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Cyprus

Intellectual Property

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

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Cyprus: 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).

Patents

Patent protection is granted to inventions that fulfil the criteria of novelty and inventive step and are capable of industrial application.

Discoveries, scientific theories, mathematical methods, aesthetic creations, schemes, rules and methods for performing mental acts, playing games or doing business, computer programs and the presentation of information are not inventions and therefore excluded from patentability (Computer-based inventions may be patented provided they satisfy the novelty, inventive step and industrial application criteria).

Excluded from patentability are also inventions that are considered contrary to public order and morality, including the inventions set out in:

- Article 27 of TRIPS, such as plants and animals (other than micro-organisms) and biological processes for the production of plants or animals (other than non-biological and microbiological processes); and
- Article 6 of Directive 98/44/EC on the legal protection of biotechnological inventions such as processes for cloning human beings.

Under certain circumstances, supplementary protection of up to five years is granted to pharmaceutical and plant protection products.

Cyprus is a member of the Convention on the Grant of European Patents (EPO).

Regulations (EU) No 1257/2012 and (EU) No 1260/2012 on the Unified Patent have direct effect. Cyprus is a signatory (but has not yet ratified) the Agreement on a Unified Patent Court.

Trade secrets

The protection of trade secrets has recently been established by legislation by the Law on the Protection of Undisclosed Know-How and Business Information (trade secrets) Against their Unlawful Acquisition, Use and Disclosure of 2020 (L. 64(I)/2020) (**Trade Secrets Law**).

The Trade Secrets Law transposed into national law Directive (EU) 2016/943 (**Trade Secrets Directive**) the aim of which is to bring European law in line with the respective provisions of the TRIPS on trade secrets and to create a level playfield on the protection of trade secrets.

A trade secret is defined as information that is secret, has commercial value because it is a secret and the person lawfully in control of the information has taken reasonable steps to keep it a secret.

Trademarks

Registered trademarks are protected under the Trademarks Law, Cap. 268 (**Trademarks Law**). The Trademarks Law was amended to transpose into national law Directive (EU) 2015/2436 to approximate the laws of the Member States relating to trademarks (Recast).

A sign may be registered as a trademark if it is capable of (i) distinguishing the goods or services of one undertaking from those of other undertakings and (ii) being represented on the register.

A trademark falling under absolute grounds of protection may not be registered. Such grounds include that the mark is devoid of distinctive character, consists exclusively of shapes or other characteristics that are necessary to obtain a technical result or are against public policy and morality.

Certification marks and collective marks may also be registered. A certification mark is a trademark certifying/

providing a guarantee over a certain quality of the product or service typically in respect of material, mode of manufacture of goods or performance of services, quality or accuracy.

A collective mark is a mark used to distinguish the goods or services of the members of an association.

Regulation (EU) 2017/1001 on the EU trademark is directly applicable in Cyprus.

Cyprus is also a signatory to the Madrid Agreement and Protocol concerning the International Registration of Marks.

Passing off

Unregistered trademarks are protected under the tort of passing off, section 35 of the Civil Wrongs Law.

Passing off protects the goodwill that is the benefit or the advantage attaching to an existing good name, reputation and association with a business.

The tort requires the claimant to establish goodwill, misrepresentation of their goods as those of another, likelihood of confusion on the part of the ordinary purchaser arising by reason of the misrepresentation and damage (or likelihood of).

Designations of origin and geographical indications

Designations of origin and geographical indications are protected under:

- Regulation (EU) 2024/1143 on geographical indications for wine, spirit drinks and agricultural products as well as traditional specialties guaranteed and option quality terms for agricultural products;
- Regulation (EU) 2019/1753 on the actions of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical indications; and
- The Protection of Designations of origin and geographical indications Law (Law 139(I)/2006).

Other hallmarks

Trade names are protected under the Partnerships and Business Names Law, Cap. 116 and the Paris Convention.

The Registrar of the ".cy" top level domains is the University of Cyprus. Applications may be filed by any

person. The registration of a domain name does not confer ownership or proprietary rights over the domain name. It is a licence to use granted by the Registrar. The domain name must not (and the applicant is required to guarantee that the domain name does not) conflict with any intellectual property rights of any third parties (including well known marks).

Copyrights

Original works falling into one of the categories protected by copyright under the Copyrights Law (L. 59/1976) will qualify for protection in Cyprus.

Categories of work qualifying for protection include scientific, literary (including computer programs), musical, artistic (including photos of any nature) works, cinematographic films, databases, sound recordings, broadcasts and publications of previously unpublished works.

To qualify for protection the work must be:

- the original work of its creator and be in writing or in a format which can be reproduced in writing. The latter is not required in the case of computer programs.
- Its creator to satisfy the requirements of section 4 of the Copyrights Law concerning the author's nationality or domicile or place of first publication. Notwithstanding, section 6 of the Copyrights Law extends protection to works protected under international treaties to which Cyprus is a party, including the Protection of the Commercial Exploitation of Cinematographic Films, the Berne convention, the Universal Copyright Convention, the Paris convention, the Rome Convention and the TRIPS.

There are no registration or other requirements for copyright protection to subsist.

Related rights are also protected.

Cyprus has transposed into national law all Directives on copyright and related rights protection, including the Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market on 07.10.2022.

Industrial Designs

Designs comprising the appearance of a product or part of it resulting from the specific features of the product itself (its lines, contours, colours, shape, texture and

material) may be protected under the Industrial Designs Law (L. 4(I)/2002) (**Designs Law**) if they are new and present individuality in a way that the informed user will not create an impression similar to a design already known to the public.

The Industrial Designs Law transposes into national law Directive 98/71/EC on the legal protection of designs.

Registered and unregistered Community designs are also protected under Regulation (EU) 6/2002 on Community Designs. Industrial designs are also protected under the Paris Convention and TRIPS.

Plant Varieties

Plant varieties are protected by Law 21 (I)/2004 which implements Council Regulation (EC) No. 2100/94 on Community plant variety rights. Eligible plant varieties must be new, distinctive, homogenous, stable and be designated by a denomination.

Cyprus is a signatory to the International Plant Protection Convention.

Semiconductor topography rights: Topographies of semiconductor rights are protected under Law 5(I)/2002. The law transposes into national law Council Directive 87/54/EEC on the legal protection of topographies of semiconductor products.

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?

Right	Duration
Patents	20 years from filing, subject to payment of renewal fees (from 2 nd year onwards)
Supplementary Protection Certificates	Up to five years. The term is calculated as the period between the filing date and the date of the first authorisation to place the product on the market, reduced by five years, subject to a maximum of five years and payment of relevant fees. For pharmaceutical products for paediatric use complying with Article 36 of Regulation (EC) no 1901/2006 on medical products for paediatric use, the period may be extended to a further six months. Protection takes effect on the expiry of the protection for the relevant patent
Trade Secrets	Indefinitely, subject to complying with the requirements of applicable legislation.
Plant Varieties	20 years from the date of grant (25 years if the subject matter is trees or grapevines). Note the extended period of protection under the Community Plant Variety Right (PVR) that is 25 years or in case of vin and tree species 20 years following the year of the grant.
Trademarks, certification marks, collective marks	Indefinitely, subject to payment of renewal fees every ten years.
Passing-off/unregistered marks	Indefinitely, provided the mark is used and enjoys goodwill.
Trade names	Indefinitely, subject to one-off registration.
Domain names	Indefinitely, subject to payment of renewal fees every 1, 2 or 5 years.
Designations of Origin, geographical indications	N/A
Copyrights	For most copyrights other than related rights, publications of previously unpublished works and database rights: the life of the author plus 70 years from the death of the author or if more than one author, the life of the last surviving author or from the first (legal) publication of the work (depending on the type of work). For publications of previously unpublished works: 25 years from the date of first legal publication. For database rights: 15 years from the date on which the database was completed (or made available to the public). For related rights: 50 years from the year of creation/performance etc (depending on the type of right).
Industrial designs	25 years from the date of filing, subject to payment of renewal fees every five years.
Community Designs	25 years from the date of filing, subject to payment of renewal fees every five years.
Unregistered designs	3 years from the date on which the design was first made available to the public within the community.

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 first owner of an intellectual property right will typically be the inventor, designer or the author of the work.

Unless contractually provided otherwise, the law assumes that intellectual property rights created in the course of employment or under a commission belong to the employer or to the person commissioning the work as the case may be.

An employee who created the intellectual property right outside of their employment is the first creator of the intellectual property rights they create.

The first owner of a registered trademark is the person named as the applicant in the registration application.

The first owner of a patent is the person so designated in the application.

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

Right	Registered
Patents	Yes
Supplementary Protection Certificates	Yes
Trade Secrets	No
Plant Varieties	Yes
Trademarks, certification marks, collective marks	Yes
Passing-off/unregistered marks	No
Trade names	Yes
Domain names	Yes
Designations of Origin, geographical indications	Yes
Copyrights	No
Industrial designs	Yes
Community Designs	Yes
Unregistered designs	No
Semiconductor topography rights	Yes

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

Applications may be filed as follows:

For patents and industrial designs: The first owners of the rights (or their successors in title). Note that first owners may be the employer or the person who commissioned the work.

For supplementary protection certificates: The proprietor of the patent.

For trademarks: The person in whose name the trademark will be registered.

For trade names: The person in whose name the trade name will be registered (the person using the trade name to conduct business).

For domain names: The person in whose name the domain name will be registered.

For Designations of Origin, geographical indications: eligible producer groups/associations.

For plant varieties: the plant breeder, the employer who owns the rights to the variety, or his/her agent.

For semiconductor topographies: Cypriot nationals or national of EU member states or individual with their habitual residence in Cyprus or the EU. Legal entities having a real industrial or commercial establishment in Cyprus or in a member state of the EU.

Relevant applications for the registration of the above IP rights can be submitted by a qualified IP professional/legal representative. Note the requirements for filing patents with the EPO.

Registration procedure

For patents, supplementary protection certificates, trademarks, trade names and industrial designs, applications can be submitted to the Cypriot Department of Registrar of Companies and Intellectual Property (DRCIP). Alternatively –

- European patents (including unitary patents) may be filed through the European Patent Office and international patents through the World Intellectual Property Organisation (WIPO);
- EU trademarks may be filed with the European Union Intellectual Property Office (EUIPO) or internationally through WIPO.
- Community designs may be registered with the EUIPO and international designs with WIPO.

Domain name applications for .cy top level domains may be filed with the Registrar of domain names in Cyprus, the University of Cyprus.

For designations of origin, geographical indications, plant varieties and semiconductor topographies the filing procedures are set out in the respective legislations.

6. How long does the registration procedure usually take?

The length of the registration procedure depends on the nature of the right for which protection is claimed and the extent of the protection claimed.

An indication of the timeframes involved for the main registrable rights is set out below. The indicative timeframes assume that the application is uncontested, the designated forms correctly filled in and accompanied with all required documentation (and where applicable publication is not suspended):

Trademarks: approximately 8-12 months.

Patents: approximately 16 months to two years.

Industrial designs: within four months from filing.

Trade names: a couple of weeks

Domain names: within a couple of weeks.

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

Patents: National law does not grant to third parties a right to take part in or comment on the registration procedure. Although, in principle, there is nothing preventing the third party from filing such observations or comments, there is no obligation on the part of the DRCIP to consider them.

Third parties may:

- review the application (physically) at the office of the DCIP following its publication;
- file an opposition within three months following its publication; or
- if there is a publication concerning rectification or changes to an application, oppose the rectification or change within a period of three months following its publication.

Trademarks: Any interested persons may, before the registration of a trademark file written observations explaining the reasons why the DRCIP should reject its registration.

Third parties with legitimate interest/owners of earlier marks (depending on the opposition ground) may object to the registration of a trademark within three months following its publication in the official Gazette of the Republic.

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

National procedures typically provide an opportunity to applicants to rectify any formal mistakes/inaccuracies observed in their application.

For national patents, the prescribed period for rectifying any formal mistakes/inaccuracies is at the discretion of the Patents Department.

Decisions of the DRCIP (Patents Department) may be the subject of administrative recourse with the Administrative

Court.

For national trademarks, the period for rectifying any mistakes/inaccuracies is two months from their observation. The DRCIP will send a letter to the applicant/their representative in this respect.

Rejections resulting from both, opposition procedures and decisions of the DRCIP are subject to administrative recourse with the Administrative Court.

For national designs, an application or registration of a national design is rejected by national courts on the grounds specified in the legislation. A decision of the national court may be appealed.

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

Trademarks (multiclass application)

Filing by hand/post: €141 (basic application for one class) plus €102 (for every subsequent class); and

Online filing: €129 plus €94 (for every subsequent class).

Renewal cost

€75 if filed by hand/post plus €60 for every subsequent class; and

€73 if filed online plus €59 for every subsequent class.

Patents

Filing cost: €100

Grant fee: €130

Search report fee paid directly to the EPO as the competent search authority for Cyprus: 20% of the designated fee (currently €494 – until 31/12/2026)

Annual renewal fees:

3rd year: €50

4th year: €60

5th year to 11th year (both inclusive): an additional €20 per year

12th year to 15th year (both inclusive): an additional €40 per year

16th year to 20th year (both inclusive): an additional €60 per year.

Renewal of Supplementary Protection Certificates: €700 for year 21 and an additional €40 per year of renewal.

Industrial designs

Filing cost: €85,43

Publication fee: €68,34 or €42,72 if the publication is deferred.

Renewal fees:

€51,26 for the first period of five years

€85,43 the second period of five years

€136,69 for the third period of five years

€170,86 for the fourth period of five years

€256,29 for the fifth period of five years.

Semiconductor topography rights

Filing fee: 60 Cypriot pounds (approximately €102.5)

Publication fee: 40 Cypriot pounds (approximately €68)

Domain names: €20 (one year), €30 (two years), €50 (five years)

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?

Trademarks

Trademarks must be renewed within 6 months before their expiry or within six months following their expiry at an increased fee (calculated as the renewal fee increased by 50%).

If the renewal fee is not paid the trademark is struck off the trademarks register and the removal published in the official gazette.

If the trademark is not renewed due to a force majeure event or other unforeseen circumstance not attributed to the applicant or owner of the mark, the applicant/owner may file an application to reinstate the mark within two months from the unforeseen effect ceasing to apply, provided the filing of the reinstatement application does not exceed one year from the renewal date.

Patents

From the 3rd year onwards, patents must be renewed within 3 months before their expiry. Renewals can be made up to 6 months after their expiry subject to a penalty of 25% imposed on the annual fee due for every month or part of the month of delay.

If not renewed within this period, the patent is removed from the register and the removal published in the official gazette.

Any interested party may within 12 months from the expiry of the 6-month grace period file an application to the DRCIP for the reinstatement of the patent. If the DRCIP is satisfied that the failure to renew was unintentional and that all renewal fees have been paid, the DRCIP may reinstate the patent. The decision of the DRCIP may be subject to administrative recourse with the Administrative Court.

Industrial designs

Industrial designs must be renewed within 3 months prior to their expiry or 6 months after expiry. If not renewed within this period, the design is removed from the register.

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

Typically, all IP rights are assigned by agreement in writing, signed by both parties. The agreement must include, inter alia, the parties to the agreement, the rights being assigned and the consideration (price or method of calculation of the price) for the assignment.

For industrial designs, the law expressly provides that an assignment takes place when the written agreement is filed with the Designs Department.

The sale of a business (in its entirety) results in the trademarks of the business being assigned to the buyer (unless there is an express agreement to the contrary, or the circumstances suggest otherwise).

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?

Assignments must be recorded with the DRCIP by filing

the necessary forms accompanied by the supporting documents set out in the respective laws and regulations.

Recordal in the respective registries is prima facie evidence of the assignment.

Failure to record an assignment has the following consequences:

Trademarks: The unintentional non-recordal of the assignment results in the assignor having to confirm all previous assignments not recorded with the DRCIP, by filing an affidavit. Recording false information in the registry or procuring the recordal of false information is a criminal offence.

Industrial designs: To be effective, the assignment of an industrial design must be recorded with the DRCIP.

Trade names: There is no assignment procedure. The trade name must be deleted from the register and be re-registered in accordance with the designated procedure. A person who uses or ceases to use a tradename must within one month from the start of its use notify the DRCIP. Persons who omit to notify the DRCIP are liable (subject to summary conviction proceedings) to a fine not exceeding 25 Cypriot pounds (approximately €43) for every day in which the omission continues and to update the records of the DRCIP.

Domain names: Domain name licences may be transferred to a new licensee subject to the approval of the Registrar of Domain Names.

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

The respective legislations provide that:

- i. licences concerning trademarks must be in writing. DRCIP must be notified of the details of the parties and the main terms of the licensing agreement, including its main conditions and terms and any changes to it from time to time including its termination.
- ii. licences concerning designs must be in writing, for a determinable time and consideration and be filed with the DRCIP.

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?

The Trademarks Law requires all licences, any changes to them, including their termination to be recorded with the DRCIP.

The Designs Law provides that any licences granted over a design must be for a determined time and consideration. The licence must be recorded in the Register and published in the Official Gazette of the Republic. Unless expressly specified otherwise by agreement, a licence is non-exclusive, non-transferable and non-transmissible.

A request to record the licence must be accompanied by, inter alia, the licensing agreement with certified signatures of the parties.

The respective legislations do not include consequences specifically for the failure to register a licence.

However:

- i. recordal of the licence is prima facie evidence of its existence and terms; and
- ii. a licensee acquires the rights set out in the respective legislations as set out in question 15 below.

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?

The terms of a licensing agreement will typically reflect the arrangement of the parties.

The trademarks law provides that an exclusive licensee may, subject to any terms in the licensing agreement to the contrary, grant sublicences and bring court proceedings for trademark infringement on its own motion if the owner of the trademark fails to initiate action within a reasonable time after they have been notified in writing. An exclusive trademark licensee may participate to the proceedings as a third party in order to be compensated for any loss they have suffered as a result of the infringement.

In cases of non-exclusive licences (subject to any terms in the licensing agreement to the contrary) the licensee may only bring proceedings in court with the consent of the trademark owner/beneficiary.

In the case of patents, any licensee may request that the owner of a patent initiates proceedings against the

infringer also determining the remedy they request. If the patent owner refuses or omits to initiate proceedings within three months following receipt of the licensee's request, the licensee may initiate proceedings in their own name provided that the patent owner is notified. The patent owner may participate to the proceedings.

In urgent cases, the licensee may apply to the court for an order prohibiting the infringement if the licensee proves imminent likelihood of substantive damage.

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

The infringement of certain intellectual property rights is a criminal offence punishable by imprisonment, a fine or both.

Fraudulent infringement of industrial designs is subject to imprisonment of up to 2 years of imprisonment or a fine of up to 50.000 Cypriot pounds (approximately €85.000) or both.

The creation or sale of products (and related actions) attaching infringing copyrighted work is subject to imprisonment of up to three years and a fine of up to €80.000 or both and in case of repetition to imprisonment of up to four years and a fine of up to €a fine of up to €100.000 and/or up to four years of imprisonment or both.

Other actions that give rise to criminal offences include import and export of counterfeits from Cyprus. Such action is subject to up to three years of imprisonment and up to €30.000 fine or both and in case of subsequent repetition up to five years of imprisonment and up to €50.000 fine or both. In case where the infringement was not made knowingly, the person who commits the offence is liable to a fine of up to €15.000.

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.

Civil court proceedings for infringement (the new Civil Procedure Rules of 2023 provide for a mandatory pre-action process unless in cases where this can be omitted and which are set out in question 21).

Alternative dispute resolution including mediation and arbitration.

Cease and desist letters and execution of a declaration/contract for non-infringement.

There are also **procedures that can be brought before the DRCIP** concerning validity and entitlement such as invalidity proceedings for trademarks. The decisions of the DCIP are subject to administrative recourse proceedings.

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

The length and cost of enforcing IP rights in Cyprus vary depending on the type of IP right, the complexity of the case and the enforcement mechanism chosen.

Civil claims brought before first instance District Courts could require over 8 years for the issuance of a judgment on the merits. Commonly, within the context of such proceedings, a claimant would also seek interim redress, usually in the form of an interim order prohibiting the defendant from doing an infringing act until the final determination of the main dispute. The time required for such interim proceedings would depend on a number of factors, including whether or not the defendant decides to oppose them. Typical oppositions and invalidity procedures before the DRCIP have a length of at least one year.

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.

Patents: The Supreme Court or the Commercial Court (provided the Commercial Court becomes operational).

Trademarks, Designs and any other IP related matters: The relevant District Court.

Copyrights: The relevant District Court or the Commercial Court (provided the Commercial Court becomes operational).

Note: The Commercial Court is a court established to hear commercial disputes. It comprises specialised judges that may hear cases entirely in the English language. Although established, the Commercial Court has not yet

commenced its operation. When operational, the Commercial Court will have jurisdiction to hear disputes concerning patents and copyrights where the amount in dispute or the value of the subject matter exceeds €2 million.

Under the Civil Procedure Rules, there is a mandatory pre-action protocol process (subject to certain exceptions set out under question 21 below). The protocol process will depend on the remedies sought. Typically, the claimant is required to send a claim letter which includes the information set out in the Civil Procedure Rules to the (prospective) defendant and the (prospective) defendant is required to acknowledge receipt of the letter without delay followed by a full response. If the dispute is not resolved through the exchanges discussed above, the parties are obligated to enter into discussions/negotiations in good faith to resolve the dispute. In case the defendant does not reply or a resolution is not reached following the said negotiations, the claimant may initiate proceedings in court.

A claim is brought with the filing of the claim form by the claimant. The claim form may be accompanied by the particulars of claim (setting out the facts upon which the claim is based on) or if this is not the case, particulars of claim must be filed within 28 days from the service of the claim form upon the defendant.

If a defendant wishes to defend the claim, he must file a memorandum of appearance within 14 days from service of the particulars of claim. The defendant has 28 days from the filing of the memorandum of appearance to file a defence (setting out the facts which the defence is based on). Potentially other pleadings may also be filed by the parties such as a reply by the claimant or a counter-claim by the defendant.

Following the closing of the pleadings, the court, at the request of any of the parties or on its own motion, proceeds to case management. The main purpose case management is to outline all steps that need to be undertaken until the case is ready for hearing, including disclosure and inspection of documents.

Typically, a hearing on the merits would comprise of opening counsel submissions, followed by examination of witnesses and closing counsel submissions. The duration of the hearing is determined at the case management stage.

All first instance judgments issued in the context of civil claims may be appealed at second instance before the Court of Appeal. Such an appeal must be filed within 42

days from the issuance of the judgment (if final) and within 14 days (if interim). An appeal against the second instance judgment of the Court of Appeal, may be available to a dissatisfied party upon obtaining leave, but only on points of law.

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

Import and/or export of infringing goods is regulated by Regulation (EU) 608/2013 concerning customs enforcement of intellectual property rights and the Control of the Movement of Goods Infringing Intellectual Property rights Law (L.61(I)/2018).

The national law has the same scope with the Regulation extending to the intellectual property rights set out in article 2 of the Regulation.

The competent national authority appointed for implementing the provisions of the Regulation and the national law is the Customs and Excise Department.

Under the above legislation, a national application may be filed with the Customs and Excise Department by any users of the intellectual property rights who have been authorised by the owner to initiate proceedings in this respect.

The application may be filed in combination with a Union application (involving two or more countries of the EU). Union applications may be filed by holders of exclusive licenses authorised to initiate proceedings in this respect.

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.

Under section II of the new Civil Procedure Rules, a claimant must, before filing court proceedings, follow a pre-action protocol. The pre-action protocol is intended to promote pre-action communication between the parties and encourage exchange of relevant information in relation to the claim, facilitate pre-action disclosure by both parties, save the court's time and support the efficient management of the judicial procedure.

The pre-action protocol is not mandatory where the case is urgent, or when the cause of action may become time-barred or in cases where there are other reasonable and sufficient grounds for non-compliance with the protocol.

The court may take into account non-compliance with the pre-action protocol in the exercise of its case management powers, when deciding matters relating to costs and the imposition of sanctions.

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

Settlement of an IP dispute may be achieved through alternative dispute resolution, including negotiation, mediation, arbitration or even during the obligatory mediation procedure imposed by the Civil Procedure Rules.

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

For patents: The owner of the intellectual property (or the applicant in case of applications) and, under certain circumstances, the licensee may initiate court proceedings against any person who is using or exploiting for profit the owner's/ applicant's intellectual property without their consent. Proceedings can also be initiated on the ground that such unauthorised use/exploitation is imminent.

The burden of proof is on the claimant (owner/applicant/licensee) who is required to prove that the defendant is using/ exploiting the intellectual property without their consent (or that such use/exploitation is imminent).

For trademark: The owner of a registered trademark (and under certain circumstances the licensee) may bring proceedings for trademark infringement against any person who:

- i. uses an identical trademark for identical goods/services;
- ii. uses an identical or similar trademark for identical or similar goods/services, as a result of which there is a likelihood of confusion to the public (including likelihood of association);
- iii. uses a similar or identical trademark in relation to goods/services (whether or not identical or similar) where the claimant's trademark enjoys reputation in Cyprus and the use of the sign, without due cause, takes unfair advantage of, or is detrimental to, the distinctive character of or the repute of the registered trademark.

For unregistered trademarks there is the tort of passing-off, the constituent elements of which are set out in question 1.

For copyrights: A rights holder (for copyrights or related rights) may initiate proceedings against any person who infringes any one or more of the exclusive rights of the rights holder as these are set out in section 7 of the Copyrights Law, including reproducing, communicating, advertising, adapting or publicly performing the work.

For industrial designs: The right holder may initiate infringement proceedings against any person who infringes their rights (or is likely to infringe their rights). The rights holder may request that the infringer ceases the infringing act and does not repeat it in the future. In case of infringement the right holder may request that the infringer makes good any losses, an account of profit and/or the payment of an amount equal to a royalty for the right to use. The court may also order the destruction of any infringing products or their hand over to the rights holder as compensation.

The court system is adversarial and not inquisitory. The court will rely on evidence produced by the parties to the proceedings and may, at the request of any part to the procedure order the disclosure of any other information/documentation.

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?

The facts upon which the parties rely on in support of their respective positions are set out in the pleadings (particulars of claim, defence, reply etc.).

The evidence upon which the parties rely on is presented by witnesses through the preparation of written statements and/or through their examination before a judge during the hearing.

There is no "technical judge" with specialised expertise in IP matters. However, evidence on technical matters may be presented, upon leave, by expert witnesses.

Expert evidence may be filed by any of the parties to the proceedings or by the parties jointly provided they obtain leave of the court. The appointed experts are required to produce an independent and impartial report on a specific matter of their expertise. The parties may grant to the experts a list of questions to be addressed in their reports.

The content of the report must comply with the requirements of Regulation 34.11 of the Civil Procedure Rules.

There are several mechanisms available under the new Civil Procedure Rules for the disclosure, inspection and protection of documents, including through disclosure orders against parties and disclosure orders against third parties. In certain circumstances, disclosure orders can be obtained before a claim form has been filed and/or on an ex parte basis (for example, in the context of Norwich Pharmacal proceedings).

Disclosure orders may also be orders on the basis of the respective legislations (Patents Law, Trademarks Law, Designs Law) where the court may issue disclosure orders for information in the possession of the other party on terms that will secure their confidentiality. The national law has transposed in national law the provisions of Directive 2004/48/EEC on enforcement of intellectual property rights which includes provisional and precautionary measures (such as interlocutory injunctions and precautionary seizure orders).

The courts may, at the request of any of the parties to the proceedings, issue orders for provision of information concerning the source of any distribution of goods/services networks that are in possession, use, provide services or are otherwise involved in the infringing acts.

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?

All information and evidence adduced is assessed by the judge(s) hearing the case.

Cross-examination is available and common in most civil claim proceedings. However, a court has discretion to limit it.

In certain instances, a party may require the leave of the court prior to cross-examining a witness. For example, such leave would be required when a party wishes to

cross-examine (in proceedings other than a trial) a person who has provided written evidence.

26. What defences to infringement are available?

Typical defences include:

- A claim that the IP right does not exist or is not valid.
- There is no infringement, or the infringement cannot be substantiated.
- The claimant is time-barred from bringing the claim.

Indicatively,

(i) Proceedings for industrial designs are time-barred five years following the lapse of five years from the holder of the registration certificate becoming aware of either the offense or the damage and the person to be compensated and in any event following a period of twenty years from the infringement.

(ii) For registered trademarks, the owner of a later trademark registered and used in Cyprus may bring the defence of preclusion of declaration of invalidity due to acquiescence, if the proprietor of the earlier trademark has acquiesced in the use of the later trademark for a period of five successive years while being aware of it, unless the later trademark was registered in bad faith. The similar defence of laches (also applying to later unregistered trademarks) is available in common law.

Other defences include –

- a. **Non-genuine use of the trademark for a continuous period of five years in relation to the goods/service for which it is registered.**
The defence is raised by the owner of the defendant. The owner of the trademark must prove that the trademark is genuinely used or that there are proper reasons for its non-use. If the owner of the trademark cannot prove genuine use or that there are proper reasons for its non-use, the owner of the trademark cannot claim (in whole or in part) the rights conferred to trademark owners upon the registration of the trademark and the trademark is removed from the registry.
- b. **Time limits for bringing an invalidity action:**
Such actions should be brought within five years from completion of the registration procedure unless the application was made in bad faith in which case the time limits do not apply.

(iii) For copyrights the defences include that the alleged infringing act is one of the act not covered by copyright under section 7 of the Copyright Law.

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

In principle, any person with legitimate interest may bring proceedings against an IP right.

Limitations may apply depending on the nature of the procedure. Indicatively, oppositions against trademark registrations on the basis of absolute grounds may be brought by any person with legitimate interest. Oppositions on relative grounds may only be brought by owners of earlier trademarks, geographical indications and designations of origin. The same limitations apply in cases of trademark invalidity claims by reference to absolute or relative grounds.

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

See our reply in question 26.

Patents

Any person may oppose the registration of a patent within three months from its publication in accordance with the procedure set out in regulation 6 of the Patents' Regulation.

A patent infringement or invalidity claim may be brought by any person at any time.

Industrial Designs

An industrial design application may be opposed in court. An industrial design that has been registered may be invalidated by court order.

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?

The forum for challenging each of these intellectual

property rights depends on the ground of the challenge. This can be the relevant court (see question 19) or the DRCIP.

Invalidity grounds

Trademarks

An invalidity application may be filed with the DRCIP on absolute or relative grounds. The filing of an application is without prejudice to the right of the applicant to initiate proceedings in court.

The decisions of the DCIP are subject to administrative recourse proceedings.

Patents

Invalidity proceedings may be initiated by any person at the Supreme Court.

The proceedings may be brought on the following grounds:

- i. The invention is not patentable; or
- ii. The patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;
- iii. The right to a patent does not belong to the person disclosed as its registered owner.

Industrial Designs

Invalidity proceedings for industrial designs may be initiated before the relevant court on one of the grounds set out in section 23 of the Designs Law. The grounds include among others that the design does not qualify for registration, the applicant/registered owner is not the creator, the design conflicts with an earlier design disclosed to the public before the filing date of the design in question.

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?

Patents: Any interested person has a right to file an application against the owner of a patent requesting from the Supreme Court a declaration that the performance of a specific action does not constitute patent infringement (declaration of non-infringement).

The applicant must prove that the intending action does not constitute patent infringement.

Following the completion of four years (or any other period as may be prescribed) from the grant of a patent, any person may file an application with the DCIP requesting a non-voluntary licence).

A non-voluntary licence may be filed when:

- i. the patented invention may be commercially exploited in Cyprus but is not being adequately exploited or is not being exploited at a reasonably full scale.
- ii. the patented invention is a product the demand of which is not satisfied in Cyprus or is not satisfied on reasonable terms.
- iii. Due to the refusal of the patent owner to grant one or more licences on reasonable terms the patented product which is produced in Cyprus is not exported or the use in Cyprus of another patent which contributes substantively to the technic is prevented or hindered;
- iv. By reason of conditions imposed by the owner of the patent on granting licences, the disposal or use of the patented product or process, the manufacture, use or disposal of materials not protected by the patent, or the establishment or development of commercial or industrial activities in Cyprus are negatively affected.

Industrial designs: The provisions set out in the Patents Law apply mutatis mutandis to industrial designs.

Limitations/restrictions may be voluntary. The owners of IP rights may grant licences, renounce or withdraw their rights in whole or in part.

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

Interim remedies

- **Search and seizure orders**
- **Anton Piller orders** (one of the nuclear weapon orders): search orders that permit inspection of the defendant's premises with the aim to seize relevant materials and documents in an

effort to preserve evidence and protect them from destruction or concealment.

- **Norwich Pharmacal orders:** requires the respondent to disclose documents or information to the applicant. It is commonly used as a mechanism to identify the proper defendant to an action or to obtain information in connection with a claim. The respondent is unlikely to be a party to any subsequent claim but it is believed to be in possession of information or involved in the wrongdoing.
- **Interim injunctions (prohibitive orders)**

Final remedies:

- Damages
- Account of profit
- Injunctive relief
- Destruction of infringing articles;
- Delivery up of infringing articles
- Declaratory relief
- Orders for publication

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 general rule is that, in civil proceedings, the losing party pays the costs of the of the successful party.

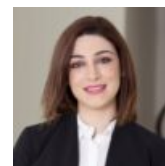
The extent of cost recovery is typically at the discretion of the court and depends on various factors, including the scale of the claim, the nature of the case and the conduct of the parties. The new Civil Procedure Rules provide at Appendix B indicative amounts of costs for certain procedural steps depending on the scale of the claim. Costs awarded by courts would, as a general rule and as matter of practice, be calculated in accordance the amounts set out in Appendix B.

Under Rule 26 of the new Civil Procedural Rules security for costs may only be claimed in certain circumstances where the claimant is resident outside the EU.

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