

## **Abstract**

The purpose of this thesis, entitled Trademark registrability, is to provide a general overview of otherwise extensive issue of trademark registrability, in particular the legal regulation contained in the Trademarks Act after the entry into force of the Big novelization Trademarks Act.

This thesis consists of eleven chapters in total, with each chapter focusing on a different aspect of trademark law in relation to the topic of the thesis. The content of the first chapter is an introduction to the historical development of trademark law from the period of the emergence of civilisations to the modern concept of trademarks as we know it today and the integration of this institution into the intellectual property rights of which it is a part.

The second chapter deals with the very concept of trademark, in particular what a trademark is and what kind of sign is eligible to be a trademark, or what requirements are placed for such signs. The chapter further divides trademarks into two main categories, the traditional trademarks, which are trademarks capable of graphical representation, and non-traditional trademarks, where the requirement of graphical representation has been waived.

The third chapter describes conditions under which the registration protection is granted to trademarks in Czech Republic in relation to whether they are national trademarks, international trademarks, EU trademark or well-known trademarks, which are specific in that, unlike others, protection is not based on registration but on the well-known nature of the sign.

The fourth chapter deals with absolute grounds for refusal of registration of trademark, i.e. those grounds which are contrary to the very purpose of trademark or are in contradiction to legal or social norms. This chapter provides not only the taxative list of these grounds, but also description of them.

The fifth chapter of the thesis deals with relative grounds for refusal of registration of trademark, i.e. those grounds which are not related to the eligibility of the sign to be a trademark itself, but to the interference of the applied-for sign with the pre-existing earlier rights of a third party who has a registered earlier trademark.

The sixth chapter of the thesis introduces the concept of the Nice Classification of goods and services and describes the relationship between the Nice Classification and the registrability of trademarks.

The seventh chapter is then devoted to distinctiveness. Distinctive capacity has already been discussed earlier in this thesis, but this chapter discusses the institution from a more theoretical perspective, along with providing a brief historical excursus.

Chapter 8 lists and describes the limitations on the otherwise absolute rights of trademark owners, by which trademark owners are limited and forced to allow certain uses of the trademark by third parties.

The ninth chapter of the thesis introduces the connection between the registrability of a trademark and the proceedings for registration of a trademark at the Industrial Property Office, specifically the substantive examination phase, when the Industrial Property Office determines whether there is an absolute ground for refusal of registration of trademark. Furthermore, this chapter devotes space to the institute of comments, which gives the public the opportunity to point out the existence of one of the absolute grounds for refusal of registration of trademark.

The tenth chapter explains the connection between the registrability of trademarks and the proceedings for revocation of a trademark. The registrability of a trade mark is examined not only at the time of registration but also during its existence and it may therefore happen that such a trade mark loses its registrability due to the occurrence of some absolute ground for refusal of registration of trademark, for example, due to the grouping of signs.

The last, eleventh chapter, which deals with the role of registrability in the proceedings for a declaration of invalidity of a trademark, describes the situation when a trademark has been registered in the trademark register but should not have been, because the conditions of registrability have not been met. In such a case, there may be both absolute and relative grounds for refusal of registration of trademark.

It then concludes by summarizing the intent of this thesis in relation to the effectiveness of the Great Amendment and its effect on the very registrability of trademarks in relation to the Industrial Property Office.

**Keywords:** trademarks, trademark registrability, intellectual property law