Law No. 23 for 2010 concerning commercial activity
Book Ten

Marks and commercial data

Section One
Trade Marks
Chapter One: General Provisions

Article (1228)
Identification
The trade mark is what distinguishes a product or service from another; it includes particularly the names which take a distinguished form, signatures, words, letters, numbers, drawings and symbols, commercial names, stamps, seals, photos, inscriptions and collection of colors that configure a distinguished form.
The trade mark may be composed of more than on item from the mentioned items and the mark may be audio.

Article (1229)
Establishing the right of property
Whoever registers a trade mark is considered its owner rather than others according this section and he has the right of monopolizing and using products o
r commodities or services that the mark was registered for its sake. It will always have the right in all procedures including the necessary reserve for protecting the trade mark. Ownership of the mark should not be litigated if used continuously at least 5 years from dated of its registration without litigation in its respect by the person who registered it.

Article (1230)
Trade marks' office
An office will be established in the competent sector to be named trade marks' office for accepting applications, keeping records and granting certificates prove registration according the provisions of this section.

Article (1231)
The right of registering the mark
Each ordinary person or corporate and the companies in the stage of establishment have the right to submit application for registering a trade mark to trade marks' office according the provisions of this section.
This right is also evidenced to the foreigners who have a center for their actual activity in any member countries of the international organization for intellectual property or the country which deals with Libya with reciprocity.

Article (1232)
Registration contraindications
The following will not be registered as trade mark or as an element of it:

1. The marks which are free from any distinguished feature or composed of expressions or data which are only for nomination that the tradition uses on the products or the drawing or its normal photos.
2. The marks which were previously registered or which were similar as well as logos and trade marks owned by others or it is proved counterfeited or forged.
3. The marks which are immoral or violating the public system
4. Public logos, media and other special symbols of the state or other countries or provisional or international organizations and any other imitation.
5. Marks which are identical or similar to the symbols of religious nature.
6. Symbols of the red-crescent or the red-cross or other similar symbols and the marks that will be imitated.
7. Names and photos of others unless agreed on it use.
8. Data concerning honors degrees which registration's applicant did not prove that it is obtained.
9. Geographical names and indications which mislead others or causes confusion or which include false data on the resource of commodities and services or on its other features.
10. Marks and official stamps of countries which treat Libya the same treatment and which concern its control on commodities and services or its warranty in case the trade mark which includes those marks and stamps will be used in commodities and services of the same kind or from similar kind.

Article (1233)
Historical landmarks
The engineering drawings of buildings and other historical landmarks as well as the different technical works should not have trade mark without permission from the owner of the right.
If the engineering drawing is a historical landmark which have the advantage of fame relates to the source of commodity or service, any person may use it as a mark provided that is amended to enable it to be distinguished from other marks which bear the same historical landmark.

Article (1234)
The famous mark
The mark is considered famous if it reminds the public with the product or service which it represents even they were its customers.
But if the mark is known between its customers only, it will not be a famous mark.

Article (1235)
Protection of the famous mark
The famous mark in Libya is protected for its owner even if not legally filed and he may object for being filed or will request invalidation of registration of a mark to be similar to it during 5 years from date of filing the mark if that was in good faith.
He may claim compensation from harm arising from illegal competition; criminal proceeding is commenced on condition of the forgery of the famous mark or its imitation in bad faith while filing it according the provisions of law in Libya.

Article (1236)
Refusal of registration
Trade marks office will refuse registration of a mark which is identical to a famous mark.
The same provision is applied on registration applications of commodities or services that are not similar to those utilized for distinguishing the famous mark if utilization of the mark on commodities and services which are not similar will compel others to believe that there is a relation between the owner of the famous mark and those commodities and services.

Article (1237)
Collective Mark
Any corporate body or collective entity can file a collective trade mark that distinguishes a product or service for collective persons if all of them have not a private commercial activity and each member in this entity have the right to use the collective mark.
The collective mark will be registered after this entity will specify the conditions organizing the joint utilization particularly in respect of guaranteeing the type of product, rights and commitments of members and penalties consequent to the utilization of the collective trade mark without considering the agreed upon conditions.

Article (1238)
Quality mark
The licensed parties from the competent authorities for exercising control of products or its inspection should register marks concerning evidence of the control procedure or inspection of the products in respect of its source or components or method of its production or its features or actuality or any other speciality to distinguish it.
The owner of the mark permits others to use it according the conditions which he specifies and he has also the right to withdraw it and its use after withdrawal is considered illegal. The provisions stipulated in this book will be applied on the offender.

Article (1239)
Interrelated marks
If the marks owned by one person are identical or similar and specialized for the goods or products from the same type or from identical type, the marks will be considered interrelated.
The interrelation includes the mark and its elements which have distinguished features which require registration separately.

Chapter Two: Procedures for registration, publicity and cancellation

Article (1240)
Registration's application
Application for registration of marks is submitted to trade mark office according the legally established status and conditions.

Article (1241)
Extent of registration
Registration of a mark for one category or more of the categories of products or services is in accordance with this section.

Article (1242)
The scope of the mark
The legal protection of the mark includes the products and services mentioned in the application for filing as well as the similar products and services.
The products and services are considered similar if converged to its function or its use or the public will have the impression that it is from the same source.

Article (1243)
Priority for registration
If an application for registration of any mark is filed in any member country of the members of the international organization of intellectual property or which treat Libya with reciprocity, the applicant during the six months subsequent to date for submission of application may apply to the trade marks office in Libya with similar application concerning the same mark and will be applicable on the same products and services which are included in the previous application according the conditions and status stipulated in this section and the executive rules stipulated in article (1270); and in this case priority will be in accordance with the date of submission of the first application in the foreign country.

Article (1244)
Multiple applications for registration
If two persons or more applied for registration of the same mark or similar marks on one category of products or services at the same time, the procedures will be suspended until one of them submits a formal waiver from the persons in dispute or enforceable provision possessing the strength of res adjudicate.

Article (1245)
Additional conditions
The trade marks office should decide any necessary restrictions and amendment to demonstrate and clarify the mark to avoid confusion with any other registered mark or an application for its registration is filed.
In case of refusal or acceptance pending a condition, the office should notify the applicant in writing during 30 days from date of issuance with registered letter for reasons stating the facts concerning the facts for that.
If the applicant did not implement the conditions of the office during 6 months, he is considered that he assigns his request.

Article (1246)
Grievance from decision
The applicant my appeal from the decision of the trade marks office during 30 days from date of notification and this duration is applied even if the applicant refrained from receiving the notification.

A committee which is formed by the competent secretary will consider the grievances and appeals on its decisions will be before the administrative judicial departments in the courts of appeal.
The executive rules stipulated in article (1270) will specify the bases for forming the committee and the procedures for submitting appeals and its consideration.

Article (1247)
Publication of the mark
The trade marks registration office in case of acceptance of the mark should publish it according the provisions of this section.
Any body who has interest may object on registering the mark with notification to be directed to the trade marks office including the reasons for objection on the time specified in the executive rules stipulated in article (1270).
The office should notify the applicant with copy of the letter during the period specified in the executive rules stipulated in article (1270), otherwise he is considered that he assigns his request.
The office will issue decision on the objection referred to in the second paragraph of this article after the testimony of the disputed parties; and may include in the decision for acceptance the necessary conditions for registration of the mark.
Appeal on the office's decision may be before the administrative judicial departments in the courts of appeal.

Article (1248)
Registration of mark
The office will issue decision for registering the mark and registration will be effective from date of submission of the application.
The registration should be published according the method established in the executive rules stipulated in article (1270).

Article (1249)
Certificate of registration of mark
The office grants the owner of the registered mark a certificate with the following data:
1. The sequence number of the mark,
2. Date of application and date of registration
3. The commercial name or name and surname of the owner of the mark, place of residence and nationality
4. Identical copy of the mark
5. Statement of products or services for which the mark is assigned

Article (1250)
Amendments in the mark
The owner of the registered mark may request any amendment to the mark which does not affect its essential identity fundamentally.
He may also request any amendment by omission without addition on the details of the product concerning the mark. The decision is issued for acceptance or refusal of the amendment according the established conditions of decisions for acceptance of the

original registration. The provisions established for objection, grievance, appeal and publication of these decisions will be applied in this respect.

Article (1251)
Seeing the mark
Each person may request to view the registered marks or to obtain extracts or copies according the rules, procedures and fees which are specified in the executive rules stipulated in article (1270).

Chapter Three: Disposal of the brand (mark)

Article (1252)
Disposal of the mark independently
Ownership of the brand may be transferred or mortgaged or the right of utilization is established or detained with the commercial place or the activity's project that utilizes the mark in distinguishing products and services or without it.
In case the mark is individually transferred, the transferrer and transferee should take the necessary procedures to protect the other with the means stated in the executive rules.

Article (1253)
Extent of action
Disposal of ownership of the commercial place or activity's project includes the registered marks in the name of the person who transferred ownership that can be considered of close interrelation with the place or project unless agreed otherwise.
If the ownership of the commercial place or project without the mark, the person who transferred ownership may continue producing the same products that the mark was registered for its sake and to trade in it unless agreed otherwise.

Article (1254)
Partial transfer
In cases in which the mark is transferred to others, the transference should not be partial or related with some products or service which the transferred mark includes without the other part on the same category or similar category.
Transfer should not be geographically specified but transfer should include all the state's region.

Article (1255)
Amount for transfer of the mark
A specified amount or specific percentage from the volume of dealings should be against transfer of the mark or its substitution and the two parties are free to specify payment on installments or one time.
The transfer contract and exploitation of mark organizes the method of organization of its additional value after termination of the contract between the two parties.

Article (1256)
Argumentation
Ownership transfer of mark or establishing the right of utilization or its mortgage will have no argument on others except after indication in the register and its publication with the methods established in the executive rules of this law.

Article (1257)
Period for protection
The period for protection is consequent to registration of the mark for 10 years and it is extended for a period or similar periods according the request of the concerned in each time during the last year of the period for protection.
The concerned may submit an application to renew the period of protection after expiry of that period with maximum 6 months; otherwise, the trade marks office will cancel it.
The trade mark may be re-registered to its owner and not others after its cancellation during 3 years from date of cancellation according to the status and with the same procedures established for registration.

Article (1258)
Cancellation of mark
The court of first instance will order cancellation of the mark in accordance with an application of the concerned if it proves that the mark was not utilized seriously for a period of 5 consecutive years except if the owner of the mark submitted justification that it was not utilized.
The mark should not be re- registered except after 3 years from date of cancellation.

Article (1259)
Re-registration
The mark may be registered to owner's right immediately after cancellation if its cancellation was for implementing a final judicial provision for its registration without justification.

Article (1260)
Registration in bad faith
If the mark was registered in bad faith such as exploitation of previous dealing relations between the concerned or anticipated the results of negotiations between them, the owner will claim cancellation.

Article (1261)
Publication of cancellation and renewal
Cancellation or renewal of registration will be published according the method established in the executive rules of this law.

Article (1262)
Registration corrections
The court of first instance according an application of the concerned will judge addition of any data that he omitted to record in the register or recorded erroneously or by

omission or amendment of any data stated in the register if it was not identical to reality.
Trade marks office should issue order from the judge of urgent issues to make the corrections stated in the previous paragraph.

Chapter Four
Penalties

Article (1263)
Forgery of mark
Imprisonment for a period not exceeding two years and a fine of not less than LD. 1,000 and not more than LD. 10,000 or one of the two penalties will be imposed for the following deeds:
1. For forgery of the mark that was registered in accordance with law.
2. To set on his products a mark that is owned by others in bad faith.
3. To sell or offer for sale or circulation or possessed for the purpose of selling or imported for the purpose of trading a forged mark or products on which there is forged mark and he is aware of that.

Article (1264)
Imitation of the mark
The same penalty in the previous article will be imposed for imitating a registered trade mark or for using it.

Article (1265)
Precautionary procedures
Owner of the mark or whoever has right of its disposal or utilization at any time even before any civil or criminal proceedings may obtain an order to be issued from the court of first instance for proceeding with the necessary precautionary procedures according a petition supported with an official certificate proving registration of the mark, particularly the following:
1. To prepare detailed record of inventory for machinery and tools used or may be used in the commission of crime and products or goods or addresses of the shops or the covers or papers or others which were put on the mark which is subject of the crime as well as imported goods from abroad.
2. Detention of the mentioned things in the previous item provided that detention will be after the applicant submits a guarantee to be estimated by the judge primarily for compensation of the arrested in necessity. Adequacy of guarantee provided by the barrier may be disputed after detention according the provisions stipulated in the civil and commercial litigation law.

Article (1266)
Deputation of expert
The issued order from the judge may include deputation of one expert or more to assist the process server in his work and the precautionary procedures taken by the owner will be considered null and void if not followed by a civil or criminal action against the

person on whom the procedures were taken, during 10 consecutive days from issuance of the order taking into account the dates of the distance.

Article (1267)
Compensation of the defendant
The defendant declares his claim to the barrier and to court's clerks section in which the guarantee in the application of compensation is deposited during 90 days commencing as from expiry of the period stipulated in article (1266) if the barrier did not pursue legal proceedings or from date of issuance of the final judgment in detention proceedings concerning the mark.
In both case the guarantee will not be paid to the barrier except after issuance of the final judgment in defendant's proceedings or after expiry of the established period for pursuing this proceeding without pursuing it unless the issued judgment in the detention proceedings includes a decision in the issue of the guarantee.

Article (1268)
Judgment for confiscation or destruction
The court in any civil or criminal proceeding may judge confiscation of detained things or which are detained after deduction of its value from compensations or fines or to dispose it in any method that the court sees suitable; and the court may also order publication of the judgment in one newspaper or more on the expense of the convicted.
It may also order destruction of the illegal marks or when necessary destruction of products, covers, packing equipments, addresses of shops and other things which bear those marks as well as the machinery and tools which were used particularly in the operation of forgery or imitation and it will order all the mentioned even in case of acquittal.

Chapter Five
Final provisions

Article (1269)
Character of the judicial control officer
The employees of the competent authority who were nominated by decision issued by GPC will have the character of the judicial controller officer to prove the committed crimes stipulated in this law and the relative issued rules.

Article (1270)
The executive rules organizing trade marks
The executive rules organizing trade marks are issued by the competent authority to state the detailed provisions, particularly the following:
1. Organizing an office for registration of trade marks and keeping a special register
2. The status and conditions concerning the administrative procedures
3. Division of products or services for the purpose of registration in categories according its type and sex
4. The status and conditions concerning publication which is stipulated in this section
5. Fees concerning delivery of copies, certificates and other established fees
6. Statement of different procedures stipulated in this section

Article (1271)
Temporary protection
Temporary protection is granted to the mark put on exhibited products in national or international fairs; extension of the period stipulated in article (1257) of this section is not consequent to that protection.
The executive rules stipulated in article (1270) will specify the conditions, status and procedures for granting that mark.

Section Two
Commercial data

Chapter One: Provisions of the commercial data

Article (1272)
Elements of the commercial data
In applying the provisions of this section, the commercial data is considered any data that concerns directly or indirectly the following:
1. Number of products or its quantity or size or weight or capacity or date of production or extent of validity
2. The entity or the state in which it was manufactured or produced
3. Method of manufacture or production
4. The elements in it composition
5. Name or character of the manufacturer or producer
6. Presence of patents or other rights of intellectual property or any characteristics or gifts or commercial or industrial characteristics
7. Name or shape or identity number with which some products are usually known

Article (1273)
Matching data
The commercial data should be matching the fact in all aspects whether the data was placed on the same products or one shop or warehouse or on it or its addresses or covers or invoices or letters or advertising means or otherwise in exhibiting products for the public.
In all cases the following data should be mentioned:
1. Name of produce or importer of the commodity
2. Address for communication
3. Country of origin

Article (1274)
Prevention of misleading the public
Name of seller or his address should not be put on products imported from a state which did not manufacture or produce the product unless it is coupled with accurate data written in clear letters about the state or the entity in which it is manufactured or produced.
The persons who are residents in a famous entity specialized in production or manufacturing of some products and who are trading in similar products from other

entity should not put their marks on it with a view to mislead the public in respect of the origin of that products even if the marks do not include names of those persons or their addresses unless the necessary arrangements were taken to prevent confusion.

Article (1275)
Cases in the presence of more than one factory for one manufacturer
The manufacturer should not use the entity's name in which his main factory exists for what he produces for his account from products in other entity unless this name is coupled with the data of the last entity to avoid any confusion.

Article (1276)
Utilization of geographical names
Geographical names which became general words indicating commercial terminology of produced sex and not of its source may be launched on some products.

Article (1277)
Utilization of features
The features such as medals or certificates or awards, or honorary degrees of any kind whether acquired from fairs or competitions or granted by presidents of countries or countries or public institutions or bodies of scientists or scientific associations should not be mentioned except in respect of the products to which these features were applied and in respect of the persons and the commercial names which were acquired or to whom rights were devolved and this should include correct data with its date, type, fairs or competitions in which it has been granted.
Whoever participates with others in exhibiting his products should not use the features which were awarded to the joint exhibits for his private products unless the origin of that features and its type is clearly stated.

Chapter Two: value of products

Article (1278)
The factors for estimating the value of products
If the amount of products or its size or capacity or weight or country of origin or the elements of its composition or date of production or extent of its validity or name or characteristic of the manufacturer or producer is one of the factors for estimating its value, the competent secretary may issue decision preventing import of these products or selling it or exhibiting for sale unless it bears a data or more from these data; and this decision will specify the method for putting these data on the products and the procedures for replacement when there is no possibility provided that these data should be written in the Arabic language.

Article (1279)
Products that are related with health and environment
If the commodities or products have an effect or relation with human health or animal or environment in accordance with what is specified by the competent control authorities, the data concerning the elements of its composition should include the following:

1. To mention these elements and percentage
2. Data whether the commodity was genetically modified or it contains anything from that.
3. Data whether the commodity contains materials that constitute a specific seriousness and the extent of its seriousness.
4. Data whether the commodity was treated by radiation.

Article (1280)
Penalties
Imprisonment for a period not exceeding one year and a fine not less than LD.1,000 and not more than LD.5,000 or with one of the two penalties will be imposed for violating the provisions of articles (1273, 1274, 1275, 1277 and 1279); and in case of repetition, the judgment will be with penalty of imprisonment and to publish the judgment or to label it and to close the factory or commercial place for a period not less than 15 days and not more than 6 months; and in all cases, confiscation of the infringing goods.

Article (1281)
Judicial control officers
The employees who are nominated by GPC decision have the characters of judicial control officers to prove the committed crimes stipulated in this book.