procedure varies depending on the type of right.

- Patents: There is no substantive examination of patent applications in Greece. Applications are examined as to formalities and any deficiencies must be remedied within 4 months from the application. The Examiner then carries out a search and issues, at the applicant's choice, either a Simple Search Report or a Search Report with Examiner's detailed opinion. The applicant has the right to rephrase the claims, thus limiting the scope of the invention and / or submit comments within a 3-month term. The Examiner then issues a Final Search Report. The patent is granted upon payment of the grant fee and irrespective of the contents of the search report. The patent, together with the Search Report is published 18 months as from the application, or earlier, if the grant fee is paid before the expiry of the 18-month period.
- Utility models: Applications are examined only as to

formalities and, in case of deficiencies, these must be remedied within 4 months from the application. After such time, the utility model is granted.

- Semi-conductor topographies: The application undergoes a formalities' check and, in case of deficiencies, these must be remedied within 4 months as from the application. After such time, the certificate is granted.
- Registered designs: Applications are examined as to formalities and, in case of deficiencies, these must be remedied within 4 months as from the application. After such time, the registered design is granted.
- Plant varieties: The plant variety certificate is to be granted by the Minister of Rural Development following a review and approval by an expert committee. However, due to the absence of the implementing decree required by the Greek plant varieties law, no national plant variety grants are currently available.
- Trademarks: Law 4679/2020 abolished the ex officio examination of relative grounds for refusal. Examiners now only assess applications based on absolute grounds for refusal. Owners of prior rights are notified of the publication of a later mark and may file an opposition with the Trademark Administrative Committee within three months of the acceptance decision being published on the Greek Patent and Trademark Office (OBI) website. If no opposition is filed, the trademark proceeds to registration.
- Copyright: Under Greek law, there is no registration procedure for copyright.

6. How long does the registration procedure usually take?

A smooth application from filing to registration will usually take:

- Patents: 12-16 months.
- Utility models: 6 – 8 months
- Registered designs: 6 -8 months
- Semiconductor topographies: approximately 5 months
- Trademarks: 6-8 months

7. Do third parties have the right to take part in or comment on the registration process?

Third parties may oppose the registration of a trademark on both absolute and relative grounds. However, there is no opposition or analogous procedure for other registered IP rights. Registered IP rights can also be challenged by third parties in the competent courts, with the specific requirements for such challenges varying depending on

the type of IP right.

8. What (if any) steps can the applicant take if registration is refused?

- Patents, SPCs, utility models, semi-conductor topographies, and registered designs: An appeal against the rejecting decision of the Greek Patent and Trademark Office can be submitted before the Council of State (the Supreme Administrative Court), which acts as a first and final instance court.
- Trademarks: The Examiner's decision to reject a trademark can be challenged by filing a recourse action before the Trademark Administrative Committee. The Committee's decision can be further challenged by way of recourse to the Administrative Court of First Instance. Decisions from the First Instance Administrative Court are subject to appeal before the Administrative Court of Appeal. Appeals in cassation may be filed before the Council of State only on specific legal grounds, although these are of very limited practical significance.

9. What are the current application and renewal fees for each of these intellectual property rights?

Patents

Filing fee	50,00
Simple Search Report Fee	300,00
Search Report with Examiner's opinion	467,00
Patent grant fees	150,00
Fee for registering assignments, licenses, status changes	200,00
Annuities	
First year of protection	0
Second	0
Third	20,00
Fourth	50,00
Fifth	80,00
Sixth	90,00
Seventh	100,00
Eighth	115,00
Ninth	140,00
Tenth	190,00
Eleventh	240,00
Twelfth	300,00
Thirteenth	400,00
Fourteenth	500,00
Fifteenth	600,00
Sixteenth	700,00
Seventeenth	800,00
Eighteenth	900,00
Nineteenth	1000,00
Twentieth	1100,00

Utility models

Filing fee	50,00
Utility Model Certificate grant fee	100,00
Fee for registering assignments, licenses, status changes	200,00
Annuities	
First year of protection	0
Second	0
Third	20,00
Fourth	50,00
Fifth	80,00
Sixth	90,00
Seventh	100,00

Semi-conductor topographies: 231 EUR

Registered designs

Filing fee	100,00
Supplementary fee for multiple designs (up to 50)	10,00 - each additional design
Publication fee	30,00
Supplementary publication fee for multiple designs (up to 50)	10,00 - each additional design
Deferred publication fee	30,00
Supplementary deferred publication fee for multiple designs (up to 50)	10,00 - each additional design
Fee for registering assignments, licenses, status changes	100,00
First 5-year period protection fee	-
Renewal fee for second 5-year period	100,00
Renewal fee for third 5-year period	150,00
Renewal fee for fourth 5-year period	200,00
Renewal fee for fifth 5-year period	250,00

Trademarks

Official filing fees (in one class)	100€ (electronically) 120€ (in paper form)
Official fees - for each additional class	20€ per class
Official filing fees for the conversion of an EUTM or IR (in one class)	150€
Official fees - for each additional class	20€ per class
Renewal fee in one class	90€ (electronically) 110€ (in paper form)
Renewal fee - each additional class	20€
Official fees for registering assignments and mergers	90€
Official fees for licenses	90€
Official fees for pledge	40€
Official fees for registering changes of name, address or legal form	No official fees
Limitation of goods / services	No official fees

10. What are the consequences of a failure to pay any renewal fees and what (if any) steps can be taken to remedy a failure to pay renewal fees?

Failure to pay any renewal fees will result in the loss of the relevant IP right. However, the law provides for a grace period of 6 months, within which the IP owner may pay the fee due, with a 50 % fine. As regards lapsed patents, restitution of rights is not provided for by the law, under any circumstances. In the case of trademarks, it must be noted that late renewal will not overturn rights of third parties which were acquired in the meantime.

11. What are the requirements to assign ownership of each of the intellectual property rights described above?

The assignment of registered intellectual property rights must be made by a written agreement. The same applies for the assignment of know-how and copyright. However, in the case of copyright transactions, only the creator has the right to claim the invalidity of a non-written contract.

There are no formal requirements for the assignment of trade secrets. According to the prevailing opinion, company and trade names can only be assigned with the transfer of the business.

12. Is there a requirement to register an assignment of any of these intellectual property rights and, if so, what is the consequence of failing to register?

The assignment of registered intellectual property rights must be recorded at the Greek Patent and Trademark Office (OBI). While the agreement becomes effective between contracting parties on the day of signature, it is only enforceable against third parties upon its recordal. Failure to record the assignment results in relative nullity, protecting third parties who are unaware of the assignment. The assignment of know-how is also compulsory, but only for the contracting party that resides or has its registered seat in Greece.

13. What are the requirements to licence a third party to use each of the intellectual property rights described above?

In general, all intellectual property rights can be freely licensed, exclusively or non-exclusively, following a written agreement. The law on patent protection also provides the possibility of the grant of compulsory licenses under certain circumstances explicitly mentioned in said law.

14. Is there a requirement to register a licence of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Recordal of an IP license is necessary in order for the licensee to claim and enforce its rights against third parties.

15. Are exclusive and non-exclusive licensees given different rights in respect of the enforcement of the licensed IP, and if so, how do those rights differ?

According to the prevailing opinion, non-exclusive licensees generally need the consent of the rights owner to initiate legal proceedings against third parties/infringers.

By virtue of the patent law, the exclusive licensee is entitled to bring an infringement action independently. According to the prevailing view, the licence must have been recorded at the Greek Patent and Trademark Office.

In the case of trademarks, the law expressly distinguishes between exclusive and non-exclusive licensees. An exclusive licensee may independently initiate infringement proceedings without the consent of the proprietor if the trademark owner, after formal notice, does not bring infringement proceedings within a reasonable time period. However, the licensing contract may stipulate otherwise.

16. Are there criminal sanctions for infringement of any intellectual property rights, and if so, what are they and how are they invoked?

- Criminal sanctions are provided for various acts of trademark and copyright infringement. Unfair competition law also includes criminal provisions.
- Trademarks: Article 45 of Law 4679/2020 criminalizes several acts of trademark infringement. The law stipulates the following penalties:
 - General Infringement: Anyone who knowingly uses a mark identical to or confusingly similar to a registered trademark for identical or confusingly similar products, or knowingly circulates, possesses, imports, or exports goods or provides services under another proprietor's mark, or intentionally uses a famous trademark without due cause to exploit or harm its reputation or distinctive character, faces imprisonment of at least six months and a fine of at least six thousand euros. The same penalties apply for:
 - Affixing a sign identical to or confusingly similar to a registered trademark to identical or confusingly similar goods or their packaging.
 - Using the infringing sign on genuine goods intended by the right holder to be marketed as no-name.
 - Removing the trademark from genuine goods and marketing them as no-name goods or under a different mark.
 - Offering, putting on the market, or stocking goods, or offering or supplying services with the infringing sign.
 - Importing or exporting goods under the infringing sign.
 - Using the infringing sign as a trade or company name or part of a trade or company name.
 - Using the infringing sign on business papers and in advertising, including social media.
 - Using the infringing sign in illegitimate comparative advertising.
 - Trademark Counterfeiting: In cases of unlawful use of

identical marks for identical or similar products, if particularly high profits are intended, significant damages are threatened, and the infringement is on a commercial or professional scale, stricter penalties apply: a minimum of two years' imprisonment and a financial penalty between 6,000 to 30,000 euros.

- The criminal prosecution for the aforementioned acts is not initiated ex officio but only after a complaint is filed by the trademark owner.

Copyright: Article 66 of Law 2121/1993 (as amended and in force) criminalizes various acts of copyright infringement. These acts include:

- Unlawful fixation of a work or its copies
- Direct or indirect reproduction, temporary or permanent, in any form, in whole or in part
- Translation, adaptation, alteration, or transformation of the work
- Distribution to the public by sale or other means, or possession with the intent of distributing
- Renting, performing in public, broadcasting by radio, television, or any other means
- Communication to the public by any means
- Importation of copies of a work illegally produced abroad without the author's consent
- Exploitation of works, reproductions, or copies that are the subject of copyright
- Acts against the moral right of the author to decide freely on the publication and presentation of their work to the public without additions or deletions

These acts are punishable by imprisonment of no less than one year and a fine ranging from 2,900 to 15,000 EUR. More severe sanctions apply in cases of professional or commercial-scale infringement, or when the financial gain sought or the damage caused by the infringement is particularly significant.

Greek Law 4481/2017 introduced a new provision to Greek Copyright Law 2121/1993 (Article 66E), establishing a fast, extrajudicial process against online copyright infringement. This new mechanism serves as an administrative "notice and takedown procedure" for online copyright infringements. Under this provision, any primary or secondary right holder, including Collective Management Organizations, whose rights have been infringed, may submit an application to a specially established Committee, known as the "Committee for the Notification of Copyright and Related Rights Infringement on the Internet" (EDPPI).

If the Committee determines that copyright infringement is occurring, it will instruct the recipients of the notification (i.e., Internet Access Providers and possibly

the Hosting Provider and website administrators/owners) to remove the infringing content or disable access to it. The most appropriate technical means will be used, depending on the nature of the infringement. The Committee also sets an administrative penalty for non-compliance with its decision, ranging from 500 to 1,000 EUR per day of non-compliance.

Similarly, criminal sanctions are provided for the infringement of related rights, database rights, unauthorized use of computer programs, and other violations. Criminal prosecution for these infringements takes place ex officio.

- Patents: False marking is criminalized by virtue of Article 17 (7) of Law 1733/1987, according to which whoever places a false statement that the objects in question are protected by patent on products or on their wrapping, or on any kind of commercial documents directed to the public or on other means of publicising and advertising, will be punished by up to one year of imprisonment or by monetary penalty or by both penalties.
- In Greece, the infringement of plant variety rights is not considered a criminal offense.
- In cases of IP infringement, general criminal law provisions, such as those for forgery and/or fraud (Articles 216 and 386 of the Greek Penal Code), may also be applicable depending on the facts of each case.

17. What other enforcement options are available for each of the intellectual property rights described above? For example, civil court proceedings, intellectual property office proceedings, administrative proceedings, alternative dispute resolution.

Intellectual property rights are primarily enforced through civil proceedings. Additionally, trademark owners can seek protection via administrative proceedings before the Administrative Trademark Committee and the Administrative Courts, as previously mentioned under section 8. Arbitration and mediation are also available options for resolving intellectual property rights disputes. Arbitration rules are outlined in the Greek Code of Civil Procedure (Articles 867 and following). These procedures have not been extensively tested in Greece. Law 4640/2019 mandates mediation for legal disputes involving patent, trademark, and industrial design infringements, introducing a compulsory initial mediation session before the case is heard. Proof of the lawyer's compliance with informing the client about the mediation

option in writing is now a prerequisite for the lawsuit's admissibility under the new provisions. Law 4679/2020 also allows for voluntary mediation proceedings before the Trademark Committee.

18. What is the length and cost of such procedures?

- Proceedings before the Greek Patent and Trademark Office (OBI) and the Administrative Courts: Adversarial proceedings before the Greek Patent and Trademark Office typically take 9-12 months to reach a decision. Proceedings before the Administrative Courts of First Instance usually last 2-3 years, while those before the Court of Appeal are significantly shorter, taking 12-14 months.
- Civil proceedings: It generally takes 12-16 months to obtain a first instance decision. Appeal proceedings usually last 8-10 months.
- Criminal proceedings: The duration of criminal proceedings varies based on the type and severity of the offense and the competent court. Misdemeanor proceedings usually take 2-3 years, with appeal proceedings lasting 10-20 months. Felony cases take significantly longer.

The costs of these proceedings depend on the case's circumstances and complexity.

19. Where court action is available, please provide details of which court(s) have jurisdiction, how to start proceedings, the basics of the procedure, the time to trial, the format of the trial, the time to judgment and award of relief and whether any appeal is available.

Greece has two specialised EU patent and trademark courts based in Athens and Thessaloniki. Legal theory and case law agree in that the competence of the specialised courts in Athens and Thessaloniki is reserved for main actions, but not for temporary restraining orders or injunctions. Consequently, the competent courts for preliminary proceedings are the local courts, unless the Athens and Thessaloniki's specialised courts are competent *ratione loci*.

The aforementioned specialised divisions also adjudicate civil cases relating to utility models, industrial designs, supplementary protection certificates and generally, related matters of IP law. The first instance courts of Athens, Thessaloniki and Piraeus have a special division for copyright cases.

The civil action starts with the filing of the lawsuit with the competent first-instance court. According to the Civil Procedure Rules, strict timeframes for proceedings are in place. The lawsuit must be served to the defendant within 30 days from filing, if a Greek resident, and within 60 days from filing if a non-Greek resident. The parties are obliged to file their written arguments and all relevant evidence within 90 days of the expiry of the deadline for officially serving the lawsuit. The timeframe is 120 days where the defendant is a non-Greek resident. Both parties must then file their rebuttal arguments within 15 days. Each party has the right to submit up to five sworn affidavits in support of its own arguments and up to three sworn affidavits to rebut adverse party's arguments. As a rule, the court will then hear the case without witnesses. If the court deems it absolutely necessary, it has the option of summoning one of the affiants to testify in court. Therefore, the hearing in a main infringement proceeding takes place approximately five months after the filing of the action and a decision may be expected after approximately six months. According to the Greek law there are separate procedures before the competent civil courts for patent validity challenges and infringement actions. Consequently, full or partial nullity actions can be made in the form of an independent legal action or a counterclaim within the framework of the infringement proceedings.

The first instance decision may be appealed before the Court of Appeal within 30 days as of the notification of the decision or within 60 days as of its notification, if the party resides abroad.

If no notification of the decision has occurred, the term is two years from the publication of the decision. An appeal in cassation, which can be filed only on specific points of law, may be brought before the Supreme Court (Areios Pagos).

20. What customs procedures are available to stop the import and/or export of infringing goods?

The EU Customs Regulation (EU) No. 608/2013 is directly applicable in Greece and outlines the domestic customs intervention procedure. Owners of Greek registered IP rights can file a national application for action, while owners of intellectual property rights based on Union law producing effects throughout the Union can file a Union application for action in any member state. This request asks the customs authorities of that member state, as well as those of other member states, to take action within their respective territories.

21. Are any non-court enforcement options or dispute resolution mechanisms mandatory in respect of intellectual property disputes in any circumstances? If so, please provide details.

As previously mentioned under section 17, disputes concerning the infringement of trademarks, patents, and industrial designs initiated before a civil court are subject to "mandatory mediation." The hearing of the case will be invalid if the mandatory mediation process stipulated by law has not been followed.

22. What options are available to settle intellectual property disputes in your jurisdiction?

Out-of-court settlement is possible, even after the introduction of court proceedings. If the agreement is duly submitted to court, it may take the form and obtain the status of a judicial decision.

Regarding compulsory mediation please see above (17)

In the case of case of criminal offences prosecuted ex officio, the parties do not have the power to dispose of the dispute. Nevertheless, the court will de facto take into account a settlement agreement.

23. What is required to establish infringement of each of the intellectual property rights described above? What evidence is necessary in this context?

To establish infringement of any intellectual property right, the plaintiff must establish its rights and prove all facts of the case that amount to a prohibited act;

In particular:

- Patents, utility models: Greek law accepts in general the doctrine of equivalence, according to which due account has to be taken of any element that is equivalent to an element specified in the patent claims. The same approach is also applied for plant varieties and semiconductor topographies.
- Registered designs: In order to establish infringement, the design owner must show that the allegedly infringing design produces on the informed user a similar impression. According to the law, in assessing the scope of protection, the degree of freedom of the designer in developing a design in relation to the technical requirements must be taken into

consideration.

- Trademarks and unregistered marks: In order to establish infringement, the following must be established:
 - Identity or similarity of the signs under comparison
 - Identity or similarity of the products respectively covered
 - Likelihood of confusion (including likelihood of association)
 - In the case of famous marks, the establishment of a link between the famous mark and the later sign as well as the use of the later mark without just cause, of the posterior mark would imply unfair advantage or cause damage to the distinctive character or the reputation of the earlier mark
- Copyright: Violation of the owner's exclusive rights, such as unauthorized reproduction, adaptation, distribution, lending etc.
- Trade secrets: the claimant must show that the acquisition, usage, or disclosure of a trade secret was unlawful.

The rights holder must prove its related rights (e.g. with registration certificates, invoices, samples of products, photos, advertising/marketing material etc) as well as the infringer's actions (with samples or photos of infringing goods, web site screen shots, etc). Survey evidence is useful for proving establishment of a mark in the market and extent of its use as well as the risk of confusion among consumers. Written affidavits, witness testimonies, market surveys and expert opinions/testimonies can also be used.

24. How does the court acquire any necessary information (fact or technical) and in what circumstances does it do so? In particular a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence? b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence?

The judges who serve in the two specialised EU

trademark and patent courts, which are based in Athens and Thessaloniki, have received special training in IP matters before their appointment to the bench. However, they have only legal and not technical background, which means that they do not have sufficient expertise to deal with complex technical issues. This is the reason why opinions of technical experts are of paramount importance in the assessment of the facts as well as in the outcome of the case.

b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

Directive 2004/48 on the enforcement of IP rights has been fully transposed into Greek law. Said provisions assist in obtaining and preserving evidence either during summary or ordinary proceedings. Theoretically, provisional measures to preserve evidence may be taken without the other party having been notified/heard. However, as a rule, Greek Courts are rather reluctant to order such measures *ex parte*.

The Court may request and order that the defendant produces evidence held in its possession and that it communicates banking and financial documents. In issuing such order, courts take into account the need to preserve legitimate trade secrets of the defendant as well as the principle of proportionality.

In the context of criminal cases, the Public Prosecutor and the investigating authorities are responsible for collecting and preserving evidence.

25. How is information and evidence submitted to the court scrutinised? For example, is cross-examination available and if so, how frequently is it employed in practice?

- Witness testimonies are submitted in the form of sworn affidavits. At this stage, cross-examination is not possible. Each party may present up to five sworn affidavits in support of its argumentation and three sworn affidavits in rebuttal. After the assessment of the affidavits by the judge, a formal court hearing takes place and the judge decides the case on the basis of the submitted evidence. It is in the judge's discretion to select one of the persons who provided a sworn affidavit to provide an oral testimony before the court in case the judge deems this is absolutely necessary. In such cases cross examination of witnesses is permitted. The system does not apply to preliminary injunction proceedings where witnesses (one from each side) are examined and cross-

examined during the hearing. Sworn affidavits and/or expert opinions are also available in preliminary injunction proceedings.

- In criminal proceedings, witnesses are examined and cross-examined during the hearing. The case file is managed by the prosecuting authorities. However, parties to the proceedings may present documents and related evidence to the authorities or the court before or during trial.
- In administrative proceedings, the case file is managed by the administrative authorities. However, parties to the proceedings can present relevant documents and evidence to the authorities or the court either at pretrial or during the trial. Witnesses are very rarely examined during the hearing in administrative proceedings. Sworn affidavits before a Justice of the Peace, a Notary Public or the Greek Consul are acceptable, provided the other party has been formally notified in advance.

26. What defences to infringement are available?

Patents, utility models

- The most common defence in infringement cases are invalidity objections and nullity actions. Full or partial nullity declarations can be either made by way of an independent legal action or a counterclaim during the infringement proceedings.
- Defendants may also claim that they or their assignors had already conceived and exploited the subject matter of the invention at the time of filing of the patent and that they have used it for the purposes of their business.

Further possible defences are:

- Allegation that the patent has been used for experimental or research purposes.
- Exhaustion of patent rights.
- Allegation concerning the abusive exercise of the right holder's substantive rights.
- Injunction and/or damages claims are statute barred 5 years after the date the patentee became aware of the infringement or of the damage concerned and of the person of the infringer, or in any case twenty years after the date on which the infringement was committed.
- Acquiescence of the right holder.

Registered designs

The most common defense in industrial design infringement cases are invalidity objections and nullity actions.

Further possible defenses are:

- Use of the design for private, non-commercial purposes, and/or use for experimental or research purposes as well as reproduction of the design for providing examples or for teaching purposes.
- Exhaustion of design rights.
- Injunction and/or damages claims are statute barred 5 years after the date the patentee became aware of the infringement or of the damage concerned and of the person of the infringer, or in any case twenty years after the date on which the infringement was committed.
- Acquiescence of the right holder.

Semiconductor topographies

The above defenses also apply to semiconductor topographies infringement cases.

Trademarks

In civil law cases, the defendant, may inter alia invoke the following defenses:

- There is no likelihood of confusion between the marks.
- The earlier mark is not famous.
- The sign is not used as a trademark but in a descriptive way.
- The use of the mark by the plaintiff is misleading.
- The defendant has a prior right (e.g. trademark, non-registered mark, tradename).
- Acquiescence by the proprietor of the earlier mark in the use of the infringing mark.
- Limitation of a trademark right.
- Exhaustion of trademark rights.
- Time bar/Prescription.
- Non-use of the earlier mark that forms the basis of the claim.

Unfair competition

In addition to asserting lack of violation of established business morals, the defendant may claim the following:

- Time-bar/Prescription.
- Consent of the plaintiff.
- Usual/acceptable of the defendant's behavior.
- Self-defense.
- Abuse of rights.
- Acquiescence.

Trade secrets

The defendant, may, inter alia, invoke the following

defenses:

- The disclosed information was not confidential or proprietary.
- The disclosed information was in the public domain or have become lawfully publicly available.
- The information was communicated under obligation to a judicial, administrative or regulatory authority.

Copyright

The defendant, may, inter alia, invoke:

- Lack of infringement.
- Lack of originality of the claimant's work.
- The copyright is exhausted.
- Limitations to copyright under Greek copyright law, such as private reproduction, quotation of extracts, use in school textbooks and anthologies, use for teaching and related purposes.

27. Who can challenge each of the intellectual property rights described above?

Any natural person or legal entity having a legitimate interest may challenge the IP rights described in questions 1-3.

28. When may a challenge to these intellectual property rights be made (e.g. during any registration process or at any time during the subsistence of the right)?

Trademarks may be challenged either, prior to registration, by way of an opposition or, after registration, by way of an invalidity or revocation action.

The other registered rights described in section A may only be challenged after they are registered.

Non-registered IP rights can be challenged at any time during the subsistence of the right.

29. Briefly, what is the forum and the procedure for challenging each of these intellectual property rights and what are the grounds for a finding of invalidity of each of these intellectual property rights?

- Patents, utility models and industrial designs can be challenged before the civil courts via a nullity action or as a defense in infringement proceedings.

Patent nullity grounds: (a) the invention does not meet the requirements of novelty, industrial applicability and/or involving an inventive step, (b) the disclosure contained in the patent is insufficient for the patent to be carried out by the person skilled in the art, (c) the subject matter of the patent is excluded from patentability, or it goes beyond the content of protection as requested in the application, and (d) the patentee is not the true inventor or inventor's successor.

Utility model nullity grounds: (a) the utility model is not new or industrially applicable or a three-dimensional object with definite shape and form, and/or capable of giving a solution to a technical problem, and (b) the right holder is not the true inventor or inventor's successor.

Semiconductor topographies nullity grounds: the right does not meet the requirements of not being common in the semiconductors industry.

Registered design nullity grounds: (a) the design or model is not new or of individual character, (b) the form of the product or its interconnection with other products is not appropriate for protection because they are dictated solely by a technical function or because they are linking elements, (c) exploitation or publication is contrary to public order or established morals and (d) the holder of the registered design is not the true designer or designer's successor.

- Trademarks: The forum for challenging trademarks is the Greek Patent and Trademark Office (Administrative Trademark Committee). In opposition proceedings, recourses/appeals are heard by the Administrative Courts. Conversely, in invalidity/revocation proceedings, the Committee's decisions are subject to appeal before the civil courts, not the administrative courts. It is also possible to file a counterclaim for declaration of invalidity or revocation of a mark in infringement proceedings. Such a counterclaim may be filed via interim measures, but the resulting declaration of invalidity or revocation of the mark will be temporary.

The validity of registered marks may be challenged in whole or in part on either absolute or relative grounds.

Absolute grounds.

The following signs cannot be protected as trademarks:

- signs that cannot constitute trademarks in accordance with Article 2 paragraph 1 of the Trademark Law;
- signs that are devoid of distinctive character;
- signs that consist exclusively of signs or indications

that serve in trade to designate characteristics of the relevant goods or services;

- signs that consist exclusively of signs or indications that have become customary to designate the relevant goods or services in the current language, or in the bona fide and established practices of the trade;
- signs that consist exclusively of a shape or another feature imposed by the nature of the goods or needed to obtain a technical result or which gives substantial value to the goods;
- signs that are contrary to public policy or morality;
- signs that may deceive the public – for instance, as to the nature, quality or geographical origin of the relevant goods or services;
- signs that have not been authorised for use by the competent authorities and that are to be refused pursuant to Article 6ter of the Paris Convention; and
- signs that include badges, emblems or coats of arms other than those covered by Article 6ter of the Paris Convention, which are of public interest, unless the appropriate authorities have granted consent to the registration;
- signs excluded from registration under Greek law, EU law or international agreements in which the European Union or Greece is a party, conferring protection to designations of origin and geographical indications;
- signs excluded from registration under relevant legislation conferring protection to traditional terms for wine and to traditional specialities guaranteed;
- signs that consist of, or reproduce in their essential elements, the denomination of a previous registered plant variety, according to relevant legislation;
- signs of high symbolic value;
- Signs filed in bad faith;

Relative grounds.

A sign may not be adopted as a trademark if it is:

- identical to an earlier trademark and both marks cover identical goods or services;
- identical or similar to an earlier trademark, there is identity or similarity of the goods or services respectively covered and there exists a likelihood of confusion (including the likelihood of association) to consumers; and
- identical or similar to an earlier trademark which has acquired a reputation, irrespective of the similarity of goods or services respectively covered, when the use of the later mark, without due cause, would take unfair advantage of or be detrimental to the distinctive character or repute of the earlier trademark.

In the context of the above, 'earlier trademarks' include:

- earlier registered national trademarks, EU trademarks and trademarks registered internationally and effective in Greece;
- earlier applications for trademark stated above, subject to registration; and
- well-known marks within the meaning of Article 6bis of the Paris Convention.

A trademark application can also be challenged on relative grounds if it:

- conflicts with a prior distinctive sign, used in the course of trade, which gives the owner the right to prohibit the use of any later trademark;
- conflicts with an earlier right of personality or a prior right of intellectual or industrial property other than those regulated by trademark law; and
- is capable of causing confusion with a trademark which has been registered and used abroad at the time of filing the application, provided that it was made in bad faith by the applicant.

Further grounds for refusal or invalidation are provided in case of unauthorised trademark filing by an agent or representative, and of geographical indications and designations of origin under specified circumstances.

A trademark will not be declared invalid, even if it was devoid of distinctive character, descriptive or generic at the time of its filing, if such grounds no longer exist at the time of filing a petition for the declaration of invalidity or of a related counterclaim. This is because the trademark may have since acquired distinctive character through use.

Trademarks can be revoked

- If, within a period of five years, as of the registration of the mark, the proprietor has not put the mark into genuine use for the products or services covered or if such use has been suspended for an uninterrupted period of five years;
- if, as a consequence of the acts of the proprietor, the trademark has become the common name for a product or service for which it is registered and the proprietor has not taken sufficient measures to prevent this; or
- if, as a consequence of its use by the proprietor or with his consent, the trademark has become misleading, in particular, as to the nature, quality or geographical origin of the goods and services for which it is registered.

Unregistered designs and marks may be challenged before the civil courts, typically as a defense in

infringement proceedings. The main grounds for invalidating such rights include a lack of distinctive character, descriptiveness or deceptiveness as to the nature, quality or geographical origin of the goods or services, and non-use in trade.

30. Are there any other methods to remove or limit the effect of any of the intellectual property rights described above, for example, declaratory relief or licences of right?

Declaratory relief is generally not available in Greece.

Compulsory licenses are allowed, in connection with invention-related rights on specific grounds.

31. What remedies (both interim and final) are available for infringement of each of the intellectual property rights described above?

Both interim and final relief measures are available for intellectual property rights infringement, which are broadly similar for all types of IP rights.

In the context of injunctive relief, the rights holder is entitled to claim, inter alia:

- Temporary cessation of the infringement
- Temporary withdrawal of the infringing products from the market;
- Provisional seizure of infringing products, and
- Publication of the injunction order in the press and/or online.

The related decision may also provide for penalties (in the form of financial penalties and personal incarceration) in case of contempt of the decision and for each violation of its provisions.

It is worth noting that the rights holder may request the delivery of information (e.g. on sales figures, channels of distribution of the infringing products) and measures to preserve evidence.

A Petition for injunction is granted if the element of urgency is prevalent in the circumstances of a particular case.

Upon the filing of the injunction application, the rights holder may apply for a temporary restraining order (TRO), which is granted in cases where the petitioner proves the existence of a prima facie serious infringement as a matter of exceptional urgency. The TRO usually remains

in force until the Petition for Injunction hearing takes place but can be extended until the issuance of the decision on the injunction application.

In the context of the main infringement action, the rights holder may request:

- Permanent cessation of the infringing activities
- Desisting from future infringing activity;
- Destruction or confiscation of the infringing products;
- Moral and/or material damages, and
- Publication of a summary of the judgement in the press or online, at the expense of the infringer.
- A threat of penalties (in the form of financial penalties and personal incarceration) should the respondent fail to comply with the above.

In the calculation of damages, the negative economic consequences suffered by the rights holder, including loss of profits, as well as profits made by the infringer, must be taken into account.

Damages may also be calculated on the basis of hypothetical royalties.

32. What are the costs of enforcement

proceedings and is any kind of costs recovery available for successful parties? Is there a procedural mechanism enabling or requiring security for costs?

The involvement of a variety of factors, such as the complexity of the case, duration of the proceedings, involvement of technical experts (mainly in patent cases) and translation costs makes the estimation of the costs of IP enforcement proceedings very difficult.

Typically, the losing party pays the costs of the successful party in relation to the aspects of the claim that were lost. Costs recovery is available for successful parties. However, said costs are ordered at the court's discretion and, in most cases, only a relatively small portion of the actual costs incurred in litigation is awarded.

Civil Procedure rules allow litigants to seek security for costs. However, said provisions are rarely invoked and courts are reluctant to accept relevant requests.

Costs are not recovered in criminal and administrative proceedings. In the latter case, only official fees can be recovered.

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