

**Law on Industrial Designs***

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TABLE OF CONTENTS**

	<i>Article</i>
Chapter I:	General Provisions
	Subject 1
	Scope of Application..... 2
	Industrial Designs 3
	Right of Authorship 4
	Representation..... 5
	Fees 6
	Files..... 7
	State Register of Industrial Designs 8
	Access to the State Register of Industrial Designs 9
Chapter II:	Legal Protection
Section I:	Registration
	Acquisition of Rights in Designs 10
	Requirements for Registration 11
	Novelty..... 12
	Individual Character..... 13
	Non-prejudicial Disclosure 14
	Term of Protection under Registration..... 15
	Right to File and Right to Registration 16
	Employee Designs..... 17
	Scope of Legal Protection 18
	Rights Conferred by Designs 19
	Limitation of Rights in Designs 20
	Exhaustion of Rights in Designs 21
	Entitlement to Rights in Designs..... 22
	Prior Use 23
Section II:	Disposition
	Transfer 24
	Transfer of Rights of Prior Use 25
	Licensing Contracts..... 26
Section III:	Termination and Invalidation of Registrations
	Termination of Registrations..... 27
	Surrender of Rights in Designs 28
	Invalidation of Registrations 29
	Legal Consequences of Invalidation 30
Chapter III:	Procedure Before the Patent Office
	Filing of Applications 31
	Contents of Applications..... 32
	Multiple Applications 33
	Division of Applications 34
	Right of Priority 35
	Formal Examination..... 36
	Substantive Examination..... 37
	Withdrawal, Limitation and Changes in Applications .. 38
	Renewal of Registrations 39
	Changes in the Name and Address of Holders 40
	Appeals Procedure 41
	Time Limits..... 42



	Contents of Appeals and Requests	43
	Appeals Authority	44
	Procedure for Requests	45
	Extension of Time Limits.....	46
	Renewal of Time Limits.....	47
	Publications in the Official Bulletin	48
	Review by Court	49
Chapter IV:	Registration of Industrial Designs Under The Hague Agreement	
	International Registration of Industrial Designs.....	50
	Duration of Protection of International Registrations ...	51
	Procedure Before the Patent Office	52
	Filing of an International Application	53
	International Applications for which the Republic of Bulgaria is Country of Origin.....	54
Chapter V:	Protection Under Civil Law	
	Infringement of Rights in Designs	55
	Right of Legal Action	56
	Action for Infringement	57
	Actions for Employee Designs.....	58
	Actions for Prior Use	59
	Actions for Authorship and Joint Authorship	60
	Jurisdiction.....	61
Chapter VI:	Border Controls	
	Grounds and Field of Application	62
	Acts on the Initiative of the Customs Authorities	63
	Complementary Regulation	64
Chapter VII:	Administrative Penal Provisions	
	Sanctions.....	65
	Additional Provision	
	Transitional and Final Provisions	

CHAPTER I GENERAL PROVISIONS

Subject

1. This Law governs the conditions and procedure for the registration of industrial designs, the rights deriving from registration and the protection of those rights.

Scope of Application

2.—(1) This Law shall apply to Bulgarian natural and legal persons and to foreign natural and legal persons of States party to the international treaties to which the Republic of Bulgaria is party.

(2) This Law shall apply to foreign natural and legal persons of other States subject to reciprocity to be determined by the Patent Office.



Industrial Designs

3.—(1) For the purposes of this Law, industrial design, hereinafter referred to as “design”, means the appearance of the whole or a part of a product resulting from the specific features of the shape, lines, contours, ornamentation, colors, or combination of such.

(2) Within the meaning of paragraph (1), product means any industrial or handicraft article, including parts intended to be assembled into a complex article, sets or compositions of articles, packaging, graphic symbols and typographic typefaces, but excluding computer programs.

Right of Authorship

4.—(1) The person who has created a design shall have the right of authorship under this Law. This right shall be unlimited in time and shall not be transferable and it shall enjoy the protection afforded by this Law irrespective of the protection afforded by other Laws.

(2) If the design has been created by two or more persons, the right of authorship shall belong to all of them and they shall be joint authors. Persons that have merely assisted the creator technically, materially or otherwise, shall not be considered joint authors.

(3) The author or the joint authors shall be named in the registration certificate and in the publication thereof; the Patent Office shall execute the entry *ex officio*.

(4) The Patent Office shall enter in the State Register of Industrial Designs the true creator of the design where established by a court decision in a dispute on authorship and joint authorship.

Representation

5.—(1) Any person entitled under this Law to act in proceedings before the Patent Office may do so either in person or through a local industrial property representative.

(2) Persons with their permanent residence or headquarters outside the Republic of Bulgaria shall act in proceedings before the Patent Office through a local industrial property representative.

Fees

6. The Patent Office shall levy fees for filing, examination, priority, registration, issuing a certificate, renewal of registration, entries, corrections of errors, cancellation of a registration, extension of time limits, publication, international registration, information about filed or registered industrial designs, verification or extracts from the State Register of Industrial Designs, to be paid in accordance with the schedule of fees approved by the Council of Ministers.



Files

7.—(1) The Patent Office shall create and maintain for each design a file that shall contain all the registration documentation.

(2) On request, the Patent Office shall provide to third parties information on filed designs by an order of its President.

(3) The information referred to in paragraph (2) shall consist of the data that is to be published if the design is registered.

State Register of Industrial Designs

8. The State Register of Industrial Designs shall contain the data of all registered designs and of all subsequent changes to them.

Access to the State Register of Industrial Designs

9. The State Register of Industrial Designs shall be available to the public. Any person may request information or an extract from the contents of the Register.

CHAPTER II
LEGAL PROTECTION

Section I
Registration

Acquisition of Rights in Designs

10.—(1) The right in a design shall be acquired by registration with the Patent Office as from the date of filing an application for registration.

(2) The right in a design shall be exclusive.

Requirements for Registration

11.—(1) A design shall be registered if it is new and has an individual character.

(2) A design shall not be registered if:

1. the design is contrary to public policy or to accepted principles of morality;
2. the specific features of the design are solely determined by the technical or functional features of the product;

3. the specific features of the design are solely determined by the necessity for the product in which the design is incorporated or to which it is applied to be mechanically assembled or put in, around or against another product, so that both products realize their



technical function, with the exception of a design serving the purpose of allowing the multiple assembly or connection of interchangeable products within a modular system.

Novelty

12.—(1) A design shall be considered new if, before the filing date or the priority date, as appropriate, of the application no identical design has been made available to the public by means of publication, use, registration or otherwise disclosed anywhere in the world.

(2) Designs shall be considered to be identical if their specific features differ only in immaterial details that do not influence the overall perception of the design.

Individual Character

13. A design shall be considered to have an individual character if the overall impression it produces on the consumer differs from the overall impression produced by a design that has been made available to the public before the filing date or the priority date, as appropriate, of the application.

Non-prejudicial Disclosure

14. The disclosure of a design that is the subject of an application for registration shall not be taken into account if such disclosure has been made no earlier than six months before the filing date or the priority date, as appropriate, of the application, by:

1. the creator or his successor in title or by a third party as a result of information provided or action taken by the creator or his successor in title;
2. a third party, in abuse of the creator.

Term of Protection under Registration

15.—(1) The term of protection for a registered design shall be 10 years as from the filing date of the application.

(2) The registration may be renewed for three successive periods of five years each.

Right to File and Right to Registration

16.—(1) The right to file an application for a design shall belong to its creator. Where the right to file belongs to more than one person, those persons shall exercise the right jointly. Refusal by one such person to exercise the right shall not constitute an obstacle for the remaining persons to file an application. Refusal shall be explicit and in writing.

(2) If the design is an employee design, as referred to in Article 17(1), the right to file shall belong to the employer or to the commissioning person.

(3) The right to file, in the case referred to in paragraph (2), shall pass to the creator if the employer or the commissioning person, as appropriate, does not file an application within three months of receiving a communication in writing from the creator, unless otherwise agreed by contract.

(4) The right to file may belong jointly to the creator and the employer or the commissioning person, as appropriate, if agreed by contract.

(5) The applicant shall be considered to have the right to file unless otherwise determined by a court decision.

(6) The right to registration shall belong to the first applicant.

Employee Designs

17.—(1) A design shall be considered an employee design if it has been made in the performance of duties under an employment relationship or other relationship under a contract, unless otherwise provided by contract.

(2) A creator who has made an employee design shall have the right to additional remuneration.

(3) The creator's remuneration may be determined as a part of the revenue derived from the use of the design, as a lump-sum payment or in any other way.

(4) If the remuneration determined as a lump-sum proves to be obviously not in proportion to the revenue obtained from use of the design, the creator may request an increase in the remuneration. If no agreement is reached, the dispute shall be settled by the court, acting in equity.

Scope of Legal Protection

18. The scope of legal protection shall be defined by the graphic representation or representations of the registered designs, including each design that does not produce on the consumer an overall impression that is different.

Rights Conferred by Designs

19.—(1) A registered design shall confer on its holder the right to use and transfer the design and the right to prevent any third party not having his consent from copying the design or commercially using the design included within the scope of protection.

(2) Using a design within the meaning of paragraph (1) covers the making, offering, putting on the market or using of a product in which the design is incorporated or to which a design included in the scope of protection is applied, as well as the importing, exporting or stocking of such product for those purposes.



(3) The right conferred shall have effect with respect to third parties acting in good faith as from the date of publication of the registration of the design in the Official Bulletin of the Patent Office.

Limitation of Rights in Designs

20. The right as referred to in Article 19 shall not extend to:

1. using the design for private or for experimental purposes;
2. using the design for the purpose of making quotations or teaching, provided that such use is compatible with fair trade practice and does not unduly prejudice the normal exploitation of the design and that the source is quoted;
3. using the design on foreign land, air and naval transportation means when they temporarily or accidentally enter the territory of the country and in which the design is used exclusively for their own needs, as well as the importation of spare parts and accessories for the purpose of repairing such transportation means.

Exhaustion of Rights in Designs

21.—(1) The holder of the right in a design may not prohibit the use of the products mentioned in the registration, in which the design is incorporated or to which the registered design is applied, when the products are put on the market in the Republic of Bulgaria by the holder or with his consent.

(2) The provision of paragraph (1) shall not apply where the holder of the right in a design may oppose subsequent sales on the grounds that the products have been changed or falsified.

Entitlement to Rights in Designs

22.—(1) The right in a design may belong to one or more persons.

(2) If the right in a design belongs to two or more persons, each joint holder can use the design without the consent of the remaining holders and without rendering accounts thereon, unless otherwise agreed in writing.

Prior Use

23. A person who has used a design in good faith on the territory of the Republic of Bulgaria before the date of filing of the application or has made serious preparations therefor shall have the right to continue exploiting the design to the same extent after that date.



Section II Disposition

Transfer

24.—(1) All rights under this Law shall be transferable, unless otherwise provided herein.

(2) If the right in a design belongs to more than one person the right may be transferred with the consent in writing of each joint holder.

(3) Transfers shall be entered in the State Register of Industrial Designs at the written request of one of the parties; the request shall be accompanied by the document for the transfer and the transfer shall have effect with respect to third parties as from the date of entry.

Transfer of Rights of Prior Use

25. The right of prior use may be transferred only together with the undertaking in which it originated.

Licensing Contracts

26.—(1) The holder of a right in a design may permit use of the design by means of a licensing contract. Authorization to use a design that is owned by two or more persons shall require the written consent of all joint holders, unless otherwise agreed by contract.

(2) A license may be exclusive or non-exclusive. Where not otherwise agreed, a license shall be considered non-exclusive.

(3) The licensor of an exclusive license shall not have the right to grant licenses for the same subject matter to other persons. He shall have the right to exploit the design himself only if explicitly agreed.

(4) The licensing contract shall be entered in the State Register of Industrial Designs at the request of the licensee; the request shall be accompanied by an extract from the licensing contract. The licensee shall be issued a certificate.

(5) The extract from the licensing contract shall contain the identification data of the licensor, the registration number of the design, the term of the contract and the signatures and/or the seals of the parties.

(6) The licensing contract shall have effect with respect to third parties as from its entry in the State Register of Industrial Designs.

Section III Termination and Invalidation of Registrations

Termination of Registrations

27.—(1) A registration shall terminate:

1. on expiry of the term referred to in Article 15;
2. on relinquishment by the holder of the right;
3. on termination of the functions of the legal person holding the design right if there is no successor in title.

(2) The termination referred to in paragraph (1), item 3, shall be effected at the request of an interested party.

(3) The lapse of a registration shall terminate the right in the design.

Surrender of Rights in Designs

28.—(1) The holder of a design right may surrender his right in the design.

(2) Surrender by one or more joint holders shall not cause the legal protection to terminate.

(3) Surrender may refer to all or to some of the designs for which the registration has been effected.

(4) If there is a record of a licensing contract, the surrender of the right in a design shall be entered only after the holder of the design right has furnished evidence that he has informed the licensee of his intention to surrender the right in the design. An entry shall be made on expiry of two months as from the date on which the evidence was furnished.

(5) The surrender of the design right shall be addressed in writing to the President of the Patent Office.

(6) The surrender shall have effect as from the date of its entry in the State Register of Industrial Designs.

Invalidation of Registrations

29.—(1) A registration shall be declared invalid at the request of any person if the design:

1. has been registered contrary to Article 3 or Article 11(1);
2. is excluded from protection under Article 11(2);



3. is identical, within the meaning of Article 12(2), with a design that is the subject of a national or international application in which the Republic of Bulgaria is designated and which has an earlier date of filing or priority, as appropriate, on condition that such application is subsequently registered;

4. includes the subject matter of and earlier right belonging to a third party under the Law on Copyright and Related Rights and consent to use such subject matter has not been given;

5. has been registered contrary to the requirements of Article 2.

(2) If the grounds for invalidation concern some only of the designs included in a multiple application, the registration shall be invalidated for that part only.

(3) A registration shall also be declared invalid when a court decision states that the registered holder is not one of the persons referred to in Article 16 and no request for entering the true holder is made within one month of the date of entry into force of the court decision.

(4) A registration may also be declared invalid at the request of the President of the Patent Office under the conditions provided in paragraphs (1) and (2).

Legal Consequences of Invalidation

30.—(1) Invalidation of a registration shall have effect as from the date of the request therefor.

(2) Invalidation shall not extend to:

1. the enforced legal actions, to the extent that they have been executed before invalidation;

2. licensing contracts, to the extent that they have been executed before invalidation, if not otherwise agreed by contract.

CHAPTER III PROCEDURE BEFORE THE PATENT OFFICE

Filing of Applications

31.—(1) An application for the registration of a design shall be filed with the Patent Office.

(2) The Filing date of an application shall be considered the date on which the Patent Office has received:

1. a request for registration;

2. the name and the address of the applicant;



3. one or more graphic or photographic representations that clearly and fully disclose the design for which protection is sought.

Contents of Applications

32.—(1) An application shall contain the data referred to in Article 31(2) and also the following:

1. the name of the State of which the applicant is a national, of which he is a resident or in which he has a real and effective commercial or industrial establishment;

2. the name and address of his industrial property representative, if appointed, and the power of attorney;

3. a priority claim if appropriate;

4. reproductions of the representation of the design;

5. the number of designs for which protection is sought;

6. the designation of the products in which the design is incorporated or to which it is applied;

7. the classification index of the products according to the International Classification of Industrial Designs under the Locarno Agreement;

8. a list of the accompanying representations;

9. the name and address of the creator;

10. evidence of payment of the fees for application, examination and priority.

(2) An application may be accompanied by a brief description of the specific features of the design, at the initiative of the applicant.

(3) The documents and the data they contain shall be in the Bulgarian language. If submitted in another language, the date of filing shall be maintained if the documents are submitted in the Bulgarian language within three months.

Multiple Applications

33.—(1) Several designs may be filed in one multiple application on condition that the products in which they are intended to be incorporated or to which they are intended to be applied belong to one and the same class of the International Classification or to one and the same set or composition of articles.

(2) For each subsequent design after the first included in a multiple application, additional fees shall be paid.



Division of Applications

34.—(1) The applicant shall have the right to divide his application up to the time a decision is taken on it. Divided applications shall enjoy the priority of the initially filed application if they are filed within three months of division.

(2) The Patent Office shall invite the applicant to divide his application filed under the national procedure within three months if the application does not comply with the provisions of Article 33. Applications deriving from the divided application shall enjoy the priority of the first filing of the application if they are filed within that period.

Right of Priority

35.—(1) As from the date of filing of an application as referred to in Article 31(2), and applicant shall enjoy a right of priority with respect to applications for identical designs filed after that date.

(2) A right of priority shall be enjoyed by an applicant as from the date of an earlier application if:

1. the earlier application has been duly filed in the Republic of Bulgaria, in a country member of the Paris Convention or of the World Trade Organization;
2. the earlier application is the first application as referred to in Article 4 of the Paris Convention and the same design has been disclosed in that application;
3. an application has been filed with the Patent Office within six months of the date of the filing of the first application;
4. the priority claim is submitted within two months of the filing date of the application as referred to in Article 31(2), and the date and State of the earlier application is stated;
5. within three months of the date of filing, the applicant pays the priority fee and submits a priority certificate, issued by the competent authority of the country in which the first application was filed.

(3) A duly filed application as referred to in paragraph (2), item 1, shall be considered an application with an established date of filing, notwithstanding its further processing.

(4) Priority for a multiple application may be claimed on the basis of more than one earlier application under the conditions of paragraph (2).

Formal Examination

36.—(1) Each application shall be examined for compliance with the requirements laid down in Article 31(2) for establishing the date of filing. If those requirements are not complied with, the elements of the application shall be returned to the applicant.



(2) Each application with an established date of filing shall undergo formal examination to check that the application complies with the requirements laid down in Article 31(1), Articles 32, 33, Article 34(2) and Article 35(2), (3) and (4). When defects are ascertained, the applicant shall be invited to remedy them within three months.

(3) If the applicant does not remedy the defects within the time limit under paragraph (2), the procedure shall be terminated.

Substantive Examination

37.—(1) Each application that complies with the formal requirements shall be examined, within one year, to ascertain whether the design applied for is:

1. a design under the conditions laid down in Article 3;
2. not excluded from protection under the conditions laid down in Article 11(2);
3. new under the conditions laid down in Article 12 with respect to designs that have already been registered under a national or international procedure;
4. not identical under Article 12(2) with a design that if the subject of a national application with an earlier date of filing or priority, as appropriate, that is subsequently registered;
5. not identical under Article 12(2) with a design that is the subject of an international application with an earlier date of filing or priority, as appropriate, for which the Republic of Bulgaria is a designated country and for which no decision for refusal has been taken.

(2) If there are grounds for refusal of the registration of the subject matter applied for, or part of it, the applicant shall be informed in writing of all such grounds and shall be invited to submit opposition within three months.

(3) If, within the time limit under paragraph (2), the applicant does not submit reasonable objections and/or does not limit the filed subject matter, a decision to refuse the registration shall be taken.

(4) If it has been established that the filed subject matter, or part of it, may be registered, a decision on registration shall be taken. The applicant shall be issued a registration certificate within one month.

Withdrawal, Limitation and Changes in Applications

38.—(1) Up to the time a decision is taken on an application, the applicant may withdraw it in respect of all or some only of the designs.

(2) Changes shall not be entered in the application, with the exception of changes concerning the name and address of the applicant or in the case of errors in the name and address of the applicant and of obvious errors, on the condition that such errors do not concern the design itself.



(3) The changes referred to in paragraph (2) shall be carried out at the request of the applicant.

Renewal of Registrations

39.—(1) A registration may be renewed at the request of the holder of the right in a design; the request shall contain the registration number and evidence of payment of the due fees.

(2) A request for the renewal may be filed within the last year of the term provided under Article 15(1) or, on payment of an additional fee, up to six months after expiry of that term.

(3) If the requirements under paragraph (2) are not complied with, the President of the Patent Office shall refuse the renewal of the registration.

(4) The holder may request renewal of a registration with respect to some only of the designs; in the request for renewal, he shall designate only such designs.

(5) The renewal shall enter into force as from the day following the date of expiry of the preceding registration.

Changes in the Name and Address of Holders

40.—(1) A holder of the right in a design shall notify the Patent Office, within three months, of any change in his name and address.

(2) The changes shall be entered in the State Register of Industrial Designs at the request of the holder.

(3) All documents to be notified to the holder of the right in the design shall be sent to him at the last address entered in the State Register of Industrial Designs.

Appeals Procedure

41.—(1) The Appeals Department of the Patent Office shall consider:

1. appeals against decisions under Article 37(3) on refusal of registration;
2. appeals against decisions under Article 36(3) on termination of the procedure;
3. requests for the invalidation of a registration.

(2) The Boards of the Appeals Department of the Patent Office for considering appeals shall consist of three State examiners, one of whom shall be legally qualified, and the Boards for considering requests shall consist of five State examiners, two of whom shall be legally qualified.

(3) The Boards referred to in paragraph (2) shall be appointed by the President of the Patent Office.



Time Limits

42.—(1) Appeals shall be filed within three months of notification of the decision.

(2) Requests may be filed at any time during the term of the registration and, after such term, by the defendant only in an action for infringement of rights.

(3) Proceedings shall not be instituted for requests that have not been filed in due time or for appeals and requests for which the due fees have not been paid.

Contents of Appeals and Requests

43.—(1) Appeals shall contain particulars of the appellant, of the application and the opposition against the decision of refusal.

(2) Requests shall contain particulars of the petitioner, of the registration of the design and the grounds for invalidation under Article 29(1), (2) and (3).

(3) If defects are ascertained, the appellant shall be invited to remedy them within one month. If the defects are not remedied within that period, the procedure shall be terminated.

Appeals Authority

44.—(1) If an appeal is not well founded, the decision for refusal shall be confirmed by the President of the Patent Office.

(2) If an appeal is founded, the decision shall be cancelled by the President of the Patent Office and he shall take a decision either to register or to return the application for second consideration.

(3) If a decision for refusal is reversed on second consideration of the application, the decision as to substance shall be taken by the President of the Patent Office.

Procedure for Requests

45.—(1) A copy of the request shall be sent to the holder of the right in the design and he shall be invited to file opposition within three months.

(2) If the request is not well founded, a decision for rejection shall be taken by the President of the Patent Office.

(3) If the decision is founded, a decision for full or partial invalidation of the registration shall be taken by the President of the Patent Office.

(4) In the case of partial invalidation, the registration certificate that has been issued shall be replaced by a new one.



Extension of Time Limits

46. At the request of the applicant, submitted before expiry of the terms provided under Article 36(2), Article 37(2) and Article 45(1), the time limits may be extended by three months, but not more than twice, on payment of the prescribed fees. The request shall not be considered if the prescribed fees have not been paid at the time of its submission.

Renewal of Time Limits

47. If time limits are not complied with due to special unforeseen circumstances, such time limits may be renewed at the request of the applicant or the holder of the right in the design. The request shall be submitted within three months of the reason for failure to comply with the time limit ceasing to apply, but no later than one year after the expiry of the exceeded time limit. The decision on renewal of the time limit shall be taken by the President of the Patent Office.

Publications in the Official Bulletin

48. The Patent Office shall publish in its Official Bulletin all registered industrial designs and subsequent changes to them.

Review by Court

49. The decisions of the President of the Patent Office under Article 44(1) and (3) and Article 45(2) and (3) may be appealed from before the Sofia City Court within three months from the date of receiving the notification of the decision.

CHAPTER IV
REGISTRATION OF INDUSTRIAL DESIGNS
UNDER THE HAGUE AGREEMENT

International Registration of Industrial Designs

50.—(1) An International registration means a registration made by the Bureau of the International Union for the Protection of Industrial Property, hereinafter referred to as “the International Bureau”, under the Hague Agreement, hereinafter referred to as “the Agreement”.

(2) With respect to third parties, an international registration shall have effect on the territory of the Republic of Bulgaria as from the date of expiration of the six-month period under Article 8(1) of the Agreement.



Duration of Protection of International Registrations

51. The term of validity of an international registration on the territory of the Republic of Bulgaria shall be as provided in this Law.

Procedure Before the Patent Office

52.—(1) International applications for which the Republic of Bulgaria is a designated country shall be processed at the Patent Office as provided for in Article 37.

(2) The Patent Office shall require from the applicant a declaration as to the true creator of the design, if not mentioned in the international application, and shall invite him to file the declaration within two months of the dispatch of such request. If the applicant does not respond to the request within that period, the application shall be deemed withdrawn in respect of the Republic of Bulgaria.

(3) If it is established that the subject matter, or a part of it, applied for cannot be registered, a decision for refusal shall be taken and the International Bureau shall be informed thereof in accordance with Article 8(1) and (2) of the Agreement.

Filing of an International Application

53. Natural and legal persons who have citizenship or have a real and effective commercial or industrial establishment in the Republic of Bulgaria may file an international application under the Agreement through the Patent Office of the Republic of Bulgaria.

*International Applications for which the Republic of Bulgaria
is Country of Origin*

54. An international application for which the Republic of Bulgaria is the country of origin shall have no effect on the territory of the Republic of Bulgaria.

CHAPTER V
PROTECTION UNDER CIVIL LAW

Infringement of Rights in Designs

55. Any use within the meaning of Article 19(2) of a registered design in commercial activities without the consent of the holder of the right in the design shall constitute an infringement of the right in the design.

Right of Legal Action

56.—(1) The holder of a right in a design may file an action for infringement.



(2) The holder of an exclusive license may file an action, if the holder of the right in the design does not assert his right within one month from the date of receiving notification of the infringement from the licensee.

(3) The holder of a non-exclusive license may file an action only with the consent of the holder, if not otherwise provided by the contract.

Action for Infringement

57.—(1) The actions for infringement of the rights under this Law shall be:

1. action for establishing the fact of infringement;
2. action for suspension of infringement;
3. action for compensation of damages.

(2) Simultaneously with an action under paragraph (1), the following may also be demanded:

1. the reworking or destruction of the subject of the infringement or, where there is intentional infringement, the means by which it has been made;
2. the publication of the court decision in two daily newspapers at the expense of the infringer.

Actions for Employee Designs

58.—(1) Any interested person may file an action for establishing an employee design.

(2) The action shall be filed, at the latest, one year after obtaining knowledge of the registration.

(3) In the event of disputes under Article 17(2), the party not agreeing with the established remuneration may file an action concerning the amount thereof.

Actions for Prior Use

59. Any interested person may file an action for establishing the fact of prior use.

Actions for Authorship and Joint Authorship

60.—(1) A person claiming authorship or joint authorship of a design may file an action at any time during the validity of the registration.

(2) On the basis of a final court decision, the Patent Office shall enter the name of the creator in the State Register of Industrial Designs.



Jurisdiction

61. Actions under this Law shall be heard by the Sofia City Court.

CHAPTER VI
BORDER CONTROLS

Grounds and Field of Application

62.—(1) Goods passing the State border of the Republic of Bulgaria, manufactured by means of copying or using a design which enjoys protection under Article 18, without the consent of its holder, shall be detained by the customs officials at the written request of the holder.

(2) The request for detaining goods shall contain a detailed description of the goods. The request shall be accompanied by a copy of the registration certificate of the design and a certificate ascertaining that the registration is in force.

(3) If the holder of the right has his residence or headquarters outside the country, he shall give an address for service in the Republic of Bulgaria.

(4) Small quantities of goods for non-commercial and for non-manufacturing purposes shall not be detained nor shall goods in transit.

Acts on the Initiative of the Customs Authorities

63. The customs officials may, on their own initiative, detain goods that they consider to infringe rights in a registered design.

Complementary Regulation

64. The rules for applying this Chapter shall be determined in Regulations adopted by the Council of Ministers.

CHAPTER VII
ADMINISTRATIVE PENAL PROVISIONS

Sanctions

65.—(1) Any person who produces, offers, puts on the market or stocks for such purposes products manufactured by means of copying or using a design which enjoys protection under Article 18, without the consent of its holder, shall be liable to a fine or property sanctions of between 500 and 5,000 leva.



(2) The products shall be confiscated to the benefit of the State irrespective of whose property they are and shall be destroyed; the holder or authorized person may be present at the act of destruction.

(3) The provision of paragraph (2) shall not apply in cases where the products in which the infringed design is incorporated or to which it is applied, may be reworked in such manner that the right of the holder is not infringed.

(4) The provisions of paragraph (3) shall not apply in the event of repeated infringement or any subsequent infringement.

(5) Infringement under paragraph (1) shall be determined by an act drawn up by an official appointed by the President of the Patent Office.

(6) The penal injunctions shall be issued by the President of the Patent Office.

(7) The acts and the penal injunctions shall be issued, appealed and executed under the provision of the Administrative Penal Law.

ADDITIONAL PROVISION

1. For the purposes of this Law:

1. "Hague Agreement" means the Hague Agreement Concerning the International Deposit of Industrial Designs of November 6, 1925, as revised at The Hague on November 28, 1960;

2. "Paris Convention" means the Paris Convention for the Protection of Industrial Property, of March 20, 1883, as revised and amended;

3. "Locarno Agreement" means the Locarno Agreement Establishing an International Classification for Industrial Designs of October 8, 1968, as amended on September 28, 1979, and thereafter;

4. "Local industrial property representative" means the representative as referred to in Article 3(2) of the Patent Law;

5. "State examiner" means the examiner as referred to in Article 83(3) of the Patent Law.

TRANSITIONAL AND FINAL PROVISIONS

2. The legal protection of a design as provided for in this Law shall not exclude cumulative protection under the Law on Copyright and Related Rights.

3. This Law shall apply to applications for registration of designs that have already been filed and on which no final decision has been taken at the time of entry into force of this Law.



4. The term of protection afforded by a registration of an industrial design under the Law on Trademarks and Industrial Designs that does not expire prior to the entry into force of this Law shall be determined in accordance with Article 15.

5. This Law supersedes Part II of the Law on Trademarks and Industrial Designs (published in SG No. 95/1967; amended in Nos. 55/1975, 56/1986 and 27/1993) and Articles 1, 46, 47, 48, 49, 50, 51 and 52 of the same Law, the Part concerning Industrial Designs.

6. The Patent Law (SG No. 27/1993; amendments Nos. 83/1996 and 11/1998) shall be amended and supplemented as follows:

1. in Article 80, item 2, the words “*промишлени образци*” (“industrial designs”) shall be replaced by “*промишлени гизайни*” (“industrial designs”) [the change in the Bulgarian original does not affect the English translation];

2. in Provision 10 of the Transitional and Final Provisions, after the words “Service Inventions”, there shall be added “and Utility Models and Industrial Designs”.

...¹

12. The Council of Ministers shall adopt Regulations for the drafting, filing and examination of industrial designs.

13. The President of the Patent Office shall issue instructions and guidelines on the implementation of this Law.

14. This Law shall be executed by the President of the Patent Office.

15. This Law shall enter into force three months after its publication in the State Gazette.

* *Bulgarian title:* Закон за промишления дизайн.

Entry into force: December 15, 1999.

Source: Communication from the Bulgarian authorities.

Note: English translation communicated by the Bulgarian authorities and edited by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.

¹ Provisions 7 to 11 are not reproduced here (*Editor's note*).