

February 21 2022

Absolute grounds for refusal in Romanian trademarks law: procedural aspects

Simion & Baciu | Intellectual Property - Romania



ANDREEA
BENDE

This article is part of a series on absolute grounds for refusal of trademarks in Romania.

In Romania, the absolute grounds for refusal of a trademark are provided under article 5 of Law No. 84/1998, republished, on trademarks and geographic indications. According to law, absolute grounds may be raised ex officio by the examiners of the Romanian Trademarks Office within a maximum of six months from the first publication of a trademark application.

Interested third parties may also raise absolute grounds for refusal that they consider applicable to Romanian trademark applications. According to law, any natural or legal person, as well as any association or body representing manufacturers or producers of goods, suppliers of services, traders or consumers, may justify an interest in raising such observations.

The procedure before the authority is initiated by drafting and filing the observations detailing the reasons that justify the applicability of the invoked absolute refusal grounds within a maximum of two months from the application's first publication date. There are no official fees applied by the authority for examining observations raised on absolute grounds.

The observations thus filed are communicated by the authority to the applicant, which will have the possibility to submit comments in their respect. This practice was adopted in July 2020 via amendments made to Law No. 84/1998 – previously, applicants were not formally informed of any third-party observations raised on absolute grounds.

It should be further noted that the party or parties that have raised absolute grounds for refusal against a Romanian trademark application will not automatically become parties to the trademark's registration procedure. Therefore, any decision rendered by the Romanian authority upon finishing the trademark's examination on absolute grounds shall not be communicated to them.

An entity that has raised absolute grounds against a trademark application in Romania, under the provisions mentioned above, must monitor the evolution of its application by periodically consulting the information publicly available in the trademark file (in the authority's [online database](#)) and the authority's official publications.

If the application receives an unfavourable decision and is refused registration, either entirely or partially, and if such decision is further appealed by the applicant, the party that has raised observations has, at least in theory, the possibility of filing a request for intervention before the Appeal Committee of the Romanian authority. In such a request, the party may ask the Committee to allow its intervention in the appeal by sustaining the absolute grounds for refusal that it had initially raised during the earlier examination stage of the same application.

If such a request is denied, and the application eventually matures to registration for all or part of the goods and/or services that were envisaged by the observations on absolute grounds, the entity that raised such grounds during the trademark's registration procedure has the option to launch an absolute grounds cancellation claim against the mark. Currently, cancellation claims can only be filed before the Bucharest Court of Law, which is awarded special competence to trial such claims in first instance.

For further information on this topic please contact [Andreea Bende](#) at Simion & Baciu by telephone (+40-31 437 80 13) or email (andreea.bende@simionbaciu.ro). The Simion & Baciu website can be accessed at simionbaciu.ro.