

REGULATION ON INDUSTRIAL PROPERTY REPRESENTATIVES

Adopted by Decree No. 137/15.07.1993, reflected denomination of 05.07.1999.
Promulgated in State Gazette No. 65/30.07.1993, amended - State Gazette No. 86/21.10.1994, supplemented - State Gazette No. 41/23.05.1997, supplemented - State Gazette No. 32/08.04.2003, amended - State Gazette No. 69/23.08.2005.

Chapter I - GENERAL PROVISIONS

Art. 1. This Regulation governs the representation before the Patent Office and the qualifications to be possessed by an industrial property representative, hereinafter referred to as "a representative".

Art. 2. A representative shall carry out statutory activities for rendering assistance and protecting the rights and legitimate interests of natural and legal persons in the field of industrial property.

Art. 3. A person may qualify as a representative only if his name is entered in the Register of Industrial Property Representatives kept at the Patent Office, hereinafter referred to as "the Register".

CHAPTER II - GAINING RIGHTS OF BECOMING A REPRESENTATIVE

Art. 4. Any active person may become a representative, who has:

1. Bulgarian citizenship;
2. permanent residence in the Republic of Bulgaria;
3. a higher technical, natural science IP economy or law education diploma, officially recognized in Bulgaria;
4. two-years practice in the field of industrial property protection;
5. successfully passed the representative's examination.

Art. 5. A person shall not qualify as a representative, who:

1. is a state officer or has employment relations with a natural or legal person;
2. is a trader as such within the meaning of the Commerce Law;
3. is convicted, as an adult, of indictable crime of forethought and is not rehabilitated;
4. is debarred from exercising the profession of a representative - for the period for which he was debarred;
5. is adjudged bankrupt and not whitewashed.

Art. 5a. The following persons shall acquire the status of representatives by right, provided that they meet the requirements of Arts. 12 and 13:

1. state examiners and lawyers with at least 10 years standing at the Patent Office;
2. attorneys-at-law with at least 10 years standing as such;
3. members of the committee provided for in Art. 7(1), having conducted the first examinations.
4. university lecturers with at least 10 years standing in the field of industrial property, regardless of their employment relations with a higher educational institution;

5. specialists with IP post-graduate qualification and at least 10 years standing as such in industry, acquired upon entry into effect of the Patent Law.

CHAPTER III - REPRESENTATIVES EXAMINATION

Art. 6 /1/ Industrial property representatives examinations under Art. 4(5) shall be taken before the Patent Office at the request of the candidate, the request form containing an indication of the industrial property objects of representation.

/2/ A candidate shall be admitted to examination, provided that he satisfies the requirements of Art. 4(1 to 4) and has paid a sum amounting to five patent application fees.

/3/ The Patent Office shall organize a training course for industrial property representatives with a program endorsed by the President of the Office. The course shall be subject to the payment of a fee.

/4/ The examination shall be written and oral; it shall not be public.

Art. 7 /1/ The examination shall be conducted by a five-member committee - a chairman plus four members: a lawyer, a state examiner from the Patent Office, an industrial property representative, a patent law lecturer or an industrial property scientist.

/2/ For each individual examination, the examination committee shall be appointed by the President of the Patent Office out of a two-year mandate board as approved by him and consisting of: five lawyers and five state examiners from the Patent Office, two patent law lecturers from a higher educational institution, two industrial property scientists and three industrial property representatives.

/3/ The President of the Patent Office has the power to appoint a substitute of a member of the committee, whose impartiality is questioned or who has asked to be struck off the list.

/4/ Each member of the examination committee shall get, for each examined candidate, a sum of money as fixed by the President of the Patent Office.

/5/ The examination shall be conducted provided that there are at least five requests filed, or at least once a year.

Art. 8. The examination committee shall judge whether the candidate possesses:

1. knowledge of industrial property protection, including the international treaties in that field;
2. knowledge of civil law, administrative substantive and adjective law, and other industrial property related rights;
3. the abilities necessary to put into practice the knowledge according to the preceding items.

Art. 9 /1/ The order of conducting examinations, the scope thereof, the assessment methods and the examination date shall be determined by an act of the President of the Patent Office.

/2/ The subject-matter, including written examination cases, shall be drawn on the

examination day by the industrial property representative candidate out of at least two topics offered by the chairman of the examination committee.

/3/ The candidate shall be considered to have passed the written examination, if three committee members are of the opinion that he has sufficient knowledge of the subject-matter, and the mark they give him is at least (4) according to the system as determined by the act of paragraph 1.

/4/ Candidates who have passed the written examination shall only be admitted to the oral one.

/5/ The candidate shall be considered to have passed the oral examination, if at least three committee members are of the opinion that he has sufficient knowledge of the subject-matter, and the mark they give him is at least (4) according to the system as determined by the act of paragraph 2.

Art. 10 /1/ An examination record shall be drawn up and signed by the chairman and the members of the committee, which shall contain an indication of the place and date of the examination, the candidates' names, as well as the results of the written and the oral examination. The examination committee's records shall be kept at the Patent Office.

/2/ The Patent Office shall give each candidate who has successfully passed the examination a document containing the name and personal number of the candidate, date and result of the examination. The document shall be signed by the chairman of the examination committee and stamped.

Art. 11. A candidate who fails to pass the examination may sit for it again under the ordinary procedure.

CHAPTER IV - ENTRY INTO THE REGISTER

Art. 12. Prior to entry into the register, the candidate shall sign a statement of oath reading as follows: "I swear to conscientiously discharge my duties as an industrial property representative in accordance with the Constitution, the laws of this country and its moral standards; I will be diligent and honourable in the protection of the interests entrusted to me; I will not betray my clients' secrets, and I will follow all regulations evolving from my professional obligations".

Art. 13. /1/ Any person shall be entered in the register, who presents an entry request to the President of the Patent Office, accompanied by documents proving compliance with the provisions of Art. 5, namely:

1. a declaration concerning the circumstances of Art. 5(1,2,4,5);
2. certificate of conviction.

/2/ The following shall be entered into the register:

1. full name of the representative;
2. office address;
3. subject according to the high-school diploma;
4. industrial property objects within the qualification of the representative.

Art. 14. /1/ On entry in the register, the Patent Office shall issue the candidate a

certificate bearing the entry date, as well as an official card.

/2/ A mention of any entry or changes in the register shall be published in the Bulletin of the Patent Office.

/3/ The Patent Office shall keep the representative's record.

Art. 15. /1/ Cancellation from the register shall be effected ex officio by order of the President of the Patent Office:

1. at the request of the representative;
2. in case of death;
3. if the requirement of Art. 4(1) is no longer complied with;
4. if a circumstance under Art. 5 is established.

/2/ Any representative, whose name is canceled from the register shall, on the grounds as provided for in Art. 1(1,3,4) and within three months following the cancellation date:

1. notify the clients having authorized him to represent them, of the necessity to appoint a new industrial property representative;
2. give the originals of all documents to his clients or to a person as indicated by the latter;
3. do the necessary to protect the client's interests.

/3/ A person whose name has been deleted from the register may have it entered again at his request, provided the reasons for the cancellation no longer exist.

CHAPTER V - RIGHTS AND DUTIES OF THE REPRESENTATIVE

Art. 16. /1/ In the execution of his functions, the representative shall do the following:

1. consultations and actions at the stage before filing the industrial property application;
2. execution and filing of applications for the protection of inventions, utility models, trade marks, industrial designs and other industrial property objects;
3. participation in the procedure of grant of titles of protection and maintenance of rights evolving therefrom;
4. consultations and actions during the period of maintenance of the title of protection and in case of disputes;
5. consultations on all issues of industrial property;
6. other actions relating to third party industrial property rights.

/2/ The representative shall render assistance in:

1. filing applications abroad;
2. representation before judicial authorities.

/3/ Representatives may either work independently or enter into partnership.

Art. 17. /1/ In accordance with Art. 35(3) of the Patent Law, the representative shall attach a power of attorney for each application.

/2/ In case of assignment of rights in an application or in a title of protection to third parties, the representative shall attach a new power of attorney from the assignee.

Art. 18. /1/ In the discharge of his obligations and conscientious protection of his clients' interests, the representative shall:

1. be guided solely by the law, his conscience and the etiquette of the profession;
2. guarantee the secrecy of the information entrusted to him in his capacity of representative.

/2/ In the exercise of his profession, the representative shall guard the honour and dignity of lawyers.

Art. 19. /1/ The representative may at any time withdraw from already accepted representation, and shall duly notify his client and the Patent Office thereof.

/2/ In cases of paragraph (1), the representative shall, within two months following the date of notification, take the necessary actions to protect the client's interests.

Art. 20. In case of termination of representation, the representative shall give back to his client or to a person indicated by the latter, the originals of all documents entrusted to him. He has the right to withhold only manifolds thereof.

Art. 21. The representative shall scrupulously keep his records and, in case of substitution, give his successor a full file.

Art. 22. The representative shall refuse to assume representation, where:

1. he has or is representing another person, whose interests are adverse to those of the person seeking representation;
2. he is in partnership with the adverse party's representative within the meaning of Art. 16(3).

Art. 23. The representative's remuneration shall be subject to bargaining. The remuneration for representation of foreigners may be in foreign currency as well.

Art. 24. The representative shall notify the Patent Office of any change of his office address within a period of seven days, and the change shall be entered in the register.

CHAPTER VI - ADMINISTRATIVE PENAL PROVISIONS

Art. 25. /1/ A person presenting himself and performing acts as a representative without being registered at the Patent Office, or whose registration has been canceled by virtue of Art. 15, shall be fined 10 leva.

/2/ The statement against such a person shall be drawn up by the organ as provided for under Art. 84(2) of the Patent Law, and the penal provision shall be issued by the President of the Patent Office.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. /1/ Any person, who satisfies the requirements of Art. 4(1-4) and does not come

under one of the cases referred to in Art. 5, may be entered in the register within a period of three months following entry into effect of this Regulation, subject to the filing of a request to the President of the Patent Office and payment of the examination fee under Art. 6(2).

/2/ A person entered in the register under Art. 1 shall take the examination referred to in Art. 6 on 31 December 1994 at the latest. In case the person fails to sit for the examination or to pass it, he shall be canceled from the register without refunding of the fee he has paid. The Patent Office shall organize the first examinations on 1 December 1993 at the latest.

/3/ Cancellation on the grounds of paragraph 2 shall be effected ex officio by order of the President of the Patent Office. The person canceled from the register shall have the obligations referred to in Art. 15(2).

/4/ A person, who is canceled from the register and who fails to perform the actions referred to in paragraph 3, shall bear responsibility under Art. 25.

§ 2. Only a representative under this Regulation may act as an "agent" within the meaning of Art. 48 and Art. 11(2) of the Law on Trade Marks and Industrial Designs.

§ 3. Patent specialists having employment relations with a natural or a legal person may act as representatives before the Patent Office only with regard to industrial property, the applicant for which is the organization or the firm they work and following due authorization by the respective manager."

§ 4. During the first examinations, the representative referred to in Art. 7(1) shall be replaced by a patent law lecturer or an industrial property scientist.

§ 5. This Regulation shall be issued on the strength of § 10 of the Transitional and Final Provisions of the Patent Law.

§ 6. The implementation of this Regulation is assigned to the President of the Patent Office.

The Regulation was adopted by Government Decree No. 137/15 July 1993, promulgated in State Gazette No. 65/1993, supplemented by No. 86/1994, amended by No. 41/1997.

Final Provisions

DECREE NO. 72/31.03.2003 FOR SUPPLEMENTING OF THE REGULATION ON INDUSTRIAL PROPERTY REPRESENTATIVES (PROMULGATED IN STATE GAZETTE NO.32/2003)

§ 2.The Decree shall take effect on the day of publication thereof in the State Gazette.

Final Provisions

DECREE NO. 189/16.08.2005 FOR AMENDMENT OF THE REGULATION ON INDUSTRIAL PROPERTY REPRESENTATIVES (PROMULGATED IN STATE GAZETTE NO.69/2005)

§ 3. The Decree shall take effect on the day of publication thereof in the State Gazette.