

## Montenegro: Intellectual Property

### New Trademark Law

The new Montenegrin Trademark Law (“Official Gazette of RM”, no. 72/2010) (“**TM Law**”) entered into force on 16 December 2010. The main novelties introduced by the TM Law are presented below.

The main novelties concern the trademark registration procedure, which is significantly simplified. Substantive examination of the merits of an application for registration of TM is abandoned. Upon receipt of an application, the Montenegrin Intellectual Property Bureau (“IP Bureau”) will examine *ex officio* only whether the trademark is non-distinctive, descriptive, generic or contrary to the public interests or morality and will refuse registration if any of these grounds is found to exist. If not, the registration application is published in the Official Gazette (previously, only the decision approving registration was published). The application can be challenged by interested parties within 90 days from its publication. The novelty is that within this deadline, any third party may also challenge the application based on the above-mentioned grounds that are examined by the IP Bureau *ex officio*.

Any decision of the IP Bureau can be appealed to the Ministry of Economy.

The Community Trademark, registered with OHIM is considered earlier trademark, The owner of the Community Trademark protected through OHIM can challenge the application for registration of a trademark in Montenegro, provided that she applies for registration in Montenegro prior to submitting the challenge (even if such application is later than the challenged application).

The new TM Law regulates the procedure for recognition of trademarks registered with the Serbian Bureau for Intellectual Property prior to 28 May 2008 when the Montenegrin IP Bureau commenced its operation. Previously, such trademarks were deemed automatically recognized in Montenegro until the expiry of their registration period. By virtue of the new provisions, such trademarks will have to be registered in in Montenegro until 16 December 2011, unless certain filings with respect to such trademarks had been made with the IP Bureau prior to the entering into force of the TM Law.

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