

# LAW FOR THE INDUSTRIAL DESIGN

*Prom. SG. 81/14 Sep 1999, amend. SG. 17/21 Feb 2003, amend. SG. 43/20 May 2005, amend. SG. 105/29 Dec 2005, amend. SG. 30/11 Apr 2006, amend. SG. 73/5 Sep 2006, amend. SG. 59/20 Jul 2007, amend. SG. 12/13 Feb 2009, amend. SG. 32/28 Apr 2009, amend. SG. 35/11 May 2010*

## **Chapter one. GENERAL PROVISIONS**

### **Subject**

Art. 1. (1) (prev. text of Art. 1 - SG 17/03) This law shall provide the conditions and the order for registration of industrial design, the rights ensuing from it and the protection of these rights.  
(2) (new, SG 17/03; revoked – SG 35/10, in force from 12.08.2010)

### **Application sphere**

Art. 2. (1) This law shall be applied with regard to the Bulgarian individuals and corporate bodies as well as with regard to foreign individuals and corporate bodies from states participating in international agreements to which the Republic of Bulgaria is a party.  
(2) With respect to foreign individuals and corporate bodies from other states this law shall be applied under the conditions of mutuality that is to be assessed by the Patent department.

### **Industrial design**

Art. 3. (1) In the sense of this law industrial design called hereinafter "design" shall be the visible outer appearance of a product or part of it determined by the peculiarities of the form, the lines, the depiction, the ornaments, the colour blend or a combination thereof.  
(2) A product in the sense of para 1 shall be any article obtained in industrial or craft way, including parts designated for assembly in a composite article, sets or composition of articles, packing, graphic symbols and printed fonts except software.

### **Right to authorship**

Art. 4. (1) The person created design shall have the right to authorship under this law. This right shall be termless and not transferable and shall benefit protection under this law regardless of the protection that it could benefit also from other laws.  
(2) When the design has been created by two or more persons the right to ownership occurs for all the persons and they shall be co-authors. Co-authors shall not be the persons who have rendered only technical, material or other assistance to the author.  
(3) The author or the co-authors of the design shall be pointed out in the certificate for registration and in the publication about it which shall be monitored by the Patent department.  
(4) The Patent department shall enter into the State register of the industrial design the actual author established with a court decision entered into force about a dispute for authorship and co-authorship.

### **Representation**

Art. 5. (1) Any person who according to this law has the right to implement activities before the Patent department shall be able to make this personally or through a local representative of industrial property.  
(2) (amend. SG 43/05) Persons who are not with permanent address or do not have headquarters in the Republic of Bulgaria shall implement activities before the Patent department through a local representative of industrial property.

### **Fees**

Art. 6. (amend. – SG 73/06, in force from 06.10.2006; amend. and suppl. – SG 35/10, in force from 12.08.2010) The Patent department shall collect fees for: declaring, expertise; priority; registration; issuing of certificate; renewal of the registration; entering; correction of mistakes; appealing against refusals; deleting of registration; extension of terms; publication of the registration and the entries, deferment of the publication; submitting an application for international registration; redirection of application for design to the Community; information about declared or registered design; information or excerpts from the State register of industrial designs, in extent determined in a tariff approved by the Council of Ministers.

### **File**

Art. 7. (1) (suppl. – SG 35/10, in force from 12.02.2011) The Patent department shall compile and maintain a file on paper and electronic carrier for each design including the whole documentation about the registration.

(2) The Patent department shall concede to third parties information about declared design by an order determined by the chairman.

(3) The information of para 2 shall contain only these data that are published if the design is registered.

### **State register of the industrial designs**

Art. 8. (amend. – SG 35/10, in force from 12.08.2010) The State register of the industrial designs shall be kept and maintained by the Patent Office and shall contain the following data:

1. number and filing date of the application for registration of industrial design;
2. image of the industrial design;
3. list of the products and their names, preceded by the number of the classes and subclasses according to the International Classification for Industrial Designs under the Locarno Agreement and grouped in an appropriate way;
4. number of designs;
5. registry number and date of registration;
6. number of the official bulletin of the Patent Office and date of publication of the application;
7. information about deferment of the publication;
8. information for claimed priority – number, date and country of the priority application, if claimed;
9. name and address of the applicant, respectively of the holder of the design;
10. name of the author of the design;
11. name and address of the industrial property representative, if authorized;
12. term of validity of the registration;
13. renewal of the registration;
14. legal status of the registration;
15. information of pending procedures for cancellation of the registration of the design – the date of filing, applicant, decision in force;
16. other information – change of name/address of the holder of the design, transfer of the right in the design, contractual licenses, securities, registered pledges, bankruptcy.

### **Access to the State register if the industrial designs**

Art. 9. (amend. – SG 35/10, in force from 12.02.2011) The State register of the industrial designs shall be public and shall be published in the internet site of the Patent Office. It shall be kept on a paper carrier and as an electronic database, operated by an information system. Every person shall be able to require information or excerpt of its contents.

## **Chapter two. LEGAL PROTECTION**

### **Section I. Registration**

#### **Acquiring of right over a design**

Art. 10. (1) Right over a design shall be acquired through its registration at the Patent department assumed from the date of submitting the application for registration.

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

#### **Grounds for registration**

Art. 11. (1) Registered shall be a design that is new and original.

(2) Not registered shall be:

1. a design contradicting with the public order or the good ethics;
2. (amend. SG 43/05) a design which peculiarities are grounded only on the technical function of the product;
3. a design which peculiarities are grounded on the need the product in which is included or to which has been applied the design to be mechanically connected or put into, around or opposite to another product so that both the products to implement their functions, except a design which objective is to make possible multiple assembling or connecting of mutually substitutable products in a modular system.

(3) (new, SG 17/03; amend. – SG 73/06, in force from 06.10.2006; revoked – SG 35/10, in force from 12.08.2010)

#### **Novelty**

Art. 12. (1) The design shall be new if before the date of submitting the application, respectively before the date of priority another identical design is not known to have become accessible through publications, registrations or announcement in any other way wherever in the world.

(2) (amend. SG 43/05) The designs shall be considered identical if their peculiarities differ only in insignificant elements.

#### **Originality**

Art. 13. (1) (amend. SG 43/05; prev. text of Art. 13 – SG 73/06, in force from 06.10.2006) The design shall be considered original if the overall impression it creates for the informed user differs from the overall impression created by a design that has become publicly accessible before the date of submitting the application for registration or when a priority is claimed before the date of priority.

(2) (new – SG 73/06, in force from 06.10.2006) At assessment of the originality shall be taken into account the designer's extent of freedom at creation of the design.

#### **Novelty and Originality of a Design of a Product that is Part of a Complex Product**

Art. 13a. (new – SG 35/10, in force from 12.08.2010) When the design is applied to or included in a product that is component of a complex product, it shall be deemed novel and original if:

1. the component of the complex product remains visible during the normal use of the said product, and
2. the visible features of the component meet the novelty and originality requirements.

#### **Announcement not affecting the novelty**

Art. 14. (amend. SG 43/05) The announcement of a design - subject to application for registration, shall

not affect its novelty when this announcement is made in 12 months term before the date of submitting the application, respectively the priority, by:

1. the author, his legal successor or a third person as a result of information or activity of the author or of his legal successor;
2. third person damaging the author

#### **Term of effect of the registration**

Art. 15. (1) The term of effect of the registration of a design shall be 10 years after the date of submitting the application.

(2) The registration shall be possible to be renewed for three subsequent periods of 5 years.

#### **Right to declaration and right to registration**

Art. 16. (1) (suppl. SG 43/05) The right to declaring a design shall belong to the author or his legal successor. When the right to declaring belongs to several persons it shall be exercised jointly. The refusal of one person or several of the persons to participate in the declaring shall not be impediment for the others. The refusal has to be explicit and in writing.

(2) When the design is official according to Art. 17, para 1 the right to declaring shall belong to the employer or to the one made the order.

(3) The right to declaring in the case of para 2 shall pass to the author if in 3 months term after the notification in writing about the created design the employer, respectively the orderer, does not submit an application unless between them other has been agreed.

(4) The right to declaring shall be possible to belong jointly to the employer, respectively the orderer, and the author if this has been agreed.

(5) It shall be considered that the applicant has right to declaring until other is established by judicial order.

(2) The right to registration shall belong to the first declarer.

#### **Official design**

Art. 17. (1) The design shall be official when it has been created in implementation of obligations in employment legal relation or as order unless in the contracts other has been agreed.

(2) The author who has created official design shall have the right to additional remuneration.

(3) The remuneration of the author shall be possible to be determined as part of the incomes received from the use of the design as one time sum or in another way.

(4) When the remuneration determined as one time sum occurs obviously disproportional to the incomes received from the use of the design the author shall be able to require increase of the remuneration. If agreement is not reached between the parties the dispute shall be resolved by the court as it is fair.

#### **Scope of the legal protection**

Art. 18. (amend. SG 43/05; suppl. – SG 73/06, in force from 06.10.2006; amend. – 35/10, in force from 12.08.2010) The scope of the legal protection shall be determined by the image, respectively the images of the registered design and shall cover every design that does not produce on the informed user a different overall impression.

#### **Contents of the right over a design**

Art. 19. (1) The right over a design shall include the right of its owner to use the design, to dispose with it as well as to prohibit to third parties without his consent to copy or to use in the commercial activity a design included in the scope of protection.

(2) The use of the design of para 1 shall include the production, the offering and the exhibiting on the market or the use of a product in which is included or to which has been attached design of the scope of

protection as well as import, export or preservation of the same product for these purposes.

(3) (amend. – SG 73/06, in force from 06.10.2006) The right shall have effect with regard to third good faith persons from the date of publishing the registration of the design.

### **Restrictions of the rights over a design**

Art. 20. The right of Art. 19 shall not cover:

1. the use of design when it is implemented for personal needs or with experimental objective;
2. the use of design with objective citing or training if this use is compatible with the good faith commercial practice and does not damage without grounds the normal use of the design and under the condition that the source is pointed out;
3. the use of the design in foreign land, sea or air vehicles which temporary or occasionally enter the territory of the country and in which it is applied exclusively for their needs as well as at the import of spare parts and auxiliary devices with objective their use at repair of these vehicles.

### **Depletion of the right over a design**

Art. 21. (1) (suppl. – SG 73/06, in force from the date of coming into effect of the Treaty of Accession of the Republic of Bulgaria to the European Union) The owner of the right over a design cannot prohibit the use of products pointed out in the registration in which is included or to which has been applied the registered design when the products are released on the market on the territory of the Member States of the European Union, respectively of the European Economic Area by him or with his consent.

(2) The provision of para 1 shall not be applied when the owner of the right over a design is able to obstruct following sales when the products are changed or falsified.

### **Possession of the right over a design**

Art. 22. (1) The right over a design shall be possible to belong to one or more persons.

(2) When the right over a design belongs to two or more persons any co-owner shall be able to use it without the consent of the other and without accounting for this before them unless other has been agree among them in writing.

### **Previous use**

Art. 23. A person who till the date of submitting an application for registration of a design has use in good faith the design on the territory of the Republic of Bulgaria or who has implemented the necessary preparation for this shall have the right to use it in the same extent also after this date.

## **Section II. Disposition**

### **Transfer**

Art. 24. (1) All the rights under this law as far as other is not provided in it can be transferred.

(2) If the right over a design is owned by two or more persons it shall be transferred with the consent of all co-owners.

(3) (new – SG 43/05) At multiple application shall be admitted transfer of the right over all designs or over some of them

(4) (prev. (3 – SG 43/05; amend. – 35/10, in force from 12.08.2010) The transfer shall be entered in the State register of industrial design upon application by one of the parties to which shall be attached the document for transfer and it shall have effect with regard to third parties from the date of entering.

### **Transfer of the right ensuing from the previous use**

Art. 25. The right ensuing from the previous use shall be possible to be transferred only with the commercial enterprise where it has emerged.

#### **License contract**

Art. 26. (1) (suppl. SG 43/05) The owner of the right over a design shall be able to permit the use of the design with a license contract. A permission for the use of a design which is joint ownership of two or more persons shall be given with written consent of all the co-owners unless other has been agreed among them. At multiple application the right to use can be conceded with regard to all designs or some of them.

(2) The license can be exclusive or not exclusive. When other has not been agreed the license shall be considered not exclusive.

(3) The grantor of the license shall not have right to concede licenses with the same subject to other persons. He shall have right to use the license himself only if this is explicitly agreed.

(4) (amend. SG 43/05; amend. – SG 35/10, in force from 12.08.2010) The license contract shall be entered in the State register of the industrial designs upon application by one of the parties. To the application shall be attached an excerpt of the contract. The patent department shall issue certificate for the entering.

(5) The excerpt of the license contract shall contain the identification data of the license grantor and of the licensed person, the registration number of the design, the term of the contract, the signatures and/or the stamps of the parties.

(6) The license contract shall have effect with regard to third parties from the entering in the State register of the industrial designs.

#### **Right over industrial design as subject of security**

Art. 26a. (new – SG 43/05; amend. – SG 35/10, in force from 12.08.2010) (1) The right in industrial design can be subject, without notifying the defendant party, shall admit also any of the following security measures:

1. prohibition to use the rights in the design by the owner or a licensee;
2. prohibition to dispose of the rights in the design by the owner or by the licensee of an exclusive license.

(2) The imposition of the security measure shall be effected immediately by the bailiff pursuant to the security order of the court.

(3) The bailiff shall impose the security measure under Para 1 by filing the imposition notification with the owner of the design.

(4) The security admitted by the court shall be entered in the State designs upon application by any of the parties to the claim. The application must contain data about the owner of the design and the person in whose favour the security has been admitted, and data about the security measure. To the application shall be attached the document for admission of the security.

(5) The security under Para 1 – 4 shall have effect with regard to the owner of the design or the exclusive licensee from the date of receipt of the notification for imposition of the security measure, and in respect of third parties – the date of entry of the security into the State Register of the Industrial Designs.

#### **Right over industrial design as subject of special pledge**

Art. 26b. (new – SG 43/05) (1) (suppl. – SG 73/06, in force from 06.10.2006) The right over registered industrial design can be subject to special pledge. At multiple application as subject to special pledge can be conceded the right over all or over some of the designs

(2) For entering the special pledge in the State register of the industrial designs shall be applied the provisions of Art. 26 – 31 of the Law of special pledges. To the pledger a certificate shall be issued.

(3) The pledge shall have effect with regard to third persons from the publication in the official bulletin of the Patent department.

#### **Right over industrial design in the bankruptcy estate.**

Art. 26c. (new – SG 43/05) (1) (suppl. – SG 73/06, in force from 06.10.2006) The right over registered industrial design shall be included in the bankruptcy estate at formed procedure for insolvency of his owner.

(2) At common industrial design in the property of the debtor shall be included only the rights according to his share.

(3) (amend. – SG 35/10, in force from 12.08.2010) When the rights over the industrial design are included in the bankruptcy estate this fact shall be entered in the State register of the industrial designs upon application by one of the parties in the case and it shall be published in the official bulletin of the Patent department.

### **Section III.**

#### **Termination of the effect and deleting of the registration**

##### **Termination of the effect of the registration**

Art. 27. (1) The effect of the registration shall be terminated with:

1. the elapse of the term of Art. 15;
2. the refusal of the owner;
3. the termination of the corporate body - owner of the design without legal succession.

(2) (amend. – SG 35/10, in force from 12.08.2010) The termination of para 1, item 3 shall be implemented at request by any person.

(3) With the termination of the effect of the registration the right over the design shall be extinguished.

##### **Refusal of right over a design**

Art. 28. (1) The owner of the right over a design shall be able to refuse his right over it.

(2) The refusal of one or several of the co-owners shall not lead to termination of the legal protection.

(3) The refusal of right shall be able to be implemented with regard to all designs or some of them for which the registration has been implemented.

(4) When there is an entered license contract the refusal of right over a design shall be entered only after the owner of the right over the design presents a proof that he has notified the licensed person about his intention to refuse his right over a design. In this case the entering shall be implemented after the elapse of two months term after presenting the proof.

(5) The refusal of right over a design shall be made with a written declaration to the chairman of the Patent department.

(3) The refusal shall have effect from the date of entering in the State register of the industrial designs.

##### **Deleting of the registration**

Art. 29. (1) The registration shall be deleted at request by any person when the design:

1. has been registered in contradiction with Art. 3 or Art. 11, para 1;
2. has been excluded from protection according to Art. 11, para 2;
3. (amend. – 35/10, in force from 12.08.2010) is identical in the sense of Art. 12, para 2 to a design that has become generally available in any way before the date of submission of the application, respectively before the priority date, anywhere in the world, or is identical to a design in an application preceding the date of the application for registration, respectively the priority date, that has been registered nationally or internationally or as a Community Design;

4. (revoked – SG 43/05)

5. has been registered not observing the requirements of Art. 2.

(2) (new – SG 43/05) Registration shall be deleted upon request of a person with legal interest when the use of the design can be prohibited pursuant to:

1. earlier copyright of this person under the Law of copyright and related rights;

2. earlier right to industrial property of this person who uses the protection under other law

(3) (prev. (2) – SG 43/05) When the grounds for deleting refer to part of the designs included in a multiple application the registration shall be deleted for only this part.

(4) (prev. (3) – SG 43/05; amend. – SG 35/10, in force from 12.08.2010) The registration shall also be deleted when by a claim order has been established that the entered owner is not one of the persons pointed out in Art. 16, and in one month term after the court decision enters into force no application has been received for entering the actual owner.

(5) (prev. (3), amend. SG 43/05; amend. – SG 35/10, in force from 12.02.2011) The registration may be deleted also by the Patent Office ex officio, if the registered design does not meet the requirements of Art. 3 and Art. 11, Para 2, Item 1.

### **Legal consequences of the deleting**

Art. 30. (1) The deleting of the registration shall have effect from the date of submitting the application.

(2) The deleting of the registration shall not affect:

1. the decision about claims for breach that have entered into force as far as they have been implemented before the deleting;

2. the license contracts as far as they have been fulfilled before the deleting unless other has been agreed.

## **Chapter three.**

### **PROCEDURES AT THE PATENT DEPARTMENT**

#### **Submitting an application**

Art. 31. (1) (amend. – SG 35/10, in force from 12.02.2011) The application for registration of a design shall be submitted to the Patent Office personally or through a representative, by mail, by fax or electronically. When the application was filed electronically no identification through a unique identification of the applicant or of the industrial property representative, or electronic signature in the sense of Art. 13, Para 1 of the Law on the Electronic Document and the Electronic signature shall be necessary.

(2) For the date of submitting the application shall be considered the date on which at the Patent department have been received:

1. the application for registration;

2. the name and the address of the applicant;

3. one or several graphic or photographic images revealing clearly and comprehensively the design for which protection is required.

#### **Contents of the application**

Art. 32. (1) The application shall apart from the data of Art. 31, para 2 contain also:

1. (amend. – SG 43/05; amend. – SG 35/10, in force from 12.08.2010) the name of the state which citizen is the applicant where he has permanent address or a seat.

2. the name and the address of the representative of industrial property when he is empowered, and the empowering letter;

3. claims for priority when there is reference to such;



4. copy of the image of the design;
  5. the number of the designs for which protection is required;
  6. pointing out of the products where it is included or to which the design has been applied;
  7. (amend. – SG 35/10, in force from 12.08.2010) instruction about the identification index of the products according to the International Classification of the Industrial Designs according to the Agreement of Leghorn.
  8. description of the presented images;
  9. name and address of the author;
  10. a document for paid fees for application, expertise and priority;
  11. (new – SG 73/06, in force from 06.10.2006; amend. – SG 35/10, in force from 12.08.2010)
  12. (new – SG 35/10, in force from 12.02.2010) application for deferment of the publication of the registration according to Art. 48a.
- (2) In the application shall be possible to be included on initiative of the applicant also a short description of the peculiarities of the design.
- (3) (amend. – SG 35/10, in force from 12.02.2010) The documents and the data shall be presented in Bulgarian language. When they are presented in another language the date of submitting shall be preserved if in two months after this date they are presented in Bulgarian language.

### **Multiple application**

- Art. 33. (1) (amend. – SG 35/10, in force from 12.08.2010) Several designs shall be possible to be included in a multiple application under the condition that the products they are included in or to which the designs have been applied to the designs belonging to one class of the International Classification of the Industrial Designs according to the Agreement of Leghorn or to one and the same set or composition of articles.
- (2) (new – SG 43/05) When the multiple application refers to ornaments for the products in which are included or applied the designs the conditions of para 1 shall not be applied.
- (3) (prev. (2) – SG 43/05) For each following design after the first one included in the multiple application additional, fees shall be paid.

### **Partition of the application**

- Art. 34. (1) (amend. – SG 35/10, in force from 12.02.2011) The applicant shall have the right to separate the application till the decision about it. The independent applications shall have priority of the initially submitted application if they have been received in two months term after the separation.
- (2) (amend. – SG 35/10, in force from 12.02.2011) The Patent department shall propose to the applicant in two months term to separate an application submitted in a national way if it does not comply with the conditions of Art. 33. The independent applications for the different parts shall have priority of the initially submitted application if they have been received in this term.

### **Right to priority**

- Art. 35. (1) From the date of submitting the application according to Art. 31, para 2 to the applicant shall be recognised the right of priority in comparison with later submitted applications for registration of identical designs.
- (2) Right to priority of the applicant shall be recognised from the date of the previous application under the condition that:
1. the previous application has been regularly submitted in the Republic of Bulgaria, in a member country of the Paris convention or of the World Trade Organisation;
  2. the previous application is first application in the sense of Art. 4 of the Paris convention and in it the same design has been found;
  3. the application has been submitted to the Patent department in 6 - months term from the date of

submitting the previous application;

4. the claim for priority has been made at latest in 2 - months term from the date of submitting the application according to Art. 31, para 2 pointing out the date and the country of the previous application; and

5. in three months term after the date of submitting the application the applicant pays fee for priority and presents priority certificate issued by the competent body of the country where the previous application has been submitted.

(3) Regularly submitted application of para 2, item 1 shall be an application with established date of submitting regardless of its further development.

(4) At multiple application shall be possible to be claimed right to priority on the basis of more than one previous application if the conditions of para 2 have been fulfilled.

### **Formal expertise**

Art. 36. (1) (amend. – SG 73/06, in force from 06.10.2006; amend. – SG 35/10, in force from 12.08.2010) For each application shall be checked whether the requirements of Art. 31, para 2 for establishing date of submission have been met. When these requirements have not been met the application shall be deemed, as if it has not been submitted.

(2) (new – SG 43/05; amend. – SG 73/06, in force from 06.10.2006; amend. – SG 35/10, in force from 12.02.2011) For each application with establish date of submitting shall be checked whether is attached to document for paid fees for applying, expertise and deferment of the publication of the registration, if requested. When such document is not attached to the applicant shall be given one-month term for removing this defect. The fees can be paid in double amounts within two months from expiration of this term. If in this term the fees are not paid the application shall be considered withdrawn.

(3) (prev. (2), amend. SG 43/05; amend. – SG 73/06, in force from 06.10.2006; amend. – SG 35/10, in force from 12.02.2011) In two months term after presenting the document for paid fees formal expertise shall be implemented at which shall be checked whether the requirements of Art. 32, para 1, item 1 – 9, Art. 33, Art. 34 are met. In case defects are found, the applicant shall be provided with two-month term for removing them.

(4) (prev. (3), amend. SG 43/05) When within the term of para 3 the applicant does not remove the shortcomings the production activities shall be terminated.

(5) (new – SG 73/06, in force from 06.10.2006) With respect to each application, for which a priority is claimed, shall be checked whether the requirements under Art. 35, para 2 are satisfied. In case it is ascertained that the claim for priority is not implemented according to these requirements, it shall not be considered favourably and the applicant shall be informed thereof.

### **Publication of the application**

Art. 36a. (new – SG 73/06, in force from 06.10.2006; revoked – SG 35/10, in force from 12.02.2011)

### **Objection against the registration of the design**

Art. 36b (new – SG 73/06, in force from 06.10.2006; revoked – SG 35/10, in force from 12.02.2011)

### **Registration procedure (Title amend. – SG 35/10, in force from 12.02.2011)**

Art. 37. (1) (amend. – 73/06, in force from 06.10.2006; amend. – SG 35/10, in force from 12.02.2011) In two-month term from the expiry of the term under Art. 36, para 3, an expertise shall be carried out whether the declared design:

1. is a design in the sense of Art. 3;

2. is not excluded from protection according to Art. 11, Para 2, Item 1.

(2) (new – SG 43/05; revoked – SG 35/10, in force from 12.02.2011)

(3) (prev. (2), amend. SG 43/05; amend. – SG 35/10, in force from 12.02.2011) When there is ground

for refusal of registration of the declared design the applicant shall be notified about this all the motives being pointed out and giving two-month term for appeal.

(4) (prev. (3), amend. SG 43/05) When within the term of para 3 the applicant does not make grounded objections decision for refusal of registration shall be taken.

(5) (prev. (4), amend. SG 43/05; amend. – SG 73/06, in force from 06.10.2006; suppl. – SG 35/10, in force from 12.02.2011) When it is established that the declared design could be registered, a notification shall be sent to the applicant, and he/she shall be given one month term for payment of the fees for registration, issue of a certificate for registration and publication. Within one month from expiration of this term the fees can be paid double the amount.

(6) (new – SG 73/06, in force from 06.10.2006) When the fees under para 5 are paid, a decision for registration of the design shall be taken and in one-month term a certificate for registration shall be issued. If the fees are not paid, the application shall be considered withdrawn.

(7) (new – SG 43/05; prev. text of para 6 - SG 73/06, in force from 06.10.2006; amend. – SG 35/10, in force from 12.02.2011) When there is ground for refusal of the registration of part of the declared designs, included in multiple application the applicant shall be notified about this pointing out all motives and giving him two months for answer. If in this term the applicant does not answer decision shall be taken for full or partial refusal of the registration.

(8) (new – SG 35/10, in force from 12.02.2011) A state expert who shall also carry out the correspondence regarding the application shall take decisions regarding design registration applications.

#### **Withdrawal, restriction and changes of the application**

Art. 38. (1) Till the decision about the application is taken the applicant shall be able to withdraw it with regard to all the designs or part of them.

(2) In the application shall not be possible to be entered changes except when there is change in the name or the address of the applicant or it is necessary admitted mistakes in the name or the address of the applicant and obvious mistakes to be corrected under the condition that these corrections do not affect the design.

(3) (amend. – SG 35/10, in force from 12.08.2010) The changes of para 2 shall be implemented at request by the applicant.

#### **Renewal of the registration**

Art. 39. (1) (amend. – SG 35/10, in force from 12.08.2010) The registration of a design shall be renewed at application by the owner of the right over the design containing the registration number and accompanied with a document for paid fee.

(2) (amend. – SG 35/10, in force from 12.08.2010) The application for renewal shall be possible to be submitted in the last year of the term of Art. 15, para 1 or against payment of additional fee up to 6 months after the elapse of this term.

(3) When the requirements of para 2 are not met the renewal of the registration shall be refused with a decision of the chairman of the Patent department.

(4) (amend. – 35/10, in force from 12.08.2010) When the owner requires renewal of the registration of only some of the designs, in the application there designs shall be pointed out.

(5) The renewal shall have effect from the day following the date on which the term of the previous registration expires.

#### **Changes of the name and the address of the owner**

Art. 40. (1) The owner of the right over a design shall be obliged to notify on time the Patent department in writing about each change in the name or the address.

(2) The change shall be entered in the State register of the industrial designs at request by the owner.

(3) All the documents about which the owner of the right over a design has to be notified shall be sent to

the address entered last in the State register of the industrial designs.

### **Considering of disputes**

Art. 41. (1) The division for disputes of the Patent department shall consider:

1. (amend. SG 43/05; amend. – SG 73/06, in force from 06.10.2006) appeals against decisions of Art. 37, para 4 and 7 for refusal of the registration;
2. (amend. SG 43/05) appeals against decisions of Art. 36, para 4 for termination of the procedure;
3. claims for deleting the registration.

(2) (suppl. SG 43/05; amend. – SG 73/06, in force from 06.10.2006) The members of the boards of the division for disputes at the Patent department for considering the appeals shall consist of two state experts and lawyer and the members of the boards for considering the claims - of three state experts and two lawyers. The members shall be appointed by the chairman of the Patent department.

(3) (amend. SG 43/05) The members of para 2 shall prepare statements for taking decisions under Art. 44 and 45.

(4) (new – SG 35/10, in force from 12.02.2011) The dispute procedure shall be regulated in an ordinance of the Council of Ministers.

### **Terms**

Art. 42. (1) The appeal shall be submitted in 3 - months term after the announcement of the decision.

(2) The claim can be submitted during the whole term of effect of the registration and after it - only by the defendant of a claim for breached rights.

(3) (revoked – SG 43/05)

### **Contents of the appeals and the claims**

Art. 43. (1) The appeal shall contain data about the appealing person, data about the application and objections against the decision for refusal.

(2) (amend. SG 43/05) The claim shall be in two copies and shall contain data about the claimant, data about the legal interest of the claimant when this is required as well as proofs when this is necessary.

(3) (amend. SG 43/05) To the appeals and the claims shall be attached document for paid fee.

### **Check for admissibility and formal regularity of the appeals and the requests**

Art. 43a. (new – SG 43/05) (1) For each appeal shall be checked whether the term of Art. 42, para 1 has been observed and whether document for paid fee under Art. 43, para 3 has been presented.

(2) For each claim shall be checked whether document for paid fee of Art. 43, para 3 has been presented and whether there is legal interest when this is required.

(3) When to the appeal or the claim at not attached document for paid fee or in the claim the legal interest is not explained to the applicant or to the claimant shall be given one month for removal of the defects.

(4) Appeals which are not submitted in the term of Art. 42, para 1 and/or for which fee has not been paid and/or legal interest has not been proven shall be not admissible and procedures for them shall not be formed.

(5) For each admissible appeal or claim shall be checked whether it meets the remaining requirements of Art. 43. When defects are established the appellant, respectively the claimant shall respectively be notified and he will be given one month for removing them. The procedures for appeals and claims in which the defects are not removed in this term the procedure shall be terminated.

### **Decisions about the appeals**

Art. 44. (1) (amend. SG 43/05; amend. – 35/10, in force from 12.08.2010) When the appeal is ungrounded decision for confirmation of the decision for refusal of registration or for termination of the

procedure shall be taken.

(2) (suppl. SG 43/05; amend. – SG 35/10, in force from 12.08.2010) When the appeal is grounded the decision for refusal shall be repealed and a decision about registration or returning of the application for second consideration or for renewal of the procedure shall be taken.

(3) (amend. – SG 35/10, in force from 12.08.2010) When a decision for refusal at second considering of the application is repealed, a decision in essence shall be taken.

(4) (new – SG 43/05) The decision on the appeal shall be taken in three months term after its submitting or the removal of the defects in case such have been established.

(5) (new – SG 35/10, in force from 12.08.2010) The decisions under Para 1 - 3 shall be taken by the chairman of the Patent Office or by the deputy-chairman, authorised by an order in writing.

### **Procedure about the claims**

Art. 45. (1) (amend. SG 43/05) The one copy of the claim shall be sent to the owner of a right over the design and 3 months term shall be given to him for objection.

(2) (amend. – SG 35/10, in force from 12.08.2010) When the claim is ungrounded a decision for rejecting it shall be taken.

(3) (amend. – SG 35/10, in force from 12.08.2010) When the claim is grounded a decision for full or partial deleting of the registration shall be taken.

(4) In the cases of partial deleting the issued certificate for registration shall be substituted by a new one.

(5) (new – SG 43/05) The members of Art. 41, para 2 may require from the parties additional proofs and materials when necessary. They shall be presented to the other party for written statement in one month term.

(6) (new – SG 43/05; amend. – SG 35/10, in force from 12.08.2010) The decisions on the request for deleting shall be taken in 6-month term after the collecting of the proofs of para 5 has finished.

(7) (new – SG 35/10, in force from 12.08.2010) The decisions under Para 2 and 3 shall be taken by the chairman of the Patent Office or by the deputy-chairman, authorised by an order in writing.

### **Extension of terms**

Art. 46. (amend. SG 43/05; amend. – SG 35/10, in force from 12.08.2010) The terms of Art. 36, para 3, Art. 37, para 3 and Art. 45, para 1 shall be possible to be extended once for the same term but not more than two times upon request by the applicant or the owner submitted before their elapse. The request shall not be respected if to it document for paid fee is not attached.

### **Restoration of terms**

Art. 47. (amend. – SG 35/10, in force from 12.08.2010) Terms missed due to special and unpredicted circumstances shall be possible to be restored at request by the applicant or the owner of a right over a design. The application shall be submitted in 3 months after the reason for missing the term is not valid any more but not later than one year after the elapse of the missed term. The decision for restoration of the term shall be taken by the chairman of the Patent department.

### **Publication in the official bulletin**

Art. 48. In the Official bulletin of the Patent department shall be published all the registered designs and the subsequent changes thereof.

### **Deferment of the publication of the registration**

Art. 48a. (new – 35/10, in force from 12.02.2011) (1) The applicant for a design may request, when filing the application, that the publication of the design, if registered, be deferred for a period of 30 months from the date of filing the application or from the date of priority. The application for deferment of the publication of the registration shall be accompanied by proof for payment of fees.

(2) In the event of a multiple application the request for deferment of the publication may concern only some of the designs.

(3) When a decision for registration of the design is taken, it shall be entered into the State Register of the Industrial Designs, but no public access to the registered design or its file shall be granted.

(4) A notification for deferment of the publication of the registered design shall be published in the official bulletin of the Patent Office, containing identity data of the owner of the design, filing date of the application or priority date and registry number of the design.

(5) Information about the registered design and access to its file shall be provided with the consent in writing of the holder or if the interested person proves that court proceedings have been initiated against him for infringement of the design.

### **Request for publication**

Art. 48b. (new – SG 35/10, in force from 12.02.2011) (1) Requests for publication of registration shall be filed by the holder of the design before the 27th month from the filing date of the application and shall be accompanied by proof for payment of fees for publication, and in the event of a multiple application – proof for payment of additional fees depending on the number of designs.

(2) Where no proof for payment of fees accompanies the request, the holder shall be given one month for their payment within the time limit under Art. 48a, Para 1.

(3) Where no request for publication and/or no fees have been paid within the time limit specified in Para 1, the design application shall be deemed withdrawn.

### **Publication after expiration of the deferment period**

Art. 48c. (new – SG 35/10, in force from 12.02.2011) Where the request for publication has been filed within the term under Art. 48b, Para 1 and the fee for publication has been paid, publication of the registration of the design shall be made in the official bulletin of the Patent Office immediately after the expiration of the 30-month time limit. The publication shall contain mandatory indication that the application contains a request for deferment of the publication.

### **Court control**

Art. 49. (amend. - SG 30/06, in force from 01.03.2007) The decisions of the chairman of the Patent department of Art. 44, para 1 and 3 and Art. 45, para 2 and 3 shall be possible to be appealed against before the Administrative court – city of Sofia in 3 months term after the date of receiving the notification about taken decision.

## **Chapter four.**

### **REGISTRATION OF INDUSTRIAL DESIGN UNDER THE ORDER OF THE HAGUE AGREEMENT (TITLE AMEND. – SG 35/10, IN FORCE FROM 12.08.2010)**

#### **International registration of the industrial designs**

Art. 50. (amend. – SG 35/10, in force from 12.08.2010) (1) International registration of design shall be registration implemented by the of the International Bureau of the International organization for industrial property, called hereinafter "the international bureau" by the order of the Hague agreement, called hereinafter "the Agreement", according to the Hague Act of 1960 and the Geneva Act of 1999 of the Agreement.

(2) With regard to third persons the international registration shall have effect on the territory of the Republic of Bulgaria from the date of expiry of the 6 months term of Art. 8, para 1 of the Hague Act of 1960 and Art. 12, Para 1 and 2 of the Geneva Act of 1999 of the Agreement correspondingly.

(3) When, within the term under Para 2, there is no rejection of the application or when the rejection has

been withdrawn, the international registration, the Republic of Bulgaria being a designated state, shall have the same effect, as if the design application was directly filed and registered on the territory of the Republic of Bulgaria, from the date of the international registration.

#### **Term of effect of the international registration**

Art. 51. (amend. – SG 35/10, in force from 12.08.2010) The term of validity of the international registration on the territory of the Republic of Bulgaria shall be determined in compliance with this law, commencing on the date of the registration in the International Designs Bulletin of the World Intellectual Property Organisation.

#### **Procedure at the Patent department**

Art. 52. (amend. – SG 35/10, in force from 12.08.2010) (1) Within 6 months from the date of publication of the international registration, the international application, the Republic of Bulgaria being a designated state, shall be examined for compliance of the design with the definition under Art. 3 and whether the design is excluded from protection pursuant to Art. 11, Para 1, Item 1.

(2) If there are grounds for rejection, a notification for full or partial rejection of the registration on the territory of the Republic of Bulgaria shall be sent to the International Bureau, stating the reasons and providing possibility for objection according to this law.

#### **Submitting international application**

Art. 53. (Amend. – 43/05; amend. – SG 35/10, in force from 12.08.2010) (1) Individuals or corporate bodies with permanent address or really existing and operating production or commercial enterprise in the Republic of Bulgaria shall be able to submit international applications under the Agreement at the international bureau through the Patent department of the Republic of Bulgaria.

(2) The Patent Office shall send the application to the International Bureau within one month from its receipt.

(3) The international registration fees shall be paid by the applicant to the International Bureau.

(4) When the international application is filed with the Patent Office, it shall be accompanied by proof for payment of the forwarding fee.

#### **International application for which the Republic of Bulgaria is country of origin**

Art. 54. (amend. – SG 35/10, in force from 12.08.2010) International application with regard to which the Republic of Bulgaria is country of origin shall not have effect on the territory of the Republic of Bulgaria.

### **Chapter four.**

#### **“A” COMMUNITY DESIGN (NEW – SG 73/06, IN FORCE FROM THE DATE OF COMING INTO EFFECT OF THE TREATY CONCERNING THE ACCESSION OF THE REPUBLIC OF BULGARIA TO THE EUROPEAN UNION)**

#### **Registration and effect of the Community design**

Art. 54a. (new – SG 73/06, in force from the date of coming into effect of the treaty concerning the accession of the Republic of Bulgaria to the European Union) (1) The Community design is a design, registered at the Office for Harmonisation in the Internal Market (trademarks and designs) under the terms of and by the manner of the Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs, called hereinafter “the Regulation”, or non-registered design within the meaning of Art. 1 of the Regulation.

(2) The application for Community design with ascertained submission date, respectively priority date,

shall be considered as regularly submitted on the territory of the Republic of Bulgaria.

(3) The Patent department of the Republic of Bulgaria is a central department on industrial property within the meaning of the Regulation.

(4) The chairman of the Patent department shall issue a certificate for the registration of representatives of the industrial property before the Office for Harmonisation in the Internal Market and shall undertake the necessary measures thereof according to the requirements of the Regulation.

#### **Application for Community design**

Art. 54b. (new – SG 73/06, in force from the date of coming into effect of the treaty concerning the accession of the Republic of Bulgaria to the European Union) (1) The application for Community design shall meet the requirements of Art. 36 of the Regulation.

(2) The application for registration of Community design shall be submitted directly at the Office for Harmonisation in the Internal Market or through the Patent department.

(3) In case the application is submitted at the Patent department, it shall be accompanied by a document for paid fee for its redirection.

(4) The patent department shall send the application to the Office for Harmonisation in the Internal Market in two weeks term from its receipt.

#### **Protection of the Community design**

Art. 54c. (new – SG 73/06, in force from the date of coming into effect of the treaty concerning the accession of the Republic of Bulgaria to the European Union) (1) The civil law enforcement at infringement of the rights over Community design shall be implemented following the procedure, provided for in the Regulation.

(2) In case the claims and measures, related to the protection of Community design, are filed and required in the Republic of Bulgaria according to Regulation, the Bulgarian legislation shall be applied, unless otherwise provided for in the Regulation.

(3) The claims under para 2 shall be within the jurisdiction of the Sofia City Court as a first instance and of Sofia Appellate Court as a second instance, which are Community design courts within the meaning of the Regulation.

#### **Subsidiary application of the decisions**

Art. 54d. (new – SG 73/06, in force from the date of coming into effect of the treaty concerning the accession of the Republic of Bulgaria to the European Union) With respect to the issues, that are not settled by this law, the provisions of the Regulation for shall be applied.

### **Chapter five. CIVIL LEGAL PROTECTION**

#### **Breach of the right over the design**

Art. 55. Any use of art. 19, para 2 in the commercial activity of registered design without the consent of the owner of the right over a design shall constitute breach of the right over the design.

#### **Right to claim**

Art. 56. (1) (amend. – 73/06, in force from 06.10.2006) The owner of the right over a design, as well as the licensee of exclusive license shall have an individual right to claim for infringement.

(2) (revoked – SG 73/06, in force from 06.10.2006).

(3) The licensed person with not exclusive license shall be able to present a claim only with the consent of the owner unless other is provided in the contract.



### **Claims for infringement**

Art. 57. (1) The claims for breaches of the rights under this law shall be possible to be:

1. claim for establishing the fact of the infringement;
2. claim for termination of the infringement;
3. claim for indemnification of damages;
4. (new – SG 73/06, in force from 06.10.2006) claim for seizure and destruction of the products, subject matter of the infringement, as well as the means for its commitment.

(2) (amend. – SG 73/06, in force from 06.10.2006) Simultaneously with the claim under para 1 the claimant may also require in court:

1. (amend. – SG 73/06, in force from 06.10.2006) the products, subject matter of the infringement to be conceded to him/her;
2. (new – SG 73/06, in force from 06.10.2006) the expenses, related to the conservation and the destruction of the products, subject matter of the infringement, to be paid to him/her;
3. (prev. text of item 2, amend. – SG 73/06, in force from 06.10.2006) disclosure of the operative provisions the court decision in two daily newspapers and in television organization with national coverage at time determined by the court, for the account of the infringer.

### **Assessment of the indemnification**

Art. 57a. (new – SG 73/06, in force from 06.10.2006) (1) Indemnification shall be due for all for property and non-property damages and lost profits, which are direct and immediate consequence of the infringement.

(2) When assessing the amount of the indemnification, the court shall also take into account all consequences, connected to the infringement, as well as the income, obtained as a result of the infringement.

(3) The court shall determine fair indemnification having preventive and warning influence to the infringer and the other members of the society.

### **Special cases of indemnification**

Art. 57b. (new – SG 73/06, in force from 06.10.2006) (1) Where the claim has been determined by ground but there is no sufficient data about its amount, the claimant may require as indemnification:

1. from 500 to 100 000 BGN, where the exact amount shall be determined by assessment of the court under the conditions of Art. 57a, para 2 and 3, or
2. the equivalent of the products, subject matter of the infringement at retail price of lawfully manufactured products, in which is incorporated or to which is applied design within the scope of protection.

(2) At determining the indemnification referred to in para 1, the revenues received as a result of the infringement shall also be taken into consideration.

### **Seizure of products, subject matter of infringement**

Art. 57c. (new – SG 73/06, in force from 06.10.2006) Seizure of the products under art. 57, para 1, item 4, subject matter of infringement, may be requested both with regards to products, being at a certain place, and with regards to products, being in the commercial network.

### **Responsibility**

Art. 57d. (new – 73/06, in force from 06.10.2006) The legal persons and the sole entrepreneurs shall bear civil responsibility for the infringement of rights under this law guiltily committed by the persons representing them, by their employees or by persons hired by them. In this case the guilt shall be assumed until the contrary is proved.

### **Providing evidence in claim and security procedures**

Art. 57e. (1) (new – SG 73/06, in force from 06.10.2006) Where the claimant has presented evidence supporting his/her claims and has also pointed out other evidence of significance for solution of the case, which is under the control of the defendant, the court can oblige the defendant to present the evidence.

(2) Under the conditions of para 1, upon request of the claimant, the court may oblige the defendant to provide opportunity for acquainting with bank, financial and commercial documents which are under his/her control.

(3) The claimant shall be obliged not to disclose the information contained in the documents under para 2.

(4) The presentation of evidence for single or one time unlawful use of protected subject matter under this law shall be considered sufficient ground for applying the provisions of para 1 and 2.

(5) The existence of the circumstances connected with claimed infringement may also be ascertained by presentation of evidence for single or one time unlawful use of subject matter protected under this law.

### **Requesting information about the origin and the distribution networks upon infringement**

Art. 57f. (new – SG 73/06, in force from 06.10.2006) (1) Upon request by the claimant, the court may oblige the defendant or third person to present information about circumstances which are of importance for solving the case.

(2) Third person in the sense of para 1 shall be each person who:

1. holds goods – subject of infringement, or
2. provides services, leading to infringement, or
3. uses services representing infringement, or
4. has been pointed out by person under items 1 – 3 as a participant in the manufacturing, production or distribution of these products or services.

(3) The information referred to in para 1 may include:

1. the names and the addresses of the producers, distributors, suppliers and other persons who have been previously holders of the products or the services as well as the supposed wholesale and retail distributors;
2. information about the produced, supplied, received or ordered quantities as well as the resources received for the products or services in question.

(4) Para 1 shall not be applied in case its implementation may lead to infringement of a provision of another law.

(5) The provisions of para 1 – 3 shall be applied only for acts carried out for direct or indirect economic or commercial benefit.

### **Temporary Measures (Title amend. - SG 59/07, in force from 01.03.2008**

Art. 57g. (new – SG 73/06, in force from 06.10.2006) (1) (amend. – SG 59/07, in force from 01.03.2008) In case of infringement of right over design, or where enough data is available to consider that such infringement will be committed or some evidence will be lost, destroyed or concealed, the court, upon request by the owner of the respective right or by the licensee of exclusive license may, without informing the respondent party, also admit some of the following measures:

1. prohibition of carrying out activities which is claimed to constitute or will constitute illegal use of design;
2. seizure of the products, which are claimed to have illegally used design, as well as other evidence of importance for proving the infringement;
3. sealing of the premises in which it is alleged that infringement is committed or will be committed.

(2) (amend. – SG 59/07, in force from 01.03.2008) The admission, imposing and revocation of the

provisional measures shall be carried out according to the order referred to in Art. 389 - 403 of the Civil Procedure Code, with exception of Art. 398, first sentence and as much as this law does not stipulate otherwise.

(3) (amend. – SG 59/07, in force from 01.03.2008) The provisional measure prohibition of carrying out activity shall be imposed by its announcement by the court.

(4) (amend. – SG 59/07, in force from 01.03.2008) The provisional measures under para 1, item 2, 3 and 4 shall be imposed by a bailiff who shall carry out the act simultaneously with the handing over of the announcement for imposition of the measure within three days after receiving the application of the claimant to the bailiff. The provisional measure admitted for prevention of forthcoming infringement shall be imposed within a term complied with its purpose. The seized property shall be provided with an inventory to be kept by the claimant who can use it solely as an evidence.

(5) (amend. – SG 59/07, in force from 01.03.2008) The claimant or his/her representative shall have the right to attend and assist the imposition of the provisional measures.

(6) (amend. – SG 59/07, in force from 01.03.2008) The provisional measure referred to in para 1, item 1 may be imposed also to third persons for whom sufficient data is available that they facilitate the performance of the activity for which is claimed that represents or will represent unlawful use.

(7) The owner of the right over a design or the licensee of exclusive license shall be obliged not to disclose the information that has become known to him/her at or on occasion of the measures referred to in para 1.

#### **Claims for official design**

Art. 58. (1) Any interested person shall be able to present a claim for establishing official design.

(2) The claim shall be presented at latest in one year after the registration is known.

(3) At disputes of Art. 17, para 2 the party not agreeing with the determined remuneration shall be able to present a claim about its extent.

#### **Claims for preliminary use**

Art. 59. Any interested person shall be able to present a claim for establishing preliminary use.

#### **Claims for authorship and co-authorship**

Art. 60. (1) a person claiming authorship or co-authorship of a design shall be able to present a claim during the whole term of effect of the registration.

(2) on the basis of a court decision entered into force the Patent department shall enter the author into the State register of the industrial designs.

#### **Security measures**

Art. 60a. (1) (amend. – SG 59/07, in force from 01.03.2008; revoked – SG 35/10, in force from 12.08.2010)

#### **Jurisdiction**

Art. 61. (amend. - SG 30/06, in force from 12.07.2006; amend – SG 73/06, in force from 13.06.2006)

The claims under this law shall be within the competence of the Sofia City Court.

### **Chapter six. MEASURES FOR BORDER CONTROL**

#### **Application sphere (Title amended – SG 43/05)**

Art. 62. (1) (amend. – 73/06, in force from 06.10.2006) The owner of the right over a design, as well

as the licensee of exclusive license may request the customs bodies to suspend products transferred across the state border of the Republic of Bulgaria about which there is ground to be considered that they infringe a right, protected by this law.

(2) (amend. – SG 73/06, in force from 06.10.2006) The measures for border control shall not be applied for products:

1. (revoked – SG 73/06, in force from 06.10.2006);

2. (revoked – SG 73/06, in force from 06.10.2006);

3. (amend. – SG 73/06, in force from 06.10.2006) with non-commercial purpose, transferred as a part of the luggage of passengers, on the condition that the products are in quantity, determined for duty-free import or export;

4. quickly perishable.

(3) (new – SG 73/06, in force from 06.10.2006) The provisions of this chapter shall also apply to all products, presented before the customs bodies, regardless of whether customs regime has been operated with respect to such products.

### **Conditions for applying the measures for border control (Title amended – SG 43/05)**

Art. 63. (amend. SG 43/05) (1) The border control shall be applied on the basis of written application by the owner of the design as well as on initiative of the customs bodies. When the owner of the right is with permanent address or headquarters out of the country he must point out judicial address on the territory of the Republic of Bulgaria.

(2) The application of para 1 must contain detailed description of the goods. To it shall be attached copy of the certificate for registration of the design and certificate that the registration is acting, issued by the patent department.

(3) (revoked – SG 35/10, in force from 12.08.2010)

(4) (amend. – SG 73/06, in force from 06.10.2006) When the customs bodies find that the circumstances under Art. 62, para 1 are present, they shall suspend the products. The suspension shall be carried out by the respective customs document, issued by the competent customs bodies. They shall inform immediately the applicant, the sender and the recipient of the products about the suspension. These persons shall have the right to inspect the suspended products and to receive information about them.

(5) (new – SG 73/06, in force from 06.10.2006) In case within 10 working days from being notified as per para 4 about the suspension, the applicant does not provide evidence that a procedure has been initiated before the respective court for decision on the merits of the case or that a security has been admitted, the customs bodies shall release the suspended products provided that all requirements for assignment of a customs-approved treatment have been observed. The term may be extended by another 10 days upon reasoned request by the applicant.

(6) (new – 73/06, in force from 06.10.2006) The competent bodies before which the legal procedure under para 5 has been initiated, shall rule upon appeal of the interested party whether the measures of suspension must be confirmed, amended or revoked.

(7) (new – SG 73/06, in force from 06.10.2006) The refusal of the customs bodies to satisfy the application for suspension of the goods shall be subject to appeal before the Sofia City Court by the order of the Administrative Procedure Code.

(8) (new – SG 73/06, in force from 06.10.2006) The customs bodies shall not bear responsibility when at the exercised by them control they were not able to identify the products which withholding is required as well as for the good faith actions undertaken by them for keeping the products.

### **Actions on the initiative of the customs bodies**

Art. 63a. (new – SG 73/06, in force from 06.10.2006) (1) The customs bodies may, at their initiative or upon request of another state body, suspend products for which they have grounds to consider them infringing a right protected by this Law.

(2) In the cases under para 1 the customs bodies shall inform immediately the persons under Art. 63, para 1, the sender and the recipient of the products and shall give them a possibility to inspect the suspended products. The customs bodies may request from the owners of rights any information for carrying out an expertise.

(3) The decision under para 1 may be appealed before the Sofia City Court by the order of the Administrative Procedure Code.

(4) In case within 10 working days from the suspension of the products, procedure for decision on the merits of the case before the respective court does not follow or there is not a court ruling for admission of security, the customs bodies shall release the suspended products on condition that all the requirements for regular import or export have been met.

(5) The customs bodies shall not be liable for the actions on suspension of the goods undertaken by them in good faith.

### **Additional regulating**

Art. 64. The order and the way for implementation of this section shall be determined with an ordinance by the Council of Ministers.

### **Application of Council Regulation 1383/2003/EC**

Art. 64a. (new – SG 73/06, in force from the date of coming into effect of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The provisions of this chapter shall be applied only to the extent that they do not contradict the provisions of Council Regulation 1383/2003/EC concerning the actions of the customs officials against goods that are found to infringe rights protected under this Law.

## **Chapter seven.**

### **ADMINISTRATIVE PUNITIVE RESPONSIBILITY**

#### **Administrative violations and penalties**

Art. 65. (amend. SG 43/05; suppl. – SG 73/06, in force from 06.10.2006) (1) A person who produces, offers, releases on the market, imports, exports or preserves with this objectives commodities produced through copying or use of design included in the protection of Art. 18 without the consent of its owner, shall be punished with a fine or proprietary sanction in extent from 500 to 1500 levs and to the sole entrepreneurs and the corporate bodies shall be imposed proprietary sanction in extent from 1000 to 3000 levs.

(2) At second commitment of the violation of para 1 fine shall be imposed from 1500 to 3000 levs and to the sole entrepreneurs and the corporate bodies – proprietary sanction in extent from 3000 to 5000 levs.

(3) Second is the violation committed in year after the entering into force of the punitive decree with which the perpetrator has been punished for the same kind of violation.

(4) The products shall be taken in favour of the state regardless who's ownership they are and shall be destroyed the owner or an empowered person being able to attend the destroying.

(5) (revoked – SG 73/06, in force from 06.10.2006; new – SG 35/10, in force from 12.08.2010) The measures under Para 1 and 4 shall not apply to goods in transit through the territory of the Republic of Bulgaria.

#### **Establishing of the violations**

Art. 66. (new – SG 43/05) (1) (amend. – SG 35/10, in force from 12.08.2010) The violations shall be established with an act, compiled by official determined with an order by the chairman of the chairman of the Patent department after implementing check. The cooperation of the bodies of the Ministry of

Interior may be requested for conducting the check.

(2) Check shall not be implemented and the administrative punitive shall not be formed upon started procedure of Art. 29.

#### **Authorities of the official**

Art. 67. (1) The official of Art. 66, para 1 shall have right to:

1. require access to the sites subject to control;
2. require the necessary documents in connection with the implemented checks and take materials for expert assessment.

(2) The official shall be obliged to:

1. reflect precisely the facts at the implemented check in the act for violation
2. preserve the official, the production and the commercial secret that has become known to him in connection with the implemented checks;
3. does not make public data from the checks;
4. uses the information from the checks only for the purposes of the administrative procedure.

#### **Obligation for cooperation**

Art. 68. (new – SG 43/05) The persons with whom is implemented the check of Art. 66, para 1, shall be obliged:

1. ensure not impaired access to the checked sites;
2. concede the required by the official documents and evidences.
3. preserve the products left for safe keeping;
4. render cooperation to the officials on the occasion of the implemented check.

#### **Imposing and execution of the administrative penalties**

Art. 69. (new – SG 43/05) (1) The punitive decrees shall be issued by the chairman of the Patent department or by official authorized by him.

(2) The penalties fine or proprietary sanction shall be fulfilled voluntary in 7 days term after the punitive decree enters into force or the decision of the court with which they have been imposed, the sum being paid in the cash room or transferred to account of the Patent department.

(3) (amend. - SG 105/05, in force from 01.01.2006; amend. – SG 12/09, in force from 01.05.2009) After the elapse of the term of para 2 a copy of the punitive decree shall be sent to the National Revenue Agency for compulsory execution of the imposed fine or proprietary sanction by the order of the Tax-insurance Procedure Code.

(4) After the punitive decree enters into force or the decision of the court the products taken in favour of the state shall be delivered for destroying to the bodies of the Ministry of Interior.

#### **Applying the Law of the administrative offences and penalties**

Art. 70. (new – 43/05) As far as in this chapter other is not provided the establishing of the offences, the issuing, appealing and the fulfillment of the penalty decrees shall be implemented by the order of the Law of the administrative offences and penalties.

### **Additional provisions**

§ 1. In the sense of this law:

1. "Hague agreement" is the Hague agreement for international declaring of industrial samples of November 6, 1925 with its editing of November 28, 1960.

2. "Paris convention" shall be the Paris convention for protection of the industrial property signed in Paris on March 20, 1883 with its amendments and supplements.
3. (amend. – SG 35/10, in force from 12.08.2010) "Locarno Agreement" is the Agreement of Locarno establishing International Classification for Industrial Designs of 1968 with subsequent amendment in 1979.
4. "Local representative of industrial property" is a representative in the sense of Art. 3, para 2 of the Law for the patents.
5. "State expert" is an expert in the sense of Art. 83, para 3 of the Law for the patents.
6. (new – SG 43/05) "Article" is detached production and trade unit, obtained in industrial or craft way, designated to satisfy human needs.
7. (new – SG 43/05) "Compound article" is article consisting of many parts which may be replaced with objective to be allowed dismantling and assembly of the article.
8. (new – SG 43/05) "Part of compound article" is structurally detached element designated for assembly in this article and has independent trade realization as steering wheel, light of automobile, peddle for bicycle, cap for bottle etc.
9. (new – SG 43/05) "Set of articles" are independent, structurally detached articles which are subordinated to one image or stylistic principle of external design and have common designation and set for eating, child's play, set of furniture.
10. (new – SG 43/05; amend. – SG 35/10, in force from 12.08.2010) "Composition of articles" is stylistic composing articles having common principle of internal formation.
11. (new – SG 43/05) "Packing" is article serving to pack and/or transport of other article;
12. (new – SG 43/05) "Graphic symbol" is sign serving for denoting or perception of object, idea, image etc.
13. (new – SG 43/05) "Printed fonts" is a set of letters, numbers and signs written in defined way.
14. (new – SG 43/05) "Informed user" is a user who has knowledge, experience, interests in the respective economic sector to which belongs the product to which is included or applied the design.
15. (new – SG 73/06, in force from 06.10.2006) "Import or export of goods" is the factual transportation across the borders of the Republic of Bulgaria of products, in which a design, falling within the scope of protection under this Law, is incorporated or to which it is applied, regardless of whether customs regime has been operated with respect to such products.

§ 1a. (new – 73/06, in force from the date of coming into effect of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The provisions of this Law which are applied to Member States of the European Union, shall also be applied to the other States in the European Economic Area.

### **Transitional and concluding provisions**

§ 2. The legal protection of design rendered with this law shall not exclude the simultaneous protection under the Law for the copyright and the similar rights.

§ 3. This law shall be applied also for claims for registration of industrial sample for which there is no ultimate decision till entering into force.

§ 4. The term of effect of the protection ensuing from registration of industrial sample under the Law for the trademarks and industrial samples that has not expired till this law enters into force shall be determined according to art. 15.

§ 5. This law shall repeal section II of the Law for the trademarks and industrial samples (prom. SG 95/67; amend. and suppl. SG 55/75, SG 56/86, SG 27/93) and art. 1, 46, 47, 48, 49, 50, 51 and 52 of the same law in the part about the industrial samples.

§ 6. In the Law for the patents (prom. SG 27/93; suppl. SG 83/96; amend. SG 11/98) shall be made the following amendments and supplements:

1. In art. 80, item 2 the words "industrial samples" shall be substituted by "industrial designs".
2. In § 10 of the transitional and concluding provisions after the words "official inventions" shall be added "useful models and industrial design".

§ 7. In the Penalty Code (prom. ...; amend. ...) shall be made the following amendments and changes:

1. In art. 173, para 2 the words "industrial sample" shall be changed to "industrial design" and the word "rationalisation" - to "useful model".
2. In art. 174 the words "industrial sample" shall be changed to "industrial design" and the word "rationalisation" - to "useful model".

§ 8. In the Commercial law (prom. SG 48/91; amend. and suppl. SG 25/92, SG 61, 103/93, SG 63/94, SG 63/95, SG 42, 59, 83, 86, 104/96, SG 58, 100, 124/97, SG 52, 70/98, SG 33, 42, 64/99) shall be made the following changes:

1. In art. 587, para 1 the words "industrial sample" shall be changed to "industrial design".
2. In art. 588 the words "industrial sample" shall be changed to "industrial design".

§ 9. In § 1, item 8 of the Law for the corporate income tax levying (prom. ...; amend. ...) the words "industrial sample" shall be changed to "industrial design".

§ 10. In art. 31, para 1 of the Law for the co-operations (prom. ...; amend. ...) the words "industrial samples" shall be changed to "industrial designs".

§ 11. In art. 19, para 2, item 2 of the Law for accounting (prom. SG 4/91; amend. and suppl. SG 26/92, SG 55/93, SG 21, 33, 59/96, SG 52/97, SG 21/98, SG 57/99) after the word "marks" shall be added "industrial, designs".

§ 12. The Council of Ministers shall approve ordinance for design, submitting and expertise of the applications for registration of industrial design and Tariff for the fees.

§ 13. The chairman of the Patent department shall issue instructions for the implementation of this law.

§ 14. The implementation of the law shall be assigned to the chairman of the Patent department.

§ 15. The law shall enter into force 3 months after the promulgation in State Gazette.

The law was passed by the 38th National Assembly on September 2, 1999 and was affixed with the official seal of the National Assembly.

### **Transitional and concluding provisions (SG 43/05)**

§ 32. This law shall be applied also for applications for registration of industrial design about which till



its entering into force there is no ultimate solution.

§ 33. The found existing requests for deletion of the registration shall be considered in compliance with this law.

§ 34. The law shall enter into force three months after its promulgation in State Gazette.

**Transitional and concluding provisions  
TO THE TAX-INSURANCE PROCEDURE CODE**

(PROM. – SG 105/05, IN FORCE FROM 01.01.2006)

§ 88. The code shall enter in force from the 1st of January 2006, except Art. 179, Para 3, Art. 183, Para 9, § 10, item 1, letter "e" and item 4, letter "c", § 11, item 1, letter "b" and § 14, item 12 of the transitional and concluding provisions which shall enter in force from the day of promulgation of the code in the State Gazette.

**Transitional and concluding provisions  
TO THE ADMINISTRATIVE PROCEDURE CODE**

(PROM. – SG 30/06, IN FORCE FROM 12.07.2006)

§ 142. The code shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136, item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;
2. paragraph 120, which shall enter into force from the 1st of January 2007;
3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.

**Transitional and concluding provisions  
TO THE LAW OF AMENDMENT AND SUPPLEMENT OF THE LAW FOR THE  
INDUSTRIAL DESIGN**

(PROM. – SG 73/06, IN FORCE FROM 06.10.2006)

§ 28. (In force from the date of coming into effect of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) Community designs, which are in effect by the date of accession of the Republic of Bulgaria to the European Union, and applications for Community design, submitted by this date, shall have an effect on the territory of the Republic of Bulgaria.

§ 29. The law shall enter into force one month after its promulgation in State Gazette, except for § 6, § 15, § 23, § 27 and § 28, which shall enter into force from the date of coming into effect of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union, and § 19, which shall enter into force from 13 July 2006.

**Transitional and concluding provisions  
TO THE CIVIL PROCEDURE CODE**

(PROM. – SG 59/07, IN FORCE FROM 01.03.2008)

§ 61. This code shall enter into force from 1 March 2008, except for:

1. Part Seven "Special rules related to proceedings on civil cases subject to application of European Union legislation";
2. paragraph 2, par. 4;
3. paragraph 3 related to revoking of Chapter Thirty Two "a" "Special rules for recognition and admission of fulfillment of decisions of foreign courts and of other foreign bodies" with Art. 307a – 307e and Part Seven "Proceedings for returning a child or exercising the right of personal relations" with Art. 502 – 507;
4. paragraph 4, par. 2;
5. paragraph 24;
6. paragraph 60,

which shall enter into force three days after the promulgation of the Code in the State Gazette.

**Transitional and concluding provisions  
TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE CODE OF TAX  
INSURANCE PROCEDURE**

(PROM. – SG 12/09, IN FORCE FROM 01.05.2009; SUPPL. - SG 32/09)

§ 68. (suppl. - SG 32/09) This Law shall enter into force from 1 May 2009 except § 65, 66 and 67, which shall enter into force from the date of promulgation of the Law in the State Gazette and § 2 - 10, § 12, Items 1 and 2 - regarding Para 10 and 11, Item 8, Letter "a", Items 9 and 12 and § 53 - 64, which shall enter into force from 1 January 2010.

**Transitional and concluding provisions  
TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE LAW ON THE  
INDUSTRIAL DESIGN**

(PROM. – SG 35/10, IN FORCE FROM 12.08.2010)

§ 41. (1) This Law shall apply to applications for registration of industrial designs filed after its entry into force, as well as to applications for registration of industrial designs, for which there is no decision in force.

(2) The applications for registration of designs, published before entry into force of this Law, shall be considered under the previous order.

§ 42. This Law shall apply to requests for cancellation of registrations, for which there is no decision in force before its entry into force.

§ 43. The Council of Ministers shall adopt the ordinance under Art. 41, Para 4 within 6 months from entry into force of this Law.

§ 44. This Law shall enter into force three months after its promulgation in the State Gazette except § 2, 3, 5, § 14, Item 3, § 15, § 16, Item 1, Letter “d” Item 2, § 18, § 19, Items 2 and 3, § 20, 21, 24, 27 and 29, which shall enter into force after 9 months from the promulgation of the Law.