

**Law of the Republic of Belarus No. 160-Z of December 16, 2002, on Patents for  
Inventions, Utility Models, and Industrial Designs**

*(as amended up to Law of the Republic of Belarus No. 299-Z of December 24, 2007)*

Adopted by the House of Representatives on November 14, 2002

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The present Law regulates the property relations and personal non-property relations connected with them arising in connection with creation of the legal protection and usage of inventions, industrial models and industrial designs.

**Chapter 1. Legal Protection of Inventions, Industrial Model and Industrial Design**

**Article 1.** The Patent on Invention, Industrial Model and Industrial Design

1. The right to invention, industrial model and industrial design is protected by the state and is certified by the patent.

2. The patent on invention, industrial model and industrial design certifies the authorship, priority of invention, industrial model and industrial design and the exclusive right of their usage.

3. The patent is in effect from the date of submitting the application to the state establishment "The National Center of Intellectual Property" (further—the patent body):

the patent on invention—within 20 years. If for the application of the instrument where the invention is used it is required to obtain the permission of the authorized body in accordance with legislation, the term of validity of the patent to this invention is prolonged by the patent body at the petition of the patent holder not more than to 5 years;

the patent to industrial model—within 5 years with the possible prolongation of this term by the patent body at the petition of the patent holder not more than to 5 years;

the patent to industrial design—with 10 years with the possible prolongation of this term by the patent body at the petition of the patent holder not more than to 5 years.

4. At calculation of the terms mentioned in point 3 of the present article in regard to the patent issued at the application with the priority in accordance with point 6 article 16 of the present Law, the date of submitting the application is the date of submitting the first application.

5. The size of legal protection given by the patent on invention or industrial model is determined by the formula of the invention or industrial models. The formula of invention (industrial model)—logic definition of the invention (industrial model) by the set of all its substantial features. The description and the sketches are used only for interpretation of the formula of the invention (industrial model).

6. the size of the legal protection given by the patent on the industrial design is determined by the set of its substantial features reflected on the graph images of the product (model, picture).

7. The order of granting the legal protection to the inventions, industrial models and industrial designs recognized in the established order secret and the order of managing with the secret inventions, industrial models and industrial designs are established by legislation.

## **Article 2.** The Conditions of Granting the Legal Protection to the Invention

1. The present Law the invention in any sphere of mechanics is granted the legal protection, if it is referred to the product or means being new, has invention level and industrial application.

For the purposes of the present Law the "product" is the subject as the result of the human work, the "means"—the process, way or method of carrying out the inter-connected actions at the object(s) and also the application of the process, way, method or product for the certain purpose.

The invention is new, if it is the part of the technical level.

The invention has the invention level, if it is vividly does not derive from the technical level for the specialist.

The technical level includes any information being public in the world before the priority of the invention. At establishing the new character of the invention to the technical level all not recalled applications on inventions and industrial models submitted by other persons on the territory of the Republic of Belarus or the inventions or industrial models patented in the Republic of Belarus are also included on the condition of their earlier priority.

The invention is industrially applicable, if it can be used in the industry, agriculture, healthcare and other spheres of activity.

The disclosure of information relating to the invention by the author, applicant or any other person that has received the information from them directly or indirectly at which the information of the essence of the invention become publicly known, if the application on the invention is submitted to the patent body not later than 12 months form the date of disclosure of information. At that the burden of evidence of the given fact is laid on the applicant.

2. The following are not considered inventions:

discoveries and also the scientific theories and mathematic methods;

decisions concerning only the appearance of the product and aimed at satisfaction of the esthetic needs;

plans, rules and methods of intellectual activity, holding the games or carrying out the business activity and also algorithms and programs for electronic computers;

ordinary presentation of information.

The mentioned objects and kinds of activity are not considered inventions in accordance with the present Law only in case, if the application on issue of the patent on invention concerns only those objects and kinds of activities as such.

3. In accordance with the present Law the following are not recognized patentable :

the sorts of plants and breeds of animals;

topologies of the integral micro circuits;

inventions contradicting the public interests, principles of humaneness and moral.

### **Article 3.** Conditions of Granting the Legal Protection of the Industrial Model

1. The present Law recognizes the technical solution referring to the devices and being new and industrially applicable to be the industrial model to which the legal protection is granted.

The industrial model is new, if the set of its substantial features is not the part of the technical level.

The technical level includes any information about the devices of the same purpose as the industrial model declared being available to public before the date of priority of the industrial model and also the information about its open usage in the Republic of Belarus. At establishing the newness of the industrial model to the technical level all submitted in the Republic of Belarus by other persons not recalled applications on inventions and industrial models and also the inventions and industrial models patented in the Republic of Belarus are included on the conditions of their earlier priority.

The industrial model is the industrially applicable, if it can be used in industry, agriculture , healthcare and other spheres of activity.

The disclosure of information referring to the industrial model by the author, applicant or any other person that has received the information directly or indirectly from them at which the information on the essence of the industrial model became generally accessible is not recognized as the circumstance obstructing the recognition of the patentability of the industrial model, if the application on the industrial model in submitted to the patent body not later than 12 months from the date of disclosure of information. At that the burden of proving the given fact is laid on the applicant.

2. The legal protection in accordance with point 1 of the present article is not given to the following:

solutions concerning only the appearance of the product and aimed at satisfaction of the esthetic needs;

solutions contradicting the public interests, principles of humaneness and moral.

### **Article 4.** The conditions of granting the legal protection to the industrial design

1. The present Law recognizes the industrial model, to which the legal protection is granted, the art or art-construction solution of product determining its appearance and being new and original. At that the product is the subject of industrial or handicraft industry.

The industrial design is recognized new, if the set of its substantial features in unknown from the information being publicly known in the work before the date of priority of the industrial design.

At establishing the newness of the industrial design all earlier submitted in the Republic of Belarus by other persons and not recalled applications on the industrial designs and also not

patented in the Republic of Belarus industrial designs are considered on the condition of their earlier priority.

The industrial design is recognized original, if its substantial features determine the creative character of the peculiarities of the product.

The substantial features of the industrial design are the features determining the esthetic and (or) human peculiarities of the appearance of the product, its form and configuration, ornament and the combination of colors.

The disclosure of information concerning the industrial design by the author, applicant or by other person having received this information directly or indirectly from them, at which the information on the essence of the industrial design became publicly accessible are not recognized as the circumstance influencing the patentability of the industrial design, if the application on the industrial design is submitted not later than 6 months from the date of disclosure of such information. At that the burden of proof of the given fact is laid on the applicant.

2. The legal protection in accordance with point 1 of the present article is not granted to the following:

solutions determined exclusively by the technical function of the product;

solutions contradicting the public interests, principles of humaneness and moral;

objects of architecture (including the industrial, hydro-technical and other stationary constructions) except for the small pieces of architecture;

printed productions as such;

objects of not stable form out of liquid, gas, friable and similar substances.

## **Chapter 2. Authors and Patent-holders**

### **Article 5. Author of the Invention, Industrial Model and Industrial Design**

1. The author of the invention, industrial model and industrial design is the natural person by whose creative work they are created.

2. If the invention, industrial model or industrial design are created by the joint creative work of two and more natural persons they are recognized co-authors. The order of enjoying the rights belonging to the co-authors is determined by the agreement among them.

3. The natural persons not making the individual and creative contribution to creation of the invention, industrial model and industrial design are not recognized co-authors, but are considered as those rendering the author (co-authors) the technical, organizational or material aid or only as assisting the registration of the rights to invention, industrial model or industrial design and their usage.

### **Article 6. Patent-holder**

1. The patent-holder(s) is (are) a person(s) to whom the patent on invention, industrial model or industrial design is issued.

2. The right to obtain the patent belongs to:

author (co-authors) of the invention, industrial model and industrial design;

natural or legal person being the employer of the author of the invention, industrial model or industrial design in cases provided by point 3 of the present article;

natural and (or) legal person or several natural and (or) legal persons (at their consent) that are mentioned by the author (co-authors) in the application on issue of the patent or in application submitted in the patent body before the moment of registration of the invention, industrial model or industrial design;

successor(s) of the persons mentioned in the present point.

3. The right to obtain the patent on the invention, industrial model or industrial design made on duty and created by the employee belongs to the employer, if the contract concluded between them does not provide otherwise.

The invention, industrial model or industrial design are considered to be made on duty, if they refer to the spheres of activity of the employer on the condition that the activity that has led to their creation is considered to be the official duties of the employee or they are created in connection with the execution of the concrete task received by the employee from the employer or the experience or the means of the employer have been used.

The employee who has created the invention, industrial model or industrial design being on duty is obliged to notify the employer about it in written form. If the employer within 3 months from the date of notification by the employee about the created inventions, industrial models or industrial design does not submit the application to the patent body, the right to receive the patent belongs to the employee.

If the right to receive the patent does not belong to the employee, he has the right to a reward proportionate to the benefit that is received by the employer or could be received at the proper use of the invention, industrial model or industrial design in cases of obtaining by the employer of the patent or not reception of the patent at the application submitted by the employer because of reasons not depending on the employer. The reward is paid in the size and on the conditions determined by the agreement between the employer and the employee.

In case when there is no agreement between the parties about the size or order of payment of the reward or the compensation the dispute is considered by the court. The minimal size of the reward is determined by the legislation. For the not timely payment of the reward or compensation determined by the contract the guilty employer bears the responsibility in accordance with the legislation.

Termination of the labor contract does not influence the rights and duties of the employee and the employer arising in connection with creation of the inventions, industrial model or industrial design being on duty. The application on the inventions, industrial models and industrial designs made on duty can be also submitted by the employer before expiration of one year from the moment of termination of the labor contract. At expiration of one year the right to submit the application on inventions, industrial models and industrial designs made on duty is transferred to the employee.

Other relations arising in connection with creation of the inventions, industrial models and industrial design made on duty are regulated by legislation.

### **Chapter 3. Rights to Invention, Industrial Model and Industrial Design**

#### **Article 7. Copyright**

1. Personal non-property rights and property right connected with them belong to the author of the invention.

2. The copyright (the right to be recognized as the author) is personal non-property right and is protected without any time limit. The copyright is not alienable and cannot be transferred.

#### **Article 8. The rights and Duties of the Patent-Holder**

1. The exclusive right to use the patented inventions, industrial models and industrial designs belongs to the patent-holder.

The exclusive right to use the invention, industrial model and the industrial design includes the right to use the invention industrial model and industrial design at his own discretion, if it does not violate the rights of other persons and also includes the right to prohibit the usage of the invention, industrial model and industrial design to other persons.

2. The exclusive right to use the patented invention, being the way to receive the product is extended also to the product directly received by this way. At that the new product is considered received by the patented way, until it's proven otherwise.

3. The exclusive right to use the patent inventions, industrial models and industrial designs is carried out by the patent-holder in the period of validity of the patent starting from the date of publication the information on the issue of this patent in the official bulletin of the patent body.

4. The patent-holder shall use the rights granted by the patent without damaging the rights of other persons, interests of society and the state.

5. At the request of the patent-holder for violation of his exclusive right shall be terminated and the person guilty of the violation shall compensate the patent holder the damages caused in accordance with legislation.

#### **Article 9. The Actions Being the Violation of the Exclusive Right of the Patent Holder**

The violation of the exclusive right of the patent-holder is the following actions carried out without his consent:

manufacturing, application, import, offer for sale, sale, other introduction to the civil turnover or storage for these purposes of the product manufactured with application of the patented inventions, industrial models or industrial design and also committing the mentioned actions in relation to the methods at functioning of which or exploitation of which in accordance with its purpose the method protected by the patent is carried out;

application of the method protected by the patent to invention or introduction to the civil turn-over or storage for these purposes of the product manufactured directly by the method protected by the patent to invention.

**Article 10. Actions Not Recognized as Violation of the Exclusive Right of the Patent-Holder**

The following is not recognized as violations of the exclusive right of the patent-holder:

Application of the methods in which the inventions, industrial models and designs protected by the patent, in constructions or at exploitation of the transport means (sea, river, air, road and space) of other countries on condition that the mentioned means temporary or accidentally are on the territory of the Republic of Belarus and are used for the needs of the relevant transport means. Such action is not recognized as violation of the exclusive right of the patent-holder, if the transportation means belong to the citizens or legal persons of the countries granting the same rights to the citizens and legal persons of the Republic of Belarus;

conducting the scientific research or experiment on the method in which the invention, industrial model or industrial design protected by the patent are used;

application of the methods containing the inventions, industrial models and industrial designs protected by the patent in cases of arising the extraordinary or unavoidable circumstances at the given conditions (force majeure) with the subsequent payment to the patent-holder the proportionate compensation;

application of the methods in which the inventions, industrial designs and industrial models protected by the patent are used for the personal needs without obtaining the profit;

one time manufacture of the medicines in the chemist drug stores at the prescriptions of the doctor with application of the invention protected by the patent;

application, offer to sale, sale, import or storage for these purposes of the product containing the invention, industrial model and industrial design protected by the patent introduced to the civil turn-over in the Republic of Belarus without violation of the right of patent-holder.

**Article 11. Concession of the Patent, Concession of Rights Deriving from the Patent to Other Person, Transfer of the Right to Patent, Pawn of the Property Rights**

1. The patent-holder can concede the patent to other natural or legal person and also to transfer the right to use the invention, industrial model or industrial design to other natural or legal person under the license contract.

2. Exclusive right of the patent-holder to use the patented invention, industrial model and industrial design and also the right of author to reward to other persons in order of succession including at the heritage.

3. The property rights attested by the patent can be the pawn objects.

**Chapter 4. Obtaining the Patent**

## **Article 12.** Submitting the Application on Obtaining the Patent

1. The application on issue of the patent on invention, industrial model and industrial design is submitted to the patent body by the person(s) possessing the right to receive the patent in accordance with point 2 of the article 6 of the present Law (further—the applicant(s)).

The submitting of the application to the patent body, conducting the affairs with the patent body can be carried out by the applicant independently or through the patent plenipotentiary registered in the patent body.

2. To the application submitted through the patent plenipotentiary the letter of authorization issued by the applicant(s) to him shall be enclosed.

3. The requirements to the documents of the application on invention, industrial models and industrial designs are established by the republican body of state management authorized by the Council of Ministers of the Republic of Belarus.

## **Article 13.** Application to Issue the Patent on the Invention

1. Application on issue of the patent on invention (further—the application on invention) shall relate to one invention or the group of inventions connected between each other to such extent that they form the one invention idea (requirement of the unity of the invention).

2. The application on invention shall contain:

2.1. application on issue of the patent with indication of the author (co-authors) of the invention and the person (persons) on behalf of who the patent is asked and also their place of residence or the place of location;

2.2. description of the invention revealing it fully so that enough for its realization;

2.3. formula of the invention expressing its essence and fully based on the description;

2.4. sketches and other materials, if they are necessary for understanding of the essence of invention;

2.5. abstract;

3. The date of submitting the application on invention to the patent body is established according to the date of reception of the documents necessary for establishing the priority in accordance with point 1 article 16 of the present Law, and if the mentioned documents are submitted not at once—according to the date of reception of the last document.

4. Together with the application on invention or within 2 months from the date of reception of the application to the patent body the document confirming the payment of patent duty in the established size or freeing from the payment of patent duty or the presence of grounds for reducing its amount is presented. In case of not presenting the mentioned document in the established term on invention is considered recalled.



**Article 14.** The application on Issue of the Patent on Industrial Model

1. The application on issue of the patent to industrial model (further—the application on industrial model) shall relate to one industrial model or to the group of industrial models connected to such extent that they form one creative idea (requirement of unity industrial model).

2. The application on industrial model shall contain:

2.1. the application on issue of the patent with indication of the author (co-authors) of the industrial model and the person (persons) on behalf of whom the patent is asked and also their places of residence or the place of location;

2.2. description of the industrial model revealing it fully enough to realize the industrial model;

2.3. the formula of the industrial model expressing its essence and fully based on the description;

2.4. sketches and other material, if they are necessary for understanding the essence of the industrial model;

2.5. abstract.

3. The date of submitting the application on industrial model is established according to the date of reception of documents necessary for establishing the priority in accordance with point 1 article 16 of the present Law and if the mentioned documents are presented not at the same time—according to the date of reception of the last of the documents.

4. Together with the application to industrial model or within 2 months from the date of reception of application to the patent body the document confirming the payment of patent duty at the fixed amount or confirming the freeing from payment of patent duty or the presence of the grounds for reduction of its size are presented to the patent body.

**Article 15.** The Application on Issue of the Patent on Industrial Design

1. Application on issue of the patent on industrial design (further—application on industrial design) shall relate to one industrial design or to the group of the industrial designs connected to such extent that they form one creative idea (requirement of unity of the industrial design).

2. Application on the industrial design shall contain:

2.1. application on issue of the patent with indication of the author (co-authors) of the industrial design and person(s) on whose behalf the patent is asked and also their place of residence and place of location;

2.2. the set of graph images of the product (model, drawing) giving the full detailed idea about the appearance of the product;

2.3. description of industrial design including its substantial features;

2.4. sketch of general view of the product, ergonomic scheme, confection map, if they are necessary for revealing the essence of the industrial design.

3. The date of submitting the application on industrial design is established according to the date of reception of the documents necessary for establishing the priority in accordance with point 2 article 16 of the present Law to the patent body, and if the mentioned documents are presented not at once—according to the date of reception of the last document.

4. Together with the application on the industrial design or within two months from the date of reception of the application to the patent body the document confirming the payment of patent duty of the fixed size or confirmation of freeing from payment of patent duty or presence of the grounds for reduction of its size. In case of not presenting such document in the established term the application on industrial design is considered recalled.

### **Article 16. Priority of the Invention, Industrial Model and Industrial Design**

1. The priority of invention and industrial model is established on the date of submitting in patent body of the application containing the application on issue of the patent, description, formula of invention or industrial model and sketches, if there is a reference of them in the description.

2. The priority of the industrial design is established on the date of submitting to the patent body of the application containing the application on issue of the patent, set of graph images of product (model, drawing) and description of the industrial design.

3. The priority can be established according to the date of submitting the first application in the state-participant of the Paris Convention on Protection of Industrial Property (conventional priority), if the submitting to the patent body of application on invention, industrial model is carried out within 12 months and on the industrial design—within 6 months from the date of submitting the first application. At the petition of the applicant the term can be prolonged by the patent body but not more than to two months.

The applicant wishing to use the right of conventional priority in relation to application on invention shall note that at submitting the application or within 2 months from the date of reception of application by the patent body and present the attested copy of first application not later than 16 months from the date of its submitting. In case of non-observance of the mentioned term at the petition of the application submitted before its expiration, the right of priority can be renewed on the condition that the copy of first application is requested by the applicant not later than 14 months from the date of submitting the first application and is presented to the patent body within two months from the date of its reception by the applicant.

The applicant wishing to use the right of the conventional priority in relation to application on industrial model or industrial design shall note that at submitting the application or within two months from the date of reception of the application by the patent body and enclose the attested copy of the first application or present it not later than 3 months from the date of reception of the application by the patent body.

4. The priority can be established according to the date of submitting to the patent body additional materials, if they are registered by the applicant as independent application submitted before expiration of the three months term from the date of reception by application of notification of the patent body on impossibility of taking into account of the additional

material in connection with their recognition as changing the essence of the declared invention, industrial model or industrial design and on the date of its submitting the application under which the additional materials have been presented, is not recalled or is not considered recalled.

5. The priority can be established on the date of submitting to the patent body of earlier application of the same application revealing the essence of those invention, industrial mode or industrial design not recalled or not considered recalled on the date of submitting the application under which the priority is asked, if the submission of this application is carried out not later than 12 months from the date of submitting the earlier application on invention and not later than 6 months from the date of submitting the earlier application to industrial model or industrial design. In case of submitting the application with the request of the mentioned priority the earlier application is considered recalled.

The priority cannot be established according to the date of submitting the application under which the earlier priority has been asked.

6. The priority of the invention, industrial model and industrial design at the divisional application is established on the date of submitting the first application to the patent body revealing their essence by the same application, and at presence of the right to establish an earlier priority according to the first application—on the date of this priority, if on the date of submitting the divisional application the first application has not been recalled and is not considered recalled and submission of the divisional application is carried out before the moment of expiration of the term for appealing the decision on refusal to issue the patent, and in case of taking the decision to issue the patent under the first application—before the date of registration of the invention, industrial model and industrial design in accordance with article 28 of the present Law.

For the purposes of the present Law the "divisional" application means the application that can be allotted out of the first application, if the first application is submitted with violation of the requirement of unity of invention, industrial model or industrial design. The divisional application on invention can be submitted by the applicant of the first application also in the cases, if:

invention at submitting the application was not included into the formula of invention but revealed in description of application;

the group of inventions on obtaining one patent was declared, but the application has decided to receive the patent on every invention.

7. The priority of invention, industrial model, industrial design can be established on the basis of several earlier submitted applications or additional materials to them at observance of the conditions determined by points 3-6 of the present article.

8. If at the course of expertise it is established that the similar invention, industrial models or industrial design have one date of priority, the patent can be issued at the application under which the earlier date of its sending to the patent body is proven, and at coinciding dates—under the application having earlier registration number awarded by the patent body, if the agreement between the applicants does not provided otherwise.

## **Article 17.** Introduction of Changes to the Application Materials

1. The applicant has the right to introduce to the application materials on invention the corrections and clarifications not changing the essence of the declared invention before taking the decision by the patent body on issue or refuse to issue of the patent under the application on invention.

The applicant has the right within 2 months from the date of submitting the application on industrial model, industrial design to introduce to its materials the corrections and clarifications not changing the essence of the declared industrial model or industrial design.

The additional materials change the essence of the declared invention, industrial model, if they contain the features of invention or industrial model absent in the first description (formula) of invention, industrial model and those features are subject to inclusion into the formula of the invention.

The additional materials change the essence of the declared industrial model, if they contain the images of the product (model, drawing) with reflected features relating to the substantial features of the industrial design being absent in the first images of the product (model, drawing).

2. Changes in indication of the applicant at transfer of the right to obtain the patent or change occurring as the result of change of the name of the applicant and also correction of the obvious and technical mistakes in the documents on application can be done before the date of registration of the invention, industrial model or industrial design.

#### **Article 18.** Expertise of the Application on Invention

1. The expertise of application on invention is conducted by the patent body in accordance with the present Law and other normative legal acts. The expertise of application on invention includes the preliminary and patent expertise.

2. If the applicant presents the additional materials for application on invention, it is checked whether or not they change the essence of the declared invention.

The additional materials in the part changing the essence of the declared invention, at consideration of the application on invention are not taken into account at consideration of the application and can be registered by the applicant as independent application.

3. If the application on invention is submitted with violation of the requirement of the unity of the invention, the patent body offers to the applicant within 2 months form the date of reception of the relevant notification to report which of the inventions shall be considered and at necessity to introduce the clarifications to the documents on application. At violation of the requirement of unity of invention and also at presence in the first documents on application on other inventions the applicant has the right to submit the divisional application(s).

In case, if the applicant within 2 months after reception of the notification of the patent body on violation of the requirement of unity of the invention does not report on which of the inventions should be considered and does not present the clarification documents the consideration of the invention first mentioned in the formula of invention shall be considered.

4. The application on invention can be recalled by the applicant before the date of publication of the information about the application but not later than the date of registration of the invention.

### **Article 19. Preliminary Expertise of the Applicant on Invention**

1. Preliminary expertise of the application on invention is conducted in 3 months term from the date of its reception by the patent body.
2. At the course of conducting the preliminary expertise the presence of documents contained in application, the observance of the established requirements to them are checked and the question on whether or not the declared solution relates to the objects that can be recognized inventions.
3. The patent body directs to the applicant the notification in written form within 5 working days from the date of taking the decision about this decision taken under the results of preliminary expertise and also about the date of submitting the application to the patent body in accordance with the article 16 of the present Law.
4. If at the course of preliminary expertise it is established that the declared decision relates to the objects that are not considered inventions in accordance with the present Law the decision on refusal to issue the patent is taken.
5. If necessary, the applicant can be offered to introduce clarifications to the materials of the application within 2 months after reception of the relevant request by the patent body. In this case the term of conducting the expertise is prolonged for the term necessary for reception of the response of the applicant.

If necessary clarifications are not submitted to the patent body in the established or the documents being absent on the date of reception of the application on invention are not presented or the petition on prolongation of the established term is not submitted, the application is considered recalled and the patent body notifies the applicant about it.

### **Article 20. Publication of the Information on Application on Invention**

1. At expiration of 18 months from the date of submitting the application that has passed the preliminary expertise at the results of which the positive decision is taken, the patent body published the information about it in its official issue (further—official bulletin). The list of the published information is determined by the patent body.
2. At the petition of the applicant presented before expiration of 12 months from the date of submitting the application on invention the patent body can publish the information on application on invention earlier than the term established by point 1 of the present article.
3. After publication of information on invention any person has the right to get familiar with its materials being in patent body.
4. Information on application on invention are not published, if till the expiration of the term of publication it is recalled or partly recalled or the decision on issue of the patent is takes or its registration in the State Register of Inventions is made or the decision on refusal to issue the patent, the possibility of appealing which are limited, is taken.
5. The author of invention has the right to refuse to be mentioned as the author in the information published about the application on invention, if he is not an applicant.

## **Article 21. Patent Expertise of the Application on Invention**

1. Within three years from the date of reception of the application on invention by the patent body the application or any interested person can submit the petition to the patent body on holding the patent expertise of the application. In case of not reception of the petition on holding the expertise in the mentioned period the application on invention is considered recalled.

2. At the course of patent expertise of application on invention the patentability of the invention is checked and the priority of the invention is established.

3. In the period of holding the patent expertise of application on invention the patent body has the right to request at the applicant the additional materials without which the fulfillment of expertise is impossible including the changed formula of invention.

The applicant has the right within one month from the date of reception of the mentioned request of the patent body to inquire the patent body about the copies of the materials opposed at the course of the expertise to his application.

The additional materials at the request of the patent body shall be presented without the change of the essence of the invention within two months from the date of reception by the application of the request or copies of the materials opposing the application.

In case, if the applicant in the mentioned term does not present the materials requested by the patent body or petition on prolongation of the established term, the application is considered recalled.

The additional materials in the part changing the essence of the declared invention at consideration of the application are not taken into consideration, the applicant is notified about it.

4. If as the result of conducted patent expertise it is established that the declared invention expressed in the formula on invention offered by the applicant complies with the terms of patentability, the patent body takes the decision on issue of the patent with such formula and indication of the established priority.

5. At establishing the non-compliance of the declared invention expressed by the formula offered by the applicant with the terms of patentability the patent body takes the decision to refuse to issue the patent.

The decision on refusal to issue the patent is taken also in case, when the applicant does not change of the formula of invention after notifying him about the fact, that the offered formula characterizes the invention complying to the terms of patentability but does not contain the signs absent in the first description (formula) of invention.

6. The patent body sends the notification to the applicant in written form within 5 working days from the date of taking the decision taken at the results of the expertise of the application on invention and also on establishing the priority of invention.

7. The applicant has the right to request the copies of the materials opposing his application on invention as the result of conducting the expertise within one month from the date of reception of the decision on application on invention.

8. The decision on issue of the patent can be revised by the patent body before the registration of the invention in connection with reception of application on invention, industrial model enjoying earlier priority in accordance with points 3-6 of the article 16 of the present Law and also in connection with the revealed application or the patent issued on the identical inventions or industrial model with the same priority.

9. The patent body can revise the decision on the results of the patent expertise, if it has been taken with violation of the order of consideration of the application on invention established by the present Law. The decision on issue of the patent can be revised before the registration of the invention in the State Register of Inventions.

10. At non-agreement of the applicant with the decision of the patent body on refusal to issue the patent the applicant has the right in 3 months term from the day of reception of the decision or the copies of the materials requested by him opposing to the application on invention with the petition on holding the repeated expertise.

11. The repeated expertise is held within 6 months from the day of reception to the patent body of the relevant petition of the applicant.

12. If in the process of expertise it is established that the identical inventions have the same date of priority so with the agreement of the applicants one patent is issued to them.

In case of non-agreement of the applicants they can turn to court for settlement of the matter on issue of the patent. The patent on invention is not issued by the patent body before the solving of the problem by court.

#### **Article 22.** Temporal Legal Protection

1. To the declared invention from the date of publication of information on application on invention to the date of publication of information about the patent the temporal legal protection in the amount of the published formula of invention is granted.

2. A natural or legal person using the declared invention for the period of validity of its temporal legal protection pays to the patent holder after the reception of the patent on invention the monetary compensation. The size and order of paying such compensation are determined by the agreement of the parties.

3. The temporal legal protection is considered not started, if the application is recalled or is considered recalled or the decision on refusal to issue the patent is taken and the possibilities to appeal this decision are exhausted.

#### **Article 23.** Expertise of the Application on Industrial Model

1. The expertise of application on industrial model is conducted by the patent body in accordance with the present Law and other normative legal acts.

2. At the expertise of the application on industrial model the check of the compliance of the declared industrial model with the terms of patentability established by the present Law are not carried out.

3. In the course of holding the expertise of application on industrial model the presence of necessary documents, observance of the established requirements to them are checked and the question on the fact whether or not the declared offer refers to the objects of industrial model is considered.

4. The expertise of the application to industrial model is conducted within three months from the date of its reception by the patent body.

5. If as the result of the expertise of the application on industrial model it is established that the application is registered to the offer, that does not relate to the objects of industrial model, the patent body takes the decision on refusal to issue the patent.

6. If the application is registered with the violation of the requirements established for the documents contained in it, the inquiry of the patent body with the offer in two months term from the date of reception of the inquiry to present the corrected or missing documents is sent to the applicant. In case, if the applicant in the mentioned term does not submit to the patent body the asked materials or the petition on prolongation of the established term, the application is considered recalled.

7. If under the application on industrial model the applicant submits the additional documents, in the course of the expertise it is checked whether or not they change the essence of the declared industrial model.

8. Additional materials in the part changing the essence of the declared industrial model are not taken into consideration at considering the application and can be registered by the applicant as an independent application.

9. If the application is submitted with violation of the requirement of unity of the industrial model, the application is offered in two months term to inform which of the offers shall be considered and to specify the relevant description, formula of industrial model and the sketches.

In case, if the applicant in two months term after reception of the notification on violation of the requirement of unity of the industrial model does not inform which of the offers is necessary to consider and does not submit the clarification documents, the application is considered recalled.

10. The applicant and interested persons have the right to petition about the information search under the application on industrial model for determining the technical level in comparison with which the estimation of the newness of the industrial model can be carried out. The order of holding the information search and presentation of information about it is determined by the patent body.

11. If as the result of expertise of application on industrial model it is established that the application is submitted for the offer relating to the objects of industrial model and its documents are registered accurately, the patent body takes the decision on issue of the patent.

12. The patent body sends to the application the notification about the decision taken under the results of the expertise of application on industrial model in written form within 5 working days from the day of taking the decision.

13. Before the registration of the industrial model the application has the right to recall the application on it.



#### **Article 24. Expertise of the Application on Industrial Design**

1. The expertise of the application on industrial design is conducted by the patent body in accordance with the present Law and other normative legal acts.
2. At the expertise of application on industrial design the check of the compliance of the declared industrial design with the terms of patentability established by the present Law is not carried out.
3. In the course of holding the expertise of application to industrial design the presence of necessary documents, observance of the established requirements for them and the question whether of not the declared offer relates to the objects protected as industrial designs is considered.
4. The expertise of the application on industrial design is conducted within three months form the date of reception of the application to the patent body.
5. If as the result of the expertise of application to industrial design it is established that the application is registered for the offer that does not relate to the objects protected as industrial designs the patent body takes the decision on refusal to issue the patent.
6. If the application on industrial design is drawn up with violation of the requirements established for the document, the applicant is sent a inquiry with an offer in two months term to submit to the patent body the corrected or missing documents. In case, if the applicant in the mentioned term does not submit the asked materials or the petition on prolongation of the established term, the application is considered recalled.
7. At holding the expertise of the application on industrial design the additional materials presented by the applicant changing the set of substantial features of the industrial design are not taken for consideration. Such materials can be registered by the applicant as an independent application on industrial design.
8. If the application on industrial design is submitted with violation of the requirements of the unity of industrial model, the applicant is offered in two months term to inform which of the industrial designs shall be considered and to specify the relevant documents.  
  
In case, if the applicant in two months term after the reception of notification of the patent body about the violation of the requirement of unity of the industrial design does not inform which of the industrial designs shall be considered and does not submit the specifying documents the application is considered recalled.
9. If as the result of the expertise of application on industrial design it is established that the application in submitted for the offer relating to the objects protected as industrial designs and the documents of application on industrial design are accurately registered, the patent body takes the decision to issue the patent.
10. The patent body sends to the applicant the notification in written form within 5 working days from the day of taking the decision about the decision taken as the results of the expertise of application on industrial design and also about establishing the priority of the industrial design in accordance with the article 16 of the present Law.

11. Before the registration of the industrial design the applicant has the right to recall the application on it.

**Article 25.** Appeal of the Decision of the Patent Body on the Results of Application Expertise

1. At not agreeing with the decision of the patent body on the results of the preliminary or patent expertise of application on invention and also with the decision on the results of the expertise of application on industrial model or industrial design the application has the right to submit the motivated complaint to the Appeal Council at the patent body (further—the Appeal Council) and (or) to court. The Appeal Council is the body of appealing the decisions on the results of the expertise of applications on the objects of industrial property and also the body that considers and takes the decision on the objections against issue of the patents on objects of industrial property.

2. Submitting the appeal to the Appeal Council is carried out by the application in three months term form the day of reception of the relevant decision of the patent body or copies of the requested at the patent body materials opposing to his application on invention.

The complains shall be considered in four months term form the day of its reception. For the complex applications the mentioned term can be prolonged under the agreement with the applicant.

3. The decision of the Appeal Council can be appealed by the applicant in judicial order within 6 months from the day of its reception.

**Article 26.** Reorganization of the Applications

1. Before the publication of the information about the application on invention, but not later than the date of reception of the decision on issue of the patent on invention the applicant has the right to reorganize it to the application on industrial model by submitting to the patent body the relevant application.

Reorganization of the application on industrial model to the application on invention is possible before the date of reception of the applicant the decision on issue of the patent on industrial model, and in case of taking the decision on refusal to issue the patent—before the moment of expiration of the term of appealing such a decision.

2. At reorganization of the applications the priority and the date of submitting the first application remain.

**Article 27.** Renewal of the Missed Terms

1. The terms provided by point 5 article 19, points 3 and 10 of the article 21, point 2 article 25 missed by the applicant can be renewed by the patent body under his petition on the condition of payment of patent duty in the established size and presence of the goods reasons for missing the relevant term.

2. The petition on renewal of the term can be submitted by the applicant to the patent body not later than 12 months from the day of expiration of the relevant missed term.

#### **Article 28. Registration of Invention, Industrial Model and Industrial Design**

1. On the basis of the decision on issue of the patent and on condition of payment of patent duty in the established size the patent body conducts the registration of invention in the State Register of Inventions, of the industrial models—in the State Register of Industrial Models, of the industrial designs—in the State Register of Industrial Designs (further—the state registers). To the state registers the information relating the registration of invention, industrial model and industrial design and also changes of such information are introduced. The list of information on invention, industrial model and industrial design that is introduced to the state registers is determined by the patent body.

2. At introduction of changes to the state registers the patent-holder together with the application on introducing changes to the relevant state register sends to the patent body the documents confirming the grounds for introducing such changes.

3. The patent body can under its own initiative or under the request of the applicant to introduce the corrections of grammar, printing or other vivid mistakes to the note on registration of invention, industrial model or industrial design in the state registers.

4. At not presenting the document confirming the payment of the patent duty in the established size for the registration of invention, industrial model or industrial design and issue of the patent the registration of invention, industrial model or industrial design is not carried out and the relevant application is considered recalled.

#### **Article 29. Publication of Information on Patent**

1. The information on the patent on invention, industrial model and industrial design are published by the patent body in the official bulletin within 6 months after the registration of invention, industrial model and industrial design in the state registers. The list of information for publication is determined by the patent body.

2. In the official bulletin of the patent body all changes introduced to the state registers are also published.

#### **Article 30. The Issue of the Patent**

1. Issue of the patent to the patent-holder is conducted by the patent body after publication of information about the patent on invention, industrial model or industrial design.

2. At presence of several persons having the right to receive the patent they are given one patent with indication of all patent-holders.

#### **Article 31. Patent Duties**

1. For the submission of the application on invention, utility model, industrial model, holding the application expertise, registration of invention, utility model, industrial model in the state registers, issue of patent, its maintenance in force as well as taking other legally meaningful actions connected with the patents on invention, utility model, industrial model the patent duties shall be collected.

2. The list of legally meaningful actions, for which patent duties are collected, the payers, the rates, the order and terms of payment of patent duties, the benefits to the special categories of patent duty payers or the grounds of patent duty reimbursement shall be established by the President of the Republic of Belarus and (or) by laws, if another is not established by the President of the Republic of Belarus.

3. The order of use of patent duties is determined by legislative acts.

### **Article 32. Patenting in Foreign Countries**

1. Natural and legal persons of the Republic of Belarus have the right to patent any invention, industrial models and industrial designs in foreign countries.

2. Before the application on invention, industrial model, industrial design in foreign countries the applicant shall submit such application in the Republic of Belarus and inform the patent body about the intention to patent the invention, industrial model or industrial design in foreign countries.

If within 3 months from the date of reception by the patent body of the mentioned information the ban of the patent body is absent, the application on invention, industrial model or industrial design can be submitted in foreign countries.

Submitting the application on invention, industrial model or industrial design in foreign countries can be carried out earlier than the mentioned term but after the completing the check of presence in the application of information disclosure of which can incur harm to the security of the Republic of Belarus held in the order established by the Council of Ministers of the Republic of Belarus.

Inventions, industrial models and industrial designs containing the information the disclosure of which can incur harm to the security of the Republic of Belarus shall be secret in order established by legislation and cannot be patented in foreign countries.

3. The costs connected with patenting the invention, industrial model or industrial design in foreign countries are laid on the applicant or other natural or legal person under the agreement with him.

4. The applications on obtaining the patents in accordance with international treaties valid for the Republic of Belarus are submitted directly to the patent body, if otherwise is not established in accordance with the rules of these international treaties.

## **Chapter 5. Termination and Renewal of the Validity of the Patent**

### **Article 33. Recognition of the Patent Invalid**

1. The patent on invention, industrial model or industrial design within all term of its validity can be recognized invalid at full or partly in the following cases:

1.1. non compliance of the protected invention, industrial model, industrial design to the terms of patentability established by the present Law;

1.2. presence in the formula of the invention, industrial model of the features absent at first description (formula);

1.3. unlawful indication in the patent the author (co-authors) or patent-holder(s).

2. The patent body published in the official bulletin the information on recognition of the patent invalid.

3. Any natural or legal person can submit the objection against the issue of the patent to the Appeal Council under the grounds mentioned in points 1.1 and 1.2 point 1 of the present article.

Objection against issue of the patent shall be considered by the Appeal Council within 6 months from the date of its reception. The person submitting the objection and also the patent-holder has the right to participate in its consideration.

The decision of the Appeal Council on objections against issue of the patent can be appealed by the person submitting the objection against the issue of the patent or by the patent-holder in judicial order within 6 months from the day of reception of such a decision.

4. Objections against issue of the patent under the grounds provided by point 1.3 point 1 of the present article are considered by court.

#### **Article 34. Pre-Term Termination of Validity of the Patent**

1. the validity of the patent is terminated pre-term:

1.1. not the ground of application of the patent-holder submitted to the patent body;

1.2. at not paying the patent duty for maintaining the patent in force in the established term;

1.3. at recognition of the patent invalid in order established by article 33 of the present Law.

2. The patent body published in the official bulletin the information about the pre-term termination of validity of the patent.

#### **Article 35. Renewal of the Validity of the Patent**

1. If the validity of the patent has been terminated as the result of not payment of the patent duty for maintaining the patent in force in the established term and the term of validity of the patent has not expired, under the petition of the patent-holder the validity of such a patent can be renewed by the patent body on the condition of payment of patent duty debt and patent duty for submitting such a petition in the established amount.

2. Any natural or legal person that from the moment of termination of the validity of the patent on invention, industrial model or industrial design till the date of its renewal in accordance with point 1 of the present article has used on the territory of the Republic of

Belarus the equal solution and has made the necessary preparations for that preserves the right to its further gratuitous use without the broadening the scope of such usage (right to after-use).

## **Chapter 6. Usage of Invention, Industrial Model and Industrial Design**

### **Article 36. Order of Usage of Invention, Industrial Model and Industrial Design**

1. Usage of invention is introducing to the civil turn-over of the product manufactured with application of the patented invention and also of the method protected by the patent.

The product is considered manufactured with application of the patented invention and the method protected by the patent is considered applied if every feature of invention included into independent point of formula or the feature equated to it is used in it.

2. Usage of the industrial model is introducing to the civil turn-over of the product manufactured with application of the patented industrial model.

The product is recognized manufactured with application patented of industrial model, if every feature of industrial model included into independent point of formula or the feature equated to it is used in it.

3. Usage of industrial design is introducing to the civil turn-over of the product containing the patented industrial design.

The product is recognized manufactured with application of the patented industrial model, if all substantial features of the patented industrial design and they are visually distinct from it.

4. The persons not being the patent-holder has no right to use the invention, industrial model and industrial design without the permission of the patent-holder except for the cases, when such usage in accordance with the present Law is not recognized as violation of the rights of patent-holder.

5. Any natural or legal person wishing to use the invention, industrial model or industrial design shall conclude with the patent-holder the contract on transfer of the rights to use the invention, industrial model or industrial design (further—the license contract).

6. The licensing contract, contract on concession of the patent, contract on pawing of the property rights certified by the patent are registered in the patent body and are considered invalid without such registration.

7. Relations on usage of the invention, industrial model and industrial design, the patent on which belong to several persons are determined by the agreement among them. At absence of the agreement every such person has the right to use the invention, industrial model and industrial design at his discretion except for concluding the license agreement and also of the contract on concession of the patent.

### **Article 37. Open License**

1. The patent-holder can submit to the patent body for the official publication the petition on granting the right to use the invention, industrial model or industrial design to any person on

the terms of general, not exclusive license (further—open license). In this case the patent duty for maintaining the patent in force is reduced to 50 percent starting from the years following the year of publication of such announcement.

2. A person wishing to use the mentioned invention, industrial model or design has the right to request the patent-holder to conclude the license agreement with him on the terms relevant to the ones mentioned in the announcement on open license.

#### **Article 38. Compulsory Licensing**

At not using or insufficient usage of the invention by the patent-holder within 5 years, and of the industrial model or industrial design within three years from the date of issue of the patent any person wishing and ready to use the patented invention, industrial model, industrial design in case of refusal of the patent-holder to conclude the license agreement can turn to court with the application on granting him the compulsory not exclusive license. If the patent-holder does not prove that not usage or insufficient usage of the invention, industrial model or industrial design is caused by the goods reasons the court grants the mentioned license determining the scope of limits of usage, and sizes and terms and order of payments.

#### **Article 39. Right of Prior Use**

1. Any natural or legal person that before the date of priority of the invention, industrial model or industrial design protected by the patent regardless of their author has created and bona fide used on the territory of the Republic of Belarus the identical solution or has made preparations necessary for it, keeps the right to its further gratuitous use without broadening the scope of amount of such usage (right of prior use).

2. The right of prior use can be transferred to other natural or legal person only together with the enterprise where the usage of the identical solution has taken place or where the preparations necessary for it has been made.

### **Chapter 7. Organizational Basics of Legal Protection of Inventions, Industrial Models and Industrial Designs. Violation of Copyright and Rights of Patent-holders Causing the Liability**

#### **Article 40. Functions of the Patent Body**

1. The patent body in accordance with the present Law takes the applications on inventions, industrial models and industrial designs to consideration, carries out the state registration of inventions, industrial models and designs, issues the patents valid on the territory of the Republic of Belarus, whining its powers carried out the control over observance of the patent legislation, given clarifications on order of its application, generalizes the practice of application of the patent legislation, renders the methodical assistance to the interested natural and legal persons under the mentioned questions, carries out the preparation of the patent engineers, conducts the patent information work, conducts the state attestation and registration of the patent plenipotentiaries, carries out other functions in accordance with legislation.

2. The patent body has the right in relation to the inventions, referred to the methods of human healing after the publication of the relevant application to send the inquiries to the competent state bodies and establishments on possibility of usage of the declared invention.

3. The officials and other employees of the patent body in the period of the service and within one year after its end has no right to submit the application on invention, industrial model or design, directly or indirectly acquire the right to a patent, and also to register any application on invention, industrial model or industrial design.

**Article 41.** Violation of the Copyright and the Rights of Patent-Holders Causing the Liability

1. Appropriation of the copyright, forcing to the co-authorship, unlawful disclosure of the essence of the offered invention, industrial model or industrial design before the submitting the application on them without the consent of the author, and also the violation of the exclusive rights of the patent-holders cause the liability in accordance with legislation.

2. The officials and experts of the patent body and also of the body authorized to issue the permissions to apply the patented product or method bear responsibility for disclosing the essence of application before its publication in accordance with legislation.

**Chapter 8. Final Provisions**

**Article 42.** International Treaties

If the international treaty valid for the Republic of Belarus and that has entered into force establishes other rules than those contained in the present Law, the rules of international treaties are applied.

**Article 43.** Rights of Foreign Citizens, Persons without Citizenship and Foreign Legal Persons

Foreign citizens, persons without citizenship and foreign legal persons enjoy the rights provided by the present Law and other acts of legislation of the Republic of Belarus on patents on inventions, industrial models and industrial designs, and bear responsibility equally with the citizens and legal persons of the Republic of Belarus, if otherwise is not determined by laws of the Republic of Belarus and international treaties.

**Article 44.** Entrance of the present Law into Force

1. The present Law enters into force 6 months after its official publication except for the article 46 that enters into force from the day of official publication of the present Law.

2. Before bringing the legislation of the Republic of Belarus in accordance with the present Law the normative legal acts are applied in the part not contradicting the present Law, if otherwise is not provided by the Constitution of the Republic of Belarus.



**Article 45.** Recognition of Some Legislative Acts Having No Force

In connection with entrance into force of the present Law to recognize having no force:

Law of the Republic of Belarus of February 5, 1993 "On patents on Industrial Designs";

Law of the Republic of Belarus of July 8, 1997 "On patents on Inventions and Industrial Models";

Law of the Republic of Belarus of January 6, 1998 "On introduction of Amendments and Alternations to the Law of the Republic of Belarus "On patents on Inventions and Industrial Models";

Articles 1 and 3 of the Law of the Republic of Belarus of July 16, 2001 "On introduction of Alternations to Some Legislative Acts of the Republic of Belarus in the Sphere of Industrial Property";

Resolution of the Supreme Council of the Republic of Belarus of February 5, 1993 "On order of Introducing into Force of the Law of the Republic of Belarus "On patents on Industrial Designs".

**Article 46.** Bringing the Legislation of the Republic of Belarus in Accordance with the Present Law

To the Council of Ministers of the Republic of Belarus in 6 months term:

to bring the decisions of the Government of the Republic of Belarus in accordance with the present Law;

to provide the bringing by the republican bodies of state management their normative legal acts in accordance with the present Law;

to provide adoption of the normative legal acts necessary for realization of the present Law.

\* unofficial translation \*

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