



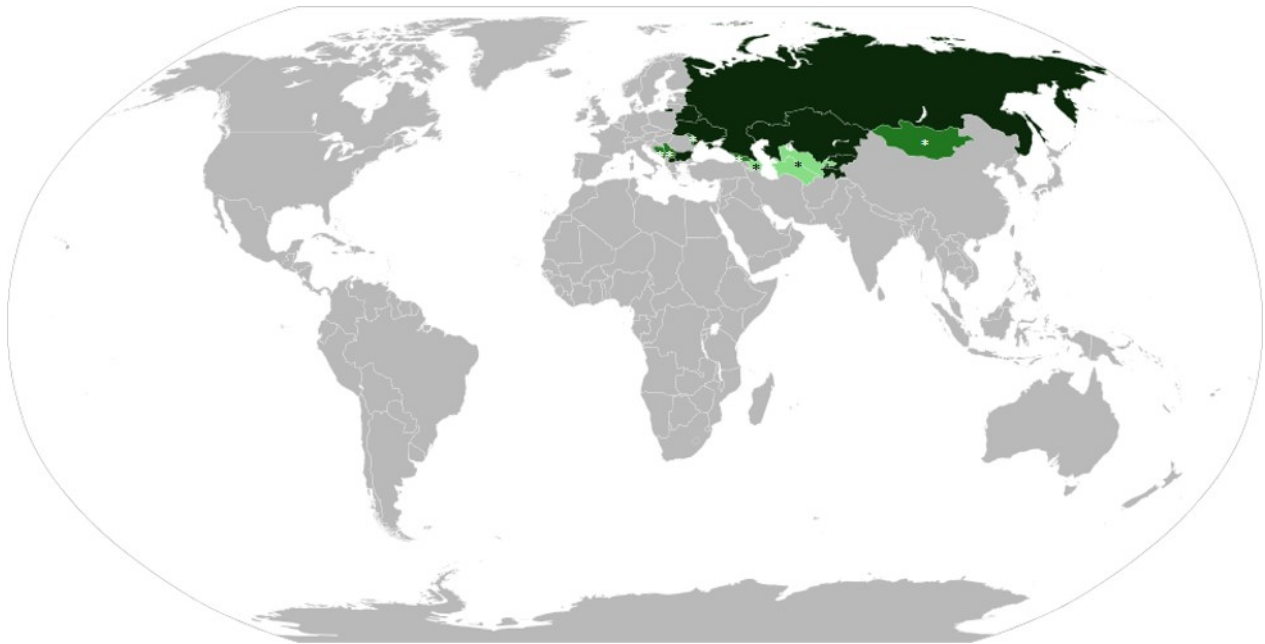
Outline of Presentation

BULGARIA/EUROPE- TRADEMARK PRACTICE-TRADEMARKS IN CYRILLIC

A. Non-Cyrillic Alphabet Marks for the territory of Bulgaria/EU

Bulgaria, a member of the EU and uses the Cyrillic alphabet.

Numerous Cyrillic alphabets are based on the Cyrillic script. The Early Cyrillic script was developed during the First Bulgarian Empire in the 9th century AD at the Preslav Literary School by the two brothers Cyril and Methodii. It is the basis of alphabets used in various languages, past and present, in parts of Southeastern Europe and Northern Eurasia, especially those of Slavic origin, and non-Slavic languages influenced by Russian. As of 2011, around 252 million people in Eurasia use it as the official alphabet for their national languages. About half of them are in Russia. Cyrillic is one of the most-used writing systems in the world.



Distribution of the Cyrillic script worldwide. The white asterisks show the countries that use Cyrillic as the one main script; the black asterisks those countries that use Cyrillic alongside another official script.

The Bulgarian alphabet:



А аБ бВ вГ гД дЕ еЖ жЗ зИ иЙ йК кЛ лМ мН нО оП пР рС сТ тУ уФ фХ хЦ цЧ чШ
шЩ щЪ ъЬ ъЮ юЯ я

The Bulgarian Law on Marks and GIs does not require the filing of trademarks in Cyrillic.

The only requirement concerning inscription of names of products in Cyrillic is with regard to pharmaceuticals, in accordance with the Bulgarian Drug Agency, before which drugs distributed for the territory of Bulgaria shall be registered, the names of the same has to be also registered in Cyrillic. Therefore, trademark owners usually register TM under one word application including the Cyrillic transliteration for example AULIN/АУЛИН.

B. Potential issues arising from trademarks registered in Latin/Cyrillic characters and their transliteration in Cyrillic/Latin in the context of:

I. Use

In accordance with the Bulgarian practice, a use of trademark in Cyrillic characters when the same is subject to registration in Latin characters, may be considered as genuine use as long as the distinctiveness of the mark per se is not alternated, for example APPLE/ЕПЪЛ.

II. Similarity of signs/Infringement

- To cite decisions of the Bulgarian Patent Office/ Court/ EUIPO under which applied for trademark applications, representing transliteration in Cyrillic of earlier marks in Latin characters are found to be similar.

Comment EM: (Due to the number of decisions I am still trying to select a few that may of interest.)

- Case T-485/14 ECJ – No likelihood of confusion

Opposition action before EUIPO concerning phonetically and semantically identical marks:

EUTM Application:



v.

Earlier marks



- Case R 2165/2010-4- No likelihood of confusion

Opposition proceeding before EUIPO:

EUTM Application

МЕРИДИАН МАЧ

Earlier mark:

MERIDIANS PA

Infringement Cases

- To cite decisions of the Bulgarian Courts under which use of trademark representing transliteration in Cyrillic of earlier marks in Latin characters are found to be infringing and not infringing.

Comment EM: (Due to the number of decisions I am still trying to select a few that may of interest.)



III. **.bg Domain name registrations**

.bg domains are subject to registration before the domain name registration agency REGISTER.BG. Since the agency is not a signatory of any agreements, .bg registrations are not subject to UDPR but only to an Arbitration proceeding before the Agency itself.

In accordance with the Regulations of the Agency there are two types of domains protected and unprotected.

The following domains are considered protected:

During a DISPUTE procedure the DOMAIN NAME shall be considered as PROTECTED, if for its formation the REGISTRANT has used and provided grounds to use the LABEL to the REGISTRY, corresponding to:

5.5.1.1. REGISTRANT's name.

5.5.1.2. REGISTRANT's registered trade mark or geographic designation, or any such in process of registration in the Patent Bureau of the Republic of Bulgaria. In the latter case it is necessary to sign a conditional agreement for registration of the DOMAIN NAME.

Any such trade mark or geographic designation shall be valid on the territory of the Republic of Bulgaria. The name of the trade mark or the geographic designation cannot be abbreviated.

5.5.1.3. Registered name of a publication (for example with an ISSN or ISBN).

5.5.1.4. Name of a program or a project of the state, regional, or municipal administrations and institutions of an EU member state.

5.5.1.5. Name, acquired by the REGISTRANT according to issued licenses, valid on the territory of the Republic of Bulgaria.

5.5.1.6. Consortium or non-personified civil society union name.

5.5.1.7. Name of a media program or a show.

5.5.1.8. Name of a cultural, sport, scientific or other event.

5.5.1.9. Name of a coalition, initiative committee or other name, used by a candidate for a campaign in parliamentary, presidential or local elections.

5.5.1.10. Name to use in connection with a franchising contract.

5.5.1.11. Name of any artistic form of group formed and registered in accordance with Article 83 of the Copyright and Similar Rights Act.

5.5.1.12. Name of a categorized tourist site.

5.5.1.13. Name of a construction site.

5.5.1.14. Name of a vessel.

5.5.2. When registering a PROTECTED DOMAIN NAME in the top level zone .bg, the LABEL is formed by:

5.5.2.1. The full name.



5.5.2.2. An abbreviation formed out of one or some of the words being part of the full name and the first characters of the remaining words (observing their sequence).

5.5.2.3. An abbreviation formed out of the first characters of the words forming the full name, observing their sequence (abbreviation).

5.5.2.4. When the applicant's name contains a number, it is accepted the domain name to be formed out of the number in say-format, and vice-versa.

5.5.2.5. When a name is composite, formed out of separate words or initial characters of words used generally to form the name, the hyphen sign (-) can be put on place.

5.5.2.6. When a label cannot be formed in any of the enumerated ways, as it is no longer available, after the requested combination of characters (as provided for in it [5.5.2.1.](#), it [5.5.2.2.](#), it [5.5.2.3.](#), it [5.5.2.4.](#) or [5.5.2.5.](#)) it is accepted to place a number or characters "bg" or "6r", separated or not with the hyphen sign (-).

5.5.2.7. When a name contains the word Bulgaria, it may be either omitted, or replaced with the characters "bg" or "6r". When the label ends with the word "6r", "bg", ".6r" or ".bg", the word can be omitted.

5.5.2.8. Some generally accepted abbreviations, or words, such as: "ltd", "plc", "inc", "co", "company", "corporation", "international" (or their equivalents) can be omitted.

5.5.2.9. When a name contains the name of a city, state or continent, they may be omitted or a generally accepted abbreviation can be used.

5.5.2.10. To the subject's name can be added the name or the generally accepted abbreviation of the city of their official seat.

5.5.2.11. When in the REGISTRANT's name the name of a patron is included, the latter may be omitted or to be used alone.

5.5.2.12. When a name contains a repetitive abbreviation, the latter may be omitted.

5.5.2.13. When a name contains the character "&", the latter shall be omitted or replaced with the conjunction "and", the hyphen sign "-" or the letter "n";

5.5.2.14. The name may be translated to a foreign language or transliterated with ASCII characters.

In accordance with 5.5.1.1. and 5.5.2.14 the domain may be registered on the grounds of a valid company name.

The above condition creates the following scenario.

A legal entity applies for registration of a domain on the grounds of its company name "Цар Тьер.БГ ООД" and the domain registration sought is CARTIER.BG. The Agency proceeds to register the domain as protected on the grounds of the company name, more specifically finding that the domain represents transliteration of the company name. The Agency does not note that the correct transliteration is „Tsar Tier.BG”.

In view of the above, an arbitration proceeding is initiated on the grounds of the existence of an earlier identical mark with reputation and the incorrect transliteration of the domain. As a result, the domain is subject to cancellation.



The same scenario may raise issues in cases where the company name actually represents an already register trademark and the same becomes a ground for a protected domain, where no erroneous transliteration exists. In such case, it may be necessary to seek the cancellation of the company name before the Court based on prior trademarks rights or registered company name of the territory of Bulgaria. Or seek cancellation of the domain name by proving that the domain may “cause confusion” (which term is unclear, providing ground for strict as well as board interpretation, and difficulty to determine the evidence to be provided and grounds on which to be sought, confusing as to origin or on “absolute grounds”).