
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

UKRAINE

The present document reproduces the text¹ of the Law on Protection of Rights to Industrial Designs, adopted on 15 December 1993, as last amended on 22 May 2003, as notified by Ukraine under Article 63.2 of the Agreement (see document IP/N/1/UKR/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

UKRAINE

Le présent document contient le texte¹ de la Loi sur la protection des droits relatifs aux dessins et modèles industriels adoptée le 15 décembre 1993, telle que modifiée en dernier lieu le 22 mai 2003, notifiée par l'Ukraine au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/UKR/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

UCRANIA

En el presente documento se reproduce el texto¹ de la Ley relativa a la protección de los derechos sobre los diseños industriales, adoptada el 15 de diciembre de 1993, modificada por última vez el 22 de mayo de 2003, que Ucrania ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/UKR/1).

¹ In English only. The text in the original language will be available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées pourront consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

LAW OF UKRAINE

On Protection of Rights to Industrial Designs

(The translation is not official)

(Gazette of the Verkhovna Rada of Ukraine (GVR), 1994, No.7, Art. 34)

(As amended by Laws

No. 2188-III of December, 21, 2000, GVR, 2000, No. 8, Art. 37

No. 2921-III of January, 10, 2002, GVR, 2002, No. 16, Art. 114

No. 34-IV of July, 4, 2002, GVR, 2002, No. 35, Art. 256

No. 762-IV of May, 15, 2003, GVR, 2003, No. 30, Art. 247

No. 850-IV of May, 22, 2003, GVR, 2003, No. 35, Art. 271)

This Law regulates relations arising in connection with acquisition and use of the property right to industrial designs in Ukraine.

Chapter I

GENERAL PROVISION

Article 1. Definitions

In this Law, terms presented below are used to denote the following:

«Office» means the central body of executive power on the legal protection of intellectual property;

«industrial design» means the result of a creative activity of a man in the field of artistic designing;

«author» means the man by whose creative work an industrial design has been created;

«patent» means a patent of Ukraine of an industrial design;

«patented industrial design» means the industrial design for which the patent has been granted;

«person» means a natural or legal person;

«application» means the aggregate of documents needed for granting of a patent;

«applicant» means the person who has filed an application or has acquired rights of an applicant by another procedure determined by the law;

«priority of application» (priority) means the precedence in the filing of an application;

«priority date» means the date of filing of an application to the Office or to a relevant body of a State which is a member of the Paris Convention for the Protection of Industrial Property, by which a priority has been claimed;

«employer» means the person who has hired an employee under a labor (work) agreement (contract);

«Register» means the State Register of Patents of Ukraine for industrial designs;

«Appellate Chamber» means the collegial body of the Office for the examination of objections to the decisions of the Office on the acquisition of rights to intellectual property objects and other matters referred to its competence by this Law;

«Examination institute» means the state institution (enterprise, organization) authorized by the Office for consideration and examination of applications;

«state system of legal protection of intellectual property» means the Office and an number of expertise, scientific, educational, informational and other state institutions of relevant specialization, included in the sphere of management of the Office.

Article 2. Authorities of the Office in the Sphere of Protection of Rights to Industrial Designs

1. The Office provides the implementation of the State policy in the sphere of protection of rights to industrial designs; to this end, it:

organizes the reception of applications and theirs examination, makes decisions on them;

grants patents of industrial designs, provides their state registration;

provides publication of official data on industrial designs;

implements international cooperation in the sphere of the legal protection of intellectual property and represents interests of Ukraine on matters of the protection of rights to industrial designs in international organizations according to current legislation;
adopts normative and legislative acts within its authorities under the determined procedure;
organizes the information and publishing activity in the sphere of the legal protection of intellectual property;
organizes the research works on improvement of the legislation and organization of activity in the sphere of the legal protection of intellectual property;
organizes the work on re-training of personnel of the State system of the legal protection of intellectual property;
authorizes institutions included into the State system of the legal protection of intellectual property, in accordance with their specialization, the fulfillment of individual tasks defined by this Law, Statute of the Office, and other normative and legislative acts in the sphere of the legal protection of intellectual property;
performs other functions in accordance with the its Statute approved by the determined procedure.

2. The activity of the Office is financed by funds of the State Budget of Ukraine.

Article 3. International Agreements

If an international agreement of Ukraine has set rules other than those provided by the legislation of Ukraine on industrial designs, rules of the international agreement are applied.

Article 4. Rights of Foreign and Other Persons

1. Foreign and stateless persons have equal rights with persons of Ukraine provided by this law in accordance with international agreements of Ukraine or on the basis of the principle of reciprocity.
2. Foreign and other persons residing or having a permanent location outside Ukraine exercise their rights in relations with the Office through representatives registered in accordance with the Regulations for Representatives in Matters of Intellectual Property, approved by the Cabinet of Ministers of Ukraine.

Chapter II

LEGAL PROTECTION OF INDUSTRIAL DESIGNS

Article 5. Conditions of Granting Legal Protection

1. The legal protection is granted to an industrial design that does not contradict the public order, principles of humanity and morals, and complies with the patentability conditions.
2. The object of an industrial design may be the shape, picture, or coloration, or their combination, which define the appearance of an industrial product and are intended to satisfy aesthetic and ergonomic demands.
3. According to this Law, the legal protection is not granted to:
objects of architecture (except small architectural forms), industrial, hydrotechnical, and other stationary structures;
printed products per se;
objects of an unstable form of liquid, gaseous, free-flowing, or like substances, etc.
5. The property right on an industrial design is certified by a patent.
The period of validity of a patent for an industrial design is of 10 years from the date of filing the application to the Office and may be extended by the Office at the request of the patent's owner, but for not more than five years.

The validity of a patent is terminated prematurely in the cases referred to in Article 24 of this Law.

6. The scope of the legal protection granted is determined by an aggregate of substantial features of an industrial design, represented in the image (images) of the product, entered in the Register, and is certified by a patent with a copy in it of the product image entered in the Register.

Interpretation of features of an industrial design is to be carried out within limits of its description.

Article 6. Conditions of Patentability of an Industrial Design

1. An industrial design meets patentability conditions if it is new.

2. An industrial design is considered new if the aggregate of its substantial features has not become universally accessible in the world before the date of filing the application with the Office or, if priority is claimed, before its priority date. In addition, in the process of determining the novelty of an industrial design there is taken into consideration the content of all applications received by the Office earlier, with the exception of those which as of said date are considered withdrawn, withdrawn or on which the Office has decided to refuse the grant of a patent and the possibilities of appealing against such decisions have been exhausted.

3. The recognition of an industrial design as patentable is not affected by disclosure of information on it by the author or a person who obtained such information from the author directly or indirectly within six months before the date of filing the application with the Office or, if priority is claimed, before its priority date. The obligation to prove circumstances of the disclosure of information in such a case is entrusted to the person interested in the application of this item.

Chapter III

RIGHT TO OBTAIN PATENT

Article 7. The Right of the Author

1. The right to obtain a patent shall belong to the author or his, unless otherwise provided by this Law.

2. Authors who have created an industrial design by a joint work have equal rights to obtain a patent, unless otherwise provided by an agreement between them.

3. In the event of a review of terms of the agreement about the composition of authors, the Office, on a joint request of persons indicated in the application as authors and of authors not indicated in the application as such, introduces alterations to relevant documents by the procedure determined by the Office.

4. The author of an industrial design has the right of authorship, which is an inalienable personal right and is protected indefinitely.

Article 8. The Right of the Employer

1. The right to obtain a patent shall belong to the employer if the industrial design has been created in connection with the fulfillment of official duties or of an assignment by the employer, unless otherwise stipulated by the work agreement (contract). The employer is to conclude a written agreement with the author and under conditions of the agreement to grant the author a reward in accordance with the economic value of the industrial design and other benefits gained by the employer from the industrial design.

Disputes as to conditions of obtaining the reward and its amount are settled by the judicial procedure.

2. The author of an industrial design submits to the employer a written notification about the industrial design created by him/her together with materials that disclose the essence of the industrial design clearly and completely enough.

If the employer does not file an application with the Office within four months from the date of reception of said notification, the right to a patent passes to the author.

Article 9. The Right of Successor in Title

The right to obtain a patent shall belong to the successor in title of the author or employer respectively.

Article 10. The Right of the First Applicant

The right to obtain a patent for an industrial design created by a separate work shall belong to the applicant whose application has an earlier date of filing to the Office or, if priority is claimed, an earlier priority date, on condition that the application is not considered withdrawn, has not been withdrawn, or that the Office has not adopted on it a decision to refuse the grant of a patent, the possibilities of appealing against which have been exhausted.

Chapter IV

PROCEDURE FOR OBTAINING A PATENT

Article 11. Application

1. A person who wishes to obtain a patent and who has the right to that , files an application with the Office.

2. On assignment by the applicant, the application may be filed through a representative in matters of the intellectual property or other authorized person.

3. The application shall relate to one industrial design and may contain its variants (the unity requirement).

4. The application is drawn up in the Ukrainian language and is to contain:

request for grant of a patent;

set of images of the product (the product proper or in the form of its mock-up or drawings), which provide a full notion of its appearance;

description of the industrial design;

drawings, diagram, map (where necessary).

5. In the request for grant of a patent it is necessary to indicate the applicant (applicants) and his address as well as the author (authors).

The author has the right to request that he should not be mentioned in any publication of the Office, in particular in the data on the application and patent.

6. The application is to disclose the subject matter of the industrial design clearly and fully enough so that it to be carried out by a person skilled in the art .

7. Other requirements to be satisfied by the documents making up the application shall be laid down by the Office.

8. Filing of an application shall be subject to payment of a fee. The document about the payment of the fee is to receive to the Office together with the application or within two months from the date of

filing of the application. This period is extended, but for not over than six months, if a relevant request is filed and the fee for its filing is paid before the expiry of this period.

Article 12. The Date of Filing of an Application

1. The date of filing of an application is the date of reception by the Office of materials which at least contain:

statement drawn up in a random form for the grant of a patent, written in the Ukrainian language;

data on the applicant and his address, presented in the Ukrainian language;

image of the product, which provides a full notion of its appearance;

a part which outwardly resembles the description of the industrial design, presented in the Ukrainian or another language. In the latter case, for retention of the date of filing of application, the translation of this part into the Ukrainian language is to receive to the Office within two months from the filing date.

2. The date of filing of application is determined according to paragraph 9, 10, and 11 of Article 14 of this Law.

Article 13. Priority

1. An applicant has the right to priority of an earlier application on the same industrial design within six months from the date of filing of the earlier application to the Office or with a relevant body of a State which is a member of the Paris Convention for the Protection of Industrial Property, unless priority has been claimed for the earlier application.

2. The priority of an industrial design that has been used in an exhibit shown at official or officially recognized international exhibitions held at the territory of a State which is a member of the Paris Convention for the Protection of Industrial Property may be determined by the date of opening of the exhibition if the application has received to the Office within six months from the said date.

3. An applicant who wishes to use of the priority right is within three months from the date of filing of the application with the Office to file a declaration of priority with reference to the date of filing and No. of the earlier application and its copy if this application has been filed in a foreign State which is a member of the Paris Convention for the Protection of Industrial Property, with translation into the Ukrainian language, or a document confirming the demonstration of said industrial design at exhibitions held at the territory of a State which is a member of the Paris Convention for the Protection of Industrial Property. Said materials may be changed within this period. If these materials are filed untimely, the right to priority of the application is considered lost, of which a notification is sent to the applicant.

4. For an application as a whole or its part there may be claimed priority of several earlier applications. In this case the time limits that start with the priority date shall be computed as from the earliest priority date.

5. Priority applies only to those features of an industrial design which are indicated in the earlier application whose priority is claimed.

6. If the office work on the earlier application at the Office is not completed, then on arrival of the claim for priority in accordance with paragraph 3 of this Article the earlier application is considered withdrawn in the part for which priority is claimed.

7. Priority of an industrial design may be determined as of the date of reception by an Examination Institute of additional materials executed in accordance with paragraph 7 of Article 14 of this Law as an independent application if this application has been filed within three months from the date of

reception by the applicant of a notification of that said materials are ignored during the examination of the application to which they have been supplemented.

Article 14. Examination of Application

1. The examination of an application has the status of scientific-technical examination and is carried out by an Examination Institute according to this Law and rules established on its basis by the Office.

2. The Examination Institute exercises the information activity needed for the proceeding examination of applications and is a center for international exchange of publications in accordance with the Convention on International Exchange of Publications, adopted on 3 December 1958 by the General Conference of the United Nations Educational, Scientific and Cultural Organization.

3. Final results of the examination of an application which is not considered withdrawn or has not been withdrawn are presented in a substantiated conclusion of the examination of the application, which enters into effect after its approval by the Office. On the ground of such a conclusion the Office adopts a decision to grant a patent or to refuse the grant of a patent. The Office's decision is sent to the applicant.

An applicant has the right within a month from the date of reception by him of the Office's decision to request copies of materials presented against the application. The copies are sent to the applicant within a month.

4. The applicant has the right on the own initiative or on invitation from the Examination Institute to take part personally or through his/ representative, by the procedure established by the Office , in the consideration of issues that have arisen during the examination.

5. The applicant has the right to introduce to the application corrections of mistakes and changes of his name and address, address for correspondence (service), name and address of his representative. The applicant may introduce to the application changes associated with change of the person of the applicant on condition of consent thereto of other applicants indicated in the application. Such changes may by consent of all applicants be introduced also by a person who wishes to become an applicant.

These corrections and changes are taken into account if received by the Examination Institute not later than the reception by it of a document on payment of the state fee for the grant of a patent.

A fee is charged for the filing of a request for correction of an mistake or introduction of any one of the above-indicated changes on condition that the mistake is not obvious or technical and the change has arisen through circumstances depending on the person that files the request.

6. The Examination Institute may request from the applicant submission of additional materials if examination is impossible without them or in the event of appearance of well-founded doubts about credibility of any data or elements contained in materials of the application.

The applicant has the right within a month from the date of reception by him of the notification or conclusion of the Examination Institute with a request to file additional materials to request from the Institute copies of materials presented against the application.

The additional materials are to be filed by the applicant within two months from the date of reception by him of the notification or conclusion of the Examination Institute or of copies of materials presented against the application. The period for filling of additional materials is extended, but for not more than six months, if a corresponding request is filed and the fee for its filing is paid before the expiry of this period. This period, if missed for valid reasons, is renewed if a corresponding request is filed and the fee for its filing is paid within six months after its expiry. If the applicant fails to file additional materials within the set period, the application is considered withdrawn, a notification of which is sent to the applicant.

7. If the applicant has filed additional materials, then in the process of the examination it is cleared up whether they extend beyond the essence of the industrial design, disclosed in the filed application.

Additional materials are considered to extend beyond the essence of the industrial design, disclosed in the filed application, if they contain new essence features.

Additional materials in the part which extends beyond the essence of the industrial design, disclosed in the filed application, are ignored at the examination of the application and may after obtaining a corresponding request from the Examination Institute be executed by the applicant as an independent application.

8. During the examination:

the filing date of application is determined on the ground of Article 12 of this Law;

it is determined whether the object applied for belongs to objects indicated in paragraph 2 of Article 5 of this Law;

the application is checked for conformity with formal requirements of Article 11 of this Law and rules determined on its basis by the Office;

the document about payment of the fee for the filing of the application is checked for conformity with determined requirements.

9. If materials of the application meet requirements of Article 12 of this Law and the document about payment of the fee for the filing of the application is present, a notification of the determined filing date of application is sent to the applicant.

10. If materials of the application fail to meet requirements of Article 12 of this Law, a notification of this is immediately sent to the applicant. If the non-conformity is eliminated within two months from the date of receiving of the notification by the applicant, then the date of receiving of corrected materials by the Examination Institute is considered the application filing date. Otherwise, the application is considered non-filed, notification of which is sent to the applicant.

11. If in materials of an application which meets requirements of Article 12 of this Law there is a reference to a drawing (diagram, map), but such a drawing (diagram, map) is absent, a notification of this is sent to the applicant with a proposal, on his choice, either to send the drawing (diagram, map) or to exclude the reference to it in the application. If the drawing (diagram, map) is filed within two months from the date of reception of the notification by the applicant, the date of receiving of the drawing (diagram, map) by the Examination Institute is considered the filing date of application. If the applicant fails to make the proposed choice within this period, the application is considered non-filed, a notification of which is sent to the applicant.

12. In the event of violation of requirements of paragraph 8 of Article 11 of this Law, the application is considered withdrawn, a notification of which is sent to the applicant.

13. If there are grounds to consider that the object applied for fails to meet requirements of paragraph 2 of Article 5 of this Law, or the application fails to meet formal requirements of Article 11 of this Law and rules determined on its basis by the Office, or the document about the payment of the fee for the filing of the application fails to meet determined requirements, then the Examination Institute sends the applicant a well-founded preliminary conclusion on this with a proposal to fill a motivated answer with elimination, if needed, of irregularities indicated in the conclusion.

The applicant's answer is to be filled within the period specified by paragraph 6 of this Article for additional materials and is taken into account at the preparation of the conclusion of the examination on the application.

In the event of violation of the requirement of unity, set by paragraph 3 of Article 11 of this Law, the applicant is to indicate in the answer the industrial design for which the examination of the application should be carried out and, when needed, to introduce refinements to the application. In this case, independent applications may be filed for other industrial designs.

If the requirement of unity, as proposed by the examination institute, is not observed, the examination of the application is carried out for the industrial design which is the first mentioned in the description.

Article 15. Withdrawal of an Application

An applicant has the right to withdraw an application at any time before the date of payment of the state fee for the grant of a patent.

Article 16. Publication on Granting of a Patent

1. The publication in the official bulletin of data about the grant of a patent, defined by the determined procedure, is carried out on the ground of a decision to grant of the patent and at presence of documents about the payment of the state fee for the grant of the patent and of the fee for the publication about the grant of the patent. Said fees are paid after the receiving of the decision to grant of the patent by the applicant.

If documents on the payment of the state fee for the grant of the patent and of the fee for the publication about the grant of the patent in the amount and by the procedure defined by the legislation have not arrived to the Examination Institute within three months from the date of receiving of the decision to grant of the patent by the applicant, the publication is not carried out and the application is considered withdrawn.

The period for arrival of these documents is extended, but for not more than six months, if a corresponding request is filed and the fee for its filing is paid before the expiry of this period. This period, if missed for valid reasons, is renewed if a corresponding request is filed and the fee for its filing is paid within six months after its expiry.

2. After the publication of data on the grant of a patent, any person has the right to familiarize himself with materials of the application by the determined procedure. A fee is charged for the familiarization with materials of the application.

Article 17. Registration of a Patent

1. At the same time with the publication of data on the grant of a patent, the Office carries out the state registration of the patent for an industrial design by entering relevant data in the Register. The form of the Register and procedure of its keeping are defined by the Office.

2. When the data have been entered in the Register, any person has the right to familiarize himself with them by the procedure defined by the Office and to obtain in reply to his request an extract from the Register as to the data on the patent on condition of payment of a fee for the filling of the request.

3. Mistakes in data entered in the Register are corrected on the initiative of the owner of the patent or of the Office.

On the initiative of the owner of the patent, changes may be introduced to the Register in accordance with the list of possible changes. A fee is charged for introduction of changes about a patent to the Register.

Article 18. Grant of Patent

1. A patent is granted by the Office within a month after the state registration of the patent. A patent is granted to a person who has the right to obtain the patent. If several persons have the right to obtain a patent, one patent is granted to them.

A patent is granted within responsibility of its owner without a guarantee of validity of the patent.

2. The form of a patent and content of data indicated in it are defined by the Office.

3. At request of the owner of the granted patent, the Office corrects obvious mistakes with a subsequent notification of this in the official bulletin.

4. In the event of loss or damage of a patent, its owner is granted with a duplicate of the patent by the procedure determined by the Office. A fee is charged for the grant of a duplicate of a patent.

Article 19. Appellation against Decision on Application

1. An applicant may appeal against a decision of the Office on an application to the court as well as to the Appellate Chamber within two months from the date of receiving of the decision of the Office or of copies of materials, requested in accordance with paragraph 3 of Article 14 of this Law.

2. If the decision of the Office on an application has been appealed against to the court after the state registration of the patent, then the court decides at the same time also the issue of validity of the relevant patent.

3. The right to appeal against a decision of the Office to the Appellate Chamber is lost in the event of payment of the state fee for the grant of the patent.

4. A decision of the Office is appealed against to the Appellate Chamber by filing an objection against the decision by the procedure determined by this Law and on its basis by the Regulation of the Appellate Chamber, approved by the Office. A fee is charged for the filing of the objection. If the fee has not been paid within the period indicated in paragraph 1 of this Article, the objection is considered not filed, of which a notification is sent to the applicant.

5. When the Appellate Chamber receives an objection and a document on the payment of the fee for the filing of the objection, the office work on the application is suspended until the decision of the Appellate Chamber is approved.

6. An objection against a decision of the Office on an application is examined in accordance with the Regulation of the Appellate Chamber within two months from the date of receiving of the objection and the document on the payment of the fee for the filing of the objection, within the scope of arguments presented by the applicant in the objection and during its consideration. The period of consideration of an objection is extended on the initiative of the applicant, but for not more than two months, if a relevant request is filed and the fee for its filing is paid before the expiry of this period.

7. On results of consideration of an objection, the Appellate Chamber adopts a motivated decision which is approved by an order of the Office and sent to the applicant.

In the event of a full or partial satisfaction of an objection, the fee for the filing of the objection is to be returned.

8. Before the approval of a decision of the Appellate Chamber, within a month from the date of its adoption, the Head of the Office may present a grounded written protest against this decision, which is to be considered within a month. The decision of the Appellate Chamber, adopted as to this protest, is final and may be canceled only by a court.

9. An applicant may appeal against a decision of the Appellate Chamber, approved by the Office, to the court within two months from the date of receiving of the decision.

Chapter V RIGHTS AND OBLIGATIONS DERIVING FROM PATENT

Article 20. Rights Deriving from Patent

1. Rights deriving from a patent are valid from the date of publication of data about its grant on condition of payment of the annual fee for maintaining the validity of the patent.

2. A patent grants its owner an exclusive right to use the industrial design at his/ own discretion, unless such a use infringes rights of other owners of patents.

Interrelations at the use of an industrial design, the patent for which is owned by several persons, are defined by an agreement among them. At absence of such an agreement, each owner of the patent may use the industrial design at his own discretion, but neither of them has the right to grant permission (grant a license) for use of the industrial design and to transfer the right of ownership of the industrial design to another person without a consent thereto of the rest of owners of the patent.

Considered as the use of an industrial design is the manufacture of a product with employment of a patented industrial design, employment of such a product, offer for sale, including a sale through Internet, sale, import (coming-in), and another putting of it into civil circulation or its storage for above-indicated purposes.

A product is considered manufactured with the use of a patented industrial design if all substantial features of the industrial design have been used in the manufacture.

3. A patent gives its owner the right to prohibit other persons from using the industrial design without his permission, with the exception of cases where such use is accordance to this Law not considered an infringement of rights of the patent's owner.

4. The owner of a patent may transfer the right of ownership of the industrial design under an agreement to any third person, who/ becomes a successor in title of the patent's owner.

5. The owner of a patent may grant any person a permission (grant a license) for the use of the industrial design on the ground of a license agreement.

6. An agreement for transfer of the right of ownership of an industrial design and a license agreement are considered valid if made in writing and signed by the parties.

A party to an agreement has the right to inform an indefinite circle of persons about the transfer of the property right to an industrial design or grant of a license for the use of an industrial design. Such information is effected by publication in the official bulletin of data in the scope and by the procedure defined by the Office with a simultaneous entering them in the Register.

Fees are charged for publication of said data and changes of data on the grant of a license.

7. The owner of a patent has the right to file with the Office for an official publication a request for granting any person a permission for the use of the patented industrial design. In this case the annual fee for maintaining the validity of the patent is reduced by 50% beginning from the year following the year of publication of such request.

A person who wishes to make use of said permission is to conclude an agreement for payments with the patent's owner. Disputes arising during the conclusion and implementation of this agreement are settled to the judicial procedure court.

If no person has informed the patent's owner of his/ intentions as to the use of the industrial design, the patent's owner may file with the Office a written petition about withdrawal of his request. In this case the annual fee for maintaining the validity of the patent is paid in a full amount beginning from the year following the year of publication of such petition.

8. The rights deriving from a patent do not interfere with any other personal property or non-property rights of the author of an industrial design which are regulated by another legislation of Ukraine.

(Article 21 has been excluded on the ground of Law No. 850-IV of May 22, 2003)

Article 22. Actions that are not Considered Infringement of Rights

1. Any person who before the date of filing an application with the Office or, if priority has been claimed, before its priority date has in interests of his activity used in a good faith in Ukraine an industrial design applied for or carried out a considerable and serious preparation to such a use retains the right to a free of charge continuation of this use or to the use of the industrial design as this was contemplated by said preparation (right to prior use).

The right to prior use may be transferred or pass to another person only together with an enterprise or business practice or with that part of an enterprise or business practice where the industrial design applied for has been used or a considerable and serious preparation to such a use has been carried out.

2. The use of a patented industrial design is not considered infringement of rights granted by the patent :

use in the construction or in operation of a transport facility of a foreign state, which temporarily or accidentally is in waters, air space, or at the territory of Ukraine, on condition that the industrial design is used exclusively for needs of this transport facility;

use non-commercial purpose;

with scientific purpose or as experiment;

at extraordinary circumstances (natural disaster, catastrophe, epidemics, and etc.) with notification of the patent's owner about such use at once when this becomes practically feasible and payment of a corresponding compensation to the owner.

3. Putting into the civil circulation a product made with the use of a patented industrial design after this product has been put into civil circulation by the patent's owner or by his/ special permission is not considered infringement of rights granted by the patent.

Article 23. Obligations Deriving from a Patent

1. The owner of a patent is to use in a good faith the exclusive right that deriving from the patent.

If an industrial design is not used or insufficiently used in Ukraine within three years beginning from the date of publication of data about the grant of the patent or from the date when the use of the industrial design has been terminated, then any person who wishes and shows up willingness to use the industrial design may in the event of refusal of the patent's owner to conclude a license agreement apply to a court with a request for granting him permission for the use of the industrial design.

Unless the patent's owner proves that the fact of non-use or insufficient use of the industrial design has been due to valid reasons, the court awards a decision to grant the interested person a permission for the use of the industrial design with indication of the scope of its use, period of validity of the permission, amount and procedure of payment of the reward to the patent's owner.

2. The owner of a patent is bound to grant permission (grant a license) for the use of the industrial design to the owner of a patent granted later on if the industrial design of the latter is intended for achievement of another purpose or features considerable technical and economic advantages and cannot be used without infringing rights of the former owner. In this case the granting of such permission may be stipulated by a relevant permission of the owner of the patent granted later, who is bound to grant permission if his/ industrial design improves the industrial design of the owner of the earlier granted patent or is intended for achievement of the same purpose. The permission is granted in a scope needed for the use of the industrial design by the patent's owner who has requested such permission.

Disputes about licenses are settled to the court.

Chapter VI TERMINATION OF VALIDITY OF PATENT AND RECOGNITION OF ITS INVALIDITY

Article 24. Termination of Validity of Patent

1. The owner of a patent may at any time renounce completely or partly on the ground of a request filed with the Office. Said renunciation comes into force at the date of publication of data on this in the official bulletin of the Office.

2. The validity of a patent for an industrial design is terminated in the event of non-payment of the annual fee for maintaining its validity in due time.

The annual fee is paid for every year of validity of a patent, counting from the filing date of the application. The document about the first payment of said fee is to receive to the Office together with the document about the payment of the fee for the grant of the patent. The document about the payment of the fee for every next year is to receive to the Office before the end of the current year on condition of payment of the fee within last two months thereof.

The annual fee for maintaining the validity of a patent may be paid and the document about its payment may arrive receive to the Office within six months after the end of the determined period. In this case the amount of the annual fee is increased by 50%.

The validity of a patent is terminated from the first day of the year, the fee for which has not been paid.

Article 25. Recognition of Invalidity of Patent

1. A patent may be recognized completely or partly invalid by the court in the following cases:

- (a) nonconformity of a patented industrial design to patentability conditions defined by this Law;
- (b) existence of features that were not presented in the filed application in the aggregate of substantial features of an industrial design;
- (c) grant of a patent as a consequence of filing the application with infringement of rights of third persons.

3. When having recognized a patent or a part thereof invalid, the Office informs of this in its official bulletin.

4. A patent or a part thereof which have been recognized invalid are considered null and void from the date of publication of data about the grant of the patent.

Chapter VII PROTECTION OF RIGHTS

Article 26. Infringement of Rights of Patent's Owner

1. Any offence against the rights of the owner of a patent, provided by Article 20 of this Law, is considered an infringement of rights of the owner of the patent, which entails responsibility in accordance with the current legislation of Ukraine.

2. On request of the owner of the patent, such an infringement is to be ceased and the infringer is bound to compensate the owner of the patent for inflicted losses.

Restoration of infringed rights of the owner of the patent may also, by his consent, be demanded by a person who/ has acquired a license.

Article 27. Methods for Protection of Rights

1. The protection of rights for an industrial design is provided in the court and another procedure determined by legislation.

2. The jurisdiction of courts covers all legal relations arising in connection with the application of this Law.

Courts, in accordance with their competence, shall resolve, in particular, disputes about:

authorship of an industrial design;
determination of a fact of use of an industrial design;
determination of the owner of a patent;
infringement of rights of the owner of a patent;
right to the previous use;
compensation.

Chapter VIII

CONCLUDING PROVISIONS

Article 28. Fees

The amount and procedure of payment of the state fee for the grant of patents are defined by the legislation.

Receipts from payments of the state fee for the grant of patents for industrial designs are included to the State Budget of Ukraine.

The amount of fees stipulated by this Law, times and procedure of their payment are determined by the Cabinet of Ministers of Ukraine.

Fees provided by this Law are paid to current accounts of institutions authorized by the Office, which are included into the state system of the legal protection of intellectual property and fulfill individual tasks, defined by his Law, in accordance with their specialization.

Receipts from fees stipulated by this Law are target-oriented and, in accordance with orders of the Office, are used solely for the development and functioning of the state system of legal protection of intellectual property, in particular for the accomplishment of tasks defined by this Law and other normative and legislative acts in the sphere of intellectual property.

Article 29. Patenting of Industrial Design in Foreign States

1. Any person has the right to patent an industrial design in foreign states.

2. Expenses involved in patenting an industrial design in foreign states are borne by the applicant or, by his consent, by another person.

Article 30. State Stimulation of the Creation and Use of Industrial Designs

The state stimulation the creation and use of industrial designs, establishes preferential taxation and crediting conditions for their authors and persons who/ use them, and grants them other preferences in accordance with the current legislation of Ukraine.

President of Ukraine

L. KRAVCHUK

Kyiv, December 15, 1993
No. 3688-XII
