

Happy New Rules Hungary 2019!

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The Hungarian Parliament passed Act LXVII of 2018 (the 'Amending Act'), which is bringing about the most fundamental changes to trademark law since Hungary's accession to the EU. The amendments will enter into force as of 1 January 2019.

In a historical context, Act XI of 1997 on Trademarks and Geographical Indications established modern trademark law in Hungary. This was amended by Act CII of 2003, which implemented EU law and introduced further significant changes, for instance introducing oppositions and abolishing ex officio searches.

First and foremost, the Amending Act implements the rules of the new EU directive (Directive (EU) 2015/2436 of 16 December 2015), which are well known to the readers of this blog. However, many further changes have been introduced into Hungarian trademark law in the wake of the implementation:

- Prior non-registered trademarks need not be essentially identical with the trademark application in order to apply as a ground for refusal. The former clumsy translation of the Directive in the Trademark Act was interpreted by the courts in a way that this ground for refusal only applied in case of the identity of the signs. Thus, if the trademark application was only similar to and not identical with the prior non-registered trademark, the trademark application was not refused. Therefore, in cases of similarity, the exclusion ground based on *6bis* of the Paris Union Agreement (well-known mark) was used instead.
- The register shall expressly indicate the date on which the grace period for non-use starts.
- In opposition proceedings, a cooling-off period of 2 to 4 months shall be

provided upon a joint request of the parties.

- No oral hearing shall be held in opposition proceedings, unless upon a joint request of the parties or if the office otherwise considers it necessary.
- No oral hearing shall be held in revocation proceedings, where the trademark owner does not file a written defence statement.
- A surcharge shall apply in case of late renewals.
- Many procedural deadlines have been shortened.
- New grounds for refusal shall not affect registered rights until the next renewal deadline. In case of cancellation by virtue of a new ground for refusal, the date of cancellation shall be the date of renewal.
- The fee structure is expected to change but the respective ministerial decree has not been published yet.

It shall also be noted that after excessive discussions, bad faith has been retained as a ground for refusal. Therefore, unlike before the EUIPO, observations may be filed claiming bad faith on the side of the applicant.

For those, who read Hungarian, the text of the Amending Act is available here: <https://net.jogtar.hu/jogszabaly?docid=A1800067.TV×hift=ffffff4&txtreferer=00000001.TXT>