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On Patents for Inventions, Utility Models, and Industrial Designs

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

CHAPTER 1

LEGAL PROTECTION OF INVENTION, UTILITY MODEL, AND INDUSTRIAL DESIGN

Article 1. Patent for Invention, Utility Model, and Industrial Design

1. The right to an invention, utility model, and industrial design is protected by the state and is certified by a patent.
2. The patent for an invention, utility model and industrial design certifies the authorship, priority of an invention, utility model, and industrial design and the exclusive right to them.
3. The term of a patent validity is calculated from the date of submitting an application for the patent for an invention, utility model, industrial design (hereinafter – application unless otherwise indicated) to the state institution "The National Center of Intellectual Property" subject to the requirements established by the present Law (hereinafter – the patent authority):

for invention – twenty years. If from the date of submission of the application for patent for an invention (hereinafter – invention application unless otherwise indicated) relating to a medicine, pesticide or agricultural chemical, for the use of which a state registration is required in accordance with the legislation, more than five years have passed from the date of primary state registration, the term of validity of the patent for this invention shall be prolonged by the patent authority at the petition of the patentee. The term of validity of the patent shall be prolonged for the period which has passed from the date of submission of invention application till the date of primary state registration of the medicine, pesticide or agricultural chemical, in which the invention is used, minus five years. In this instance the term of validity of the patent may not be prolonged for more than five years. The petition for the extension of the validity term of the patent shall be filed within the validity term of the patent prior to the expiration of six months from the date of primary state registration of the medicine, pesticide or agricultural chemical, in which the invention is used, or the date of publication of the data about the patent in the official bulletin of the patent authority (hereinafter – the official bulletin) depending on which of these time limits expires later;

for utility model – five years with a possible prolongation of this term by the patent authority at the petition of the patentee, but not more than for five years. The petition about the prolongation of the validity term of the patent for utility model shall be submitted to the patent authority prior to the expiry of the validity term of the patent;

for industrial design – ten years with a possible prolongation of this term by the patent authority at the petition of the patentee, but not more than for five years. The petition about the prolongation of the validity term of the patent for industrial design shall be submitted to the patent authority prior to the expiry of the validity term of the patent.

The procedure for extension of validity terms of the patent for invention, the patent for utility model, the patent for industrial design is determined by the Council of Ministers of the Republic of Belarus, unless otherwise established by the President of the Republic of Belarus.

After termination of an exclusive right to the invention, utility model, industrial design due to the expiration of a patent, as well as due to the early termination of a patent on the grounds provided in subparagraphs 1.1 and 1.3 of the paragraph 1 of Article 34 of the present Law, invention, utility model, industrial design becomes a public domain and can be freely used by any natural person or legal entity without a permission and remuneration, but adhering an authorship.

4. When computing the time limits mentioned in paragraph 3 of the present Article in relation to the patent granted on the application with the priority in accordance with paragraph 6 of Article 16 of the present Law, the date of filing the application is recognized to be the date of filing the first application.

5. The scope of legal protection granted by a patent for invention or utility model is determined by the claim (claims) of the invention or utility model. The claims of an invention (utility model) are a logic definition of the invention (utility model) by the total set of all its essential features. The description and the drawings are used only for interpretation of the claims of the invention (utility model).

6. The scope of legal protection granted by the patent for industrial design is determined by graphic images of the product (by a model, drawing) (hereinafter – images).

7. The procedure for granting the legal protection to inventions and utility models recognized under the established procedure secret, as well as the procedure of an application processing in regard to secret inventions and utility models are established by the Council of Ministers of the Republic of Belarus.

Article 2. Conditions for Granting Legal Protection to the Invention

1. Under the present Law an invention, which is granted a legal protection, is a technical solution in any field if it relates to a product or method, as well as to the application of a product or method, is new, has inventive step, and is industrially applicable.

For the purposes of the present Law the product means a thing as the result of the human work (particularly, device, material, strain, cell culture of plants or animals), the method – a process, way or method of carrying out inter-connected actions over material object(s) using material means.

The invention is new if it is not a part of the prior art.

The invention has inventive level if it is not derived from the prior art in a manner obvious for a skilled person.

The prior art includes any information that became public in the world before the priority date of the invention. When the novelty of the invention is established, the prior art also include all applications, provided that they have an earlier priority date, filed, and not withdrawn, in the Republic of Belarus by other persons for patents for an invention and utility model, and inventions and utility models patented in the Republic of Belarus.

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 person that has received this information from them directly or indirectly, which made public the information of the essence of the invention is not recognized to be a circumstance preventing the patentability of the invention, if the application for the invention is submitted to the patent

authority not later than 12 months from the date of disclosure of the information. In this instance the burden of proof of this fact is placed on the applicant.

2. The following is not considered inventions:

discoveries and also scientific theories or mathematical methods;

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

schemes, rules and methods for performing mental acts, playing games or doing business, and also programs for electronic data processing machines;

simple 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 for the invention concerns only those objects and kinds of activities as such.

3. The present Law does not grant legal protection as an invention to:

plant and animal varieties;

topologies of integrated circuits.

In accordance with the present Law are not considered as patentable methods of rendering a medical aid (medical prevention, diagnosing, treatment, rehabilitation and prosthetics), as well as inventions contrary to public interests, principles of humanity and morality.

Article 3. Conditions of Granting Legal Protection to the Utility Model

1. The present Law recognizes as utility model to which the legal protection is granted a technical solution relating to devices and being new and industrially applicable.

The industrial model is new, if the set of its essential features does not form part of the state of the art.

The state of the art includes any information about the devices of the same purpose as the claimed utility model, which has been made available to public before the date of priority of the utility model and also the information about its open use in the Republic of Belarus. When the novelty of a utility model is being established, the state of the art also includes all applications, provided that they have an earlier priority date, filed, and not withdrawn, in the Republic of Belarus by other persons for patents for an invention and utility model, and inventions and utility models patented in the Republic of Belarus.

The utility model 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 utility model by the author, applicant or any person that has received this information from them directly or indirectly, which has made the information about the essence of the utility model available to the public is not recognized to be a circumstance preventing the patentability of the utility model, if the application for the patent for the utility model (unless otherwise indicated hereinafter – application for utility model) is submitted to the patent authority not later than 12 months from the date of disclosure of the information. In this instance the burden of proof of this fact is placed on the applicant.

2. The legal protection is not granted in accordance with paragraph 1 of the present Article to:

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

decisions being contrary to public interests, principles of humanity and morality.

Article 4. Conditions of Granting the Legal Protection to the Industrial Design

1. The present Law recognizes as industrial design to which the legal protection is granted, an artistic or artistic and engineering solution of a product, which determines its appearance and is novel and original. In this instance the product is understood an article of industrial or handicraft production.

The industrial design is recognized to be new if it is unknown from the information that has been made available to the public in the world before the date of priority of the industrial design.

When establishing the novelty of the industrial design, all applications earlier submitted, and not withdrawn, in the Republic of Belarus by other persons for the patent for industrial design, and also industrial designs patented in the Republic of Belarus, are taken into consideration.

The industrial design is recognized to be original if the specific features of the appearance of the product are its substantial features are derived from the creative work of the author (co-authors) of the industrial design.

The disclosure of information relating to the industrial design by the author, applicant or any person that has received this information from them directly or indirectly, which has made the information about the essence of the industrial design available to the public is not recognized to be a circumstance affecting the patentability of the industrial design, if the application for the patent for the industrial design (unless otherwise indicated hereinafter – application for industrial design) is submitted to the patent authority not later than six months from the date of disclosure of the information. In this instance the burden of proof of this fact is placed on the applicant.

2. The legal protection is not granted in accordance with paragraph 1 of the present Article to:

solutions derived exclusively from a technical function of the product;

solutions being contrary to public interests, principles of humanity and morality;

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

printed products as such;

objects with unstable shape from liquid, gaseous, free-flowing and similar substances.

CHAPTER 2

AUTHORS AND PATENT OWNERS

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

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

A person indicated as the author in the application is deemed to be the author of the invention, utility model, industrial design, unless otherwise proved.

2. If the invention, utility model, and industrial design are created by 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 an agreement among them.

3. The natural persons that did not make a personal creative contribution to the creation of the invention, utility model, and industrial design, but who rendered the author (co-authors) only technical, organizational or material assistance or only as facilitated the registration of rights to the invention, industrial model, and industrial design and their use, are not recognized to be co-authors.

Article 6. Patent Owner

1. The patent owner (patent owners) is (are) a person (persons) to whom the patent for invention, utility model or industrial design is granted.

2. The right to obtain the patent belongs to:

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

natural or legal person being the employer of the author of the invention, utility model, and industrial design in cases provided by paragraph 3 of the present Article;

customer under the contract for the performance of research, development or technological work in regard to the invention, utility model, industrial design created when performing the contract until otherwise specified by the contract;

natural and/or legal person or several natural and/or legal persons to which the right to obtain the patent was transferred by the persons specified in indents two and four of this paragraph before the date of registration of the invention, utility model, and industrial design;

successor (successors) of the persons specified in the present paragraph.

3. The right to obtain the patent for a service invention, utility model, and industrial design, created by an employee belongs to the employer, unless otherwise stipulated by the contract concluded between them.

Invention, utility model, and industrial design are deemed to be service ones if they relate to the field of activity of the employer provided that the activity that has led to their creation relates to the official duties of the employee or they are created in connection with the execution of a concrete task received by the employee from the employer or in the course of their creation the employee used the experience or means of the employer.

The employee who has created a service invention, utility model, and industrial design is obliged to notify the employer about it in a written form. If the employer within three months from the date of notification by the employee about created invention, utility model, and industrial design does not submit the application to the patent authority, does not notify the employee about keeping them secret or about assigning the right to obtain the patent to another person, the right to obtain the patent is transferred to the employee. In this instance the employer is entitled to use the invention, utility model, and industrial design on the conditions determined by a licensing contract.

If an employer obtains the patent for a service invention, utility model, industrial design or takes the decision to keep them secret or to assign the right to obtain the patent to another person, an employee has the right to reward; in case when employer does not obtain the patent on the application filed by him due to the reasons under his control, an employee has the right to compensation. The reward or compensation are paid in the amounts and on the conditions, determined by an agreement between the employee and the employer.

In case there is no agreement between the parties about the amount and order of payment of the remuneration or compensation, the dispute is considered by the court. The order and conditions of the reward and compensation, as well as their minimal amount, are determined by the Council of Ministers of the Republic of Belarus. For a non-timely payment of the reward or compensation determined by the contract the guilty employer bears the liability in accordance with the legislative acts.

The right to reward for a service invention, utility model, industrial design or the right to compensation can be transferred only to author's (co-authors') successors.

Termination of a labor contract does not affect the rights and duties of the employee and the employer, arising in connection with creation of service invention, utility model, and industrial design.

Other relations arising in connection with creation of service invention, utility model, and industrial design are regulated by the legislation.

CHAPTER 3 RIGHTS TO INVENTION, UTILITY MODEL, AND INDUSTRIAL DESIGN

Article 7. Author's Rights

1. The author of an invention, utility model, and industrial design possesses moral rights and economic rights related to them.
2. The right to authorship (right to be recognized as the author) is a moral right and is protected indefinitely. The right to authorship is inalienable and non-transferable.

Article 8. Rights and Duties of the Patent Owner

1. The patent owner possesses an exclusive right to an invention, utility model, and industrial design.

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

2. The exclusive right to an invention, utility model, and industrial design is exercised by the patent owner within the term of a patent validity starting from the date of publication of the information on the issue of this patent in the official bulletin.
3. The patent owner must use the rights granted by the patent without damaging the rights of other persons, interests of the society and the state.

Article 9. Infringement of the Exclusive Right of the Patent Owner

The infringement of the exclusive right of the patent owner is the use of an invention, utility model, and industrial design without a consent of a patent owner, which is expressed by the commitment of actions specified in paragraphs 1-3 of Article 36 of the present Law, with the exemption of cases provided in Articles 10, 35, and 39 of the present Law.

Article 10. Actions Not Recognized as Infringement of the Exclusive Right of the Patent Owner

The following is not recognized as an infringement of the exclusive right of the patent owner:

application of the means in which inventions, utility models, and industrial designs protected by the patent are used in the construction or at the exploitation of transportation means (sea, river, air, road and space) of other countries provided that the mentioned means temporarily or accidentally are in the territory of the Republic of Belarus and are used for the needs of the relevant transportation means. Such an action is not recognized as an infringement of the exclusive right of the patent owner, 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 a scientific research of the product or means, in which the invention or utility model are used, or a scientific research of an item, in which an industrial design is used, or experiment on such a product, means or an item;

conducting a pre-clinical research and clinical trials of drugs, that contain an invention, or experiment on such a drug;

conducting a research of a pesticide or agrochemical, that contain an invention, or experiment on such a pesticide or an agrochemical with a purpose of their state registration;

the use of an invention, utility model, and industrial design in case of emergency (natural disasters, catastrophes, accidents, epidemics, epizootics etc.) with the notification of a patent owner of such a use as soon as possible and with the payment of commensurable compensation;

the use of an invention, utility model, and industrial design for the satisfaction of personal, family, home and other needs, that are not associated with entrepreneurship, if the purpose of such a use is not connected with obtaining profit.

one time manufacturing of drugs at drug stores on the prescription of a doctor with application of the invention protected by the patent;

application, offering for sale, selling, importing or storing for these purposes of the product containing the invention, utility model, and industrial design protected by the patent and introduced into the civil circulation in the Republic of Belarus without infringement of rights of the patent owner.

Article 11. Transfer and Assignment of the Right to a Patent. Transfer, Assignment, and other Disposition of an Exclusive Right to Invention, Utility Model, Industrial Design.

1. The right to acquire a patent, an exclusive right to a patent, utility model, and industrial design are transferred by the way of inheritance and by universal succession.

2. Persons, specified in paragraph 2 of Article 6 of the present Law, can transfer the right to acquire a patent under an agreement. An agreement on transferring a right to acquire a patent shall be concluded in a written form; non-observance of a written form results in invalidity of an agreement.

3. The patent owner may transfer an exclusive right to an invention, utility model, industrial design under an agreement concerning the assignment of an exclusive right to an invention, utility model, industrial design, grant the right to use an invention, utility model, industrial design under licensing agreement, as well as dispose of an exclusive right to an invention, utility model, industrial design by concluding other agreement.

4. Property rights attested by a patent may be the subject matter of pledge.

5. Licensing agreement, an agreement concerning the assignment of an exclusive right to an invention, utility model, industrial design, amendments to them, as well as other agreements, that provide disposal of an exclusive right to an invention, utility model, industrial design in cases provided by legislation and regulations of the Council of Ministers of the Republic of Belarus, amendments to them are registered in a patent authority pursuant to the procedure established by the legislation.

Agreements referred to in the present paragraph, as well as amendments to them, enter into force on a date of their registration in a patent authority, unless a later date of their entrance into force is specified by agreements and amendments to them.

6. Non-compliance with the requirements concerning agreements registration and amendments to them, established by the paragraph 1 part 1 of the present Article, results in their invalidity.

CHAPTER 4 OBTAINING THE PATENT

Article 12. Filing the Application

1. An application is filed with the patent authority by a person (persons) that has (have) a right to acquire a patent in accordance with the present Law (hereinafter – applicant (applicants)).

An applicant (applicants) may fill an application with a patent authority through a patent attorney, registered in a patent authority.

Conducting affairs with the patent authority may be carried out by an applicant (applicants), or one of the applicants (general representative), or through a patent attorney, registered in a patent authority.

Applicants that have a permanent place of staying or domicile in foreign countries shall communicate to the patent authority at its request an address in the Republic of Belarus to be used for correspondence.

2. The application submitted through a patent attorney, as well as an application in regard of which the affairs are conducted by a general representative, shall be accompanied by a power of attorney issued by an applicant (applicants).

3. The requirements to the application documents, the order of conducting an expert examination of the application and decision making on its results are established by the Council of Ministers of the Republic of Belarus.

Article 13. Application for the Invention

1. The application for the invention must relate to one or a group of inventions so linked among them as to form a single general inventive concept (requirement of unity of invention).

2. The application for invention must contain:

2.1. request to grant the patent with indication of the author (co-authors) of the invention and the person (persons) on whose behalf the patent is asked and also their place of residence or the place of stay;

2.2. description of the invention disclosing it sufficiently clear and complete to be carried out;

2.3. claims of the invention, which express its essence, is clear, precise and fully supported by the description;

2.4. drawings if they are necessary for understanding the essence of the invention;

2.5. abstract.

3. The date of filing the application for invention with the patent authority is established according to the date of receipt of the documents necessary for establishing the priority in accordance with paragraph 1 of Article 16 of the present Law, and if the mentioned documents are submitted not at the same time – according to the date of receipt of the last document.

4. Together with the application for an invention or within two months from the date of receipt of such application by the patent authority, a document is to be submitted confirming the payment of patent duty in the established amount or the exemption from the payment of patent duty, or a document confirming a partial payment of patent duty simultaneously with the documents confirming the presence of grounds for reducing the duty amount. In case of not presenting the mentioned documents within the established time limit, the decision about the

refusal to accept the application for invention shall be taken and an applicant shall be informed about such a decision in 5 days.

Article 14. Application for the Utility Model

1. The application for the utility model must relate to one utility model or a group of utility models also linked among them as to form a single general inventive concept (requirement of unity of utility model).

2. The application for utility model must contain:

2.1. request to grant the patent with indication of the author (co-authors) of the utility model and the person (persons) on whose behalf the patent is asked and also their place of residence or the place of stay;

2.2. description of the utility model disclosing it sufficiently clear and complete to be carried out;

2.3. claims of the utility model which express its essence, is clear, precise and fully supported by the description;

2.4. drawings if they are necessary for understanding the essence of the utility model;

2.5. abstract.

3. The date of filing the application for utility model with the patent authority is established according to the date of receipt of the documents necessary for establishing the priority in accordance with paragraph 1 of Article 16 of the present Law, and if the mentioned documents are submitted not at the same time – according to the date of receipt of the last document.

4. Together with the application for utility model or within two months from the date of receipt of such application by the patent authority, a document is to be submitted confirming the payment of patent duty in the established amount or the exemption from the payment of patent duty, or a document confirming a partial payment of patent duty simultaneously with the documents confirming the presence of grounds for reducing the duty amount. In case of not presenting the mentioned documents within the established time limit, the decision about the refusal to accept the application for utility model shall be taken and an applicant shall be informed about such a decision in five days.

Article 15. Application for the Industrial Design

1. Application for the industrial design must relate to one industrial design or to a group of industrial designs belonging to one class of the International Classification established by the Locarno Agreement of October 8, 1968 (requirement of the unity of industrial design).

2. Application for the industrial design must contain:

2.1. request to grant the patent with indication of the author (co-authors) of the industrial design and the person (persons) on behalf of who the patent is asked and also their place of residence or the place of stay;

2.2. set of images giving a full detailed idea about the appearance of the product, its aesthetic features, particularly about its shape and configuration, ornament and colour scheme.

3. The date of filing the application for industrial design with the patent authority is established according to the date of receipt of the documents necessary for establishing the priority in accordance with paragraph 2 of Article 16 of the present Law, and if the mentioned documents are submitted not at the same time – according to the date of receipt of the last document.

4. Together with the application for industrial design or within two months from the date of receipt of such application by the patent authority, a document is to be submitted confirming the payment of patent duty in the established amount or the exemption from the payment of patent

duty, or a document confirming a partial payment of patent duty simultaneously with the documents confirming the presence of grounds for reducing the duty amount. In case of not presenting the mentioned documents within the established time limit, the decision shall be taken about the refusal to accept the application for industrial design shall be taken and an applicant shall be informed about such a decision in five days.

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

1. The priority of invention, utility model is established on the date of filing with the patent authority of the application for invention, utility model, containing a request for the grant of the patent, description of the invention, utility model, and drawings if there is a reference to them in the description.
2. The priority of the industrial design is established on the date of filing with the patent authority of the application for industrial design, containing a request for the grant of the patent and a set of images.
3. The priority can be established according to the date of filing the first application in a state party to the Paris Convention on Protection of Industrial Property (conventional priority) if the filing with the patent authority of the application for invention, utility model is carried out within twelve months, and for the industrial design – within six months, from the date of filing the first application. If an application, under which a convention priority is requested, could not be filled within the specified time limit for the reasons beyond the applicant's control, this time limit may be prolonged by the patent authority upon a petition of the applicant, but not more than for two months.

The applicant wishing to use the right of conventional priority in relation to the application for invention is obliged to note that upon the filing of the application for invention or within two months from the date of receipt of the application by the patent authority and to present a certified copy of the first application not later than sixteen months from the date of its filing. In case of non-observance of the mentioned time limit, upon the petition of the applicant filed before its expiration, the right of priority may be restituted provided that the copy of the first application is requested by the applicant not later than fourteen months from the date of filing the first application and is presented to the patent authority within two months from the date of its receipt by the applicant.

The applicant wishing to use the right of conventional priority in relation to the application for utility model or industrial design is obliged to note that upon filing the application for utility model or industrial design or within two months from the date of receipt of the application utility model or industrial design by the patent authority.

4. The priority may be established according to the date of receipt of additional materials if they are formalized by the applicant as an independent application filed before the expiration of the four-month term from the date of sending to an applicant the notification of the patent authority about impossibility to take into account of the additional materials in connection with recognition thereof as changing the essence of the claimed invention, utility model or industrial design and on the date of its filing on the application under which the additional materials have been presented, the decision on the refusal to grant a patent is not made and such an application is not recalled.
5. The priority may be established on the date of filing with the patent authority of an earlier application of the same applicant, disclosing the essence of this invention, utility model, industrial design, if the decision on the refusal to grant a patent is not made or such an application is not recalled on the date of filing the application under which such priority is asked if the submission of this application is carried out not later than twelve months from the date of filing the earlier application for invention and not later than six months from the date of filing an

earlier application for utility model, industrial design. In case of submitting the application with claiming the mentioned priority on the earlier application, the decision about the refusal of the grant of the patent shall be taken and an applicant shall be informed about it in five days.

The priority may not be established according to the date of filing the application under which the earlier priority has already been asked.

6. The priority of the invention, utility model, and industrial design at a divisional application is established on the date of filing of the first application disclosing their essence with the patent authority by the same applicant, and when there is the right to establish an earlier priority according to the first application – on the date of this priority if on the date of filing the divisional application, the first application has not been recalled or decision on the refusal to grant a patent on such an application is not made and the filing of the divisional application is carried out before the moment of expiration of the time limit for appealing the decision about the refusal to grant the patent, and in case of taking the decision to grant the patent on the first application – before the date of registration of the invention, utility model, and industrial design in accordance with Article 28 of the present Law.

For the purposes of the present Law the "divisional application" means an application that can be detached from the first application, if the first application is filed with violation of the requirement of unity of invention, utility model or industrial design. The divisional application for invention may be filed by the applicant of the first application also in the cases, if:

invention was not included into the claims of the invention upon filing the application for invention, but disclosed in the description of the application for invention;

a group of inventions have been claimed for obtaining one patent, but the applicant decided to receive the patent for every invention.

7. The priority of invention, utility model, and industrial design may be established on the basis of several applications filed earlier or additional materials to them subject to observance of the conditions determined by paragraphs 3 – 6 of the present Article.

8. If in the course of expert examination of the application it is established that different applicants filed applications on identical inventions and (or) utility models, or applications on identical industrial designs, which have the same date of priority, the patent is issued on the application determined by an agreement between the applicants. The applicants shall inform the patent authority about an agreement reached within three months from the date of giving them a respective notice of the patent authority. In case of absence of the said agreement on applications, decisions about the refusal to grant a patent shall be taken and applicants shall be informed about such decisions in five days.

While granting a patent, all authors of identical inventions, utility models, and industrial designs are indicated as co-authors.

If applications on identical inventions and (or) utility models or applications on identical industrial designs are filed by one and the same applicant and have the same date of priority, the patent may be issued only in regard to one application, which will be chosen by an applicant.

Article 17. Introduction of Changes into Application Materials

1. The applicant has the right to introduce into materials of an application corrections and clarifications not changing the essence of the claimed invention, utility model, industrial design before the patent authority takes the decision about the grant or about the refuse to grant the patent under the application.

Additional materials change the essence of the claimed invention, utility model if they contain the features subject to inclusion in the claims of the invention, utility model, absent in the first description (claims) of the invention, utility model.

Additional materials change the essence of the claimed industrial design if they change the appearance of the product present in the first images.

2. Changes in indication of the applicant upon transferring or assignment of the right to obtain a patent or changes occurred as a result of a change of the surname, first name, patronymic (if any) of an applicant and (or) author, denomination of an applicant and (or) address of the place of its residence (domicile) or the place of an applicant and (or) author staying, as well as correction of obvious and technical mistakes in the documents of an application may be effected before the date of registration of the invention, utility model, and industrial design.

Article 18. Expert Examination of the Application for Invention

1. The expert examination of the application for invention is conducted by the patent authority in accordance with the present Law and resolutions of the Council of Ministers of the Republic of Belarus. The expert examination of the application for invention includes the preliminary and patent expert examination.

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

Additional materials in the part changing the essence of the claimed invention are not taken into account in the course of consideration of the application for invention and may be formalized by the applicant as an independent application.

3. If the application for invention is filed with violation of the requirement of unity of invention, the patent authority offers to the applicant to report within three months from the date of giving the relevant notification which of the inventions shall be considered and, if necessary, to introduce the clarifications to the documents of the application for invention.

In case when the applicant does not report within three months from the date of giving the notification of the patent authority on violation of the requirement of unity of invention which of the inventions should be considered and does not present the clarified documents, the consideration of the invention mentioned as the first in the claims of the invention shall be effected.

4. The application for invention may be recalled by the applicant before the date of registration of the invention.

Article 19. Preliminary Expert Examination of the Application for Invention

1. Preliminary expert examination of the application for invention (hereinafter – preliminary examination) is conducted within three-month period from the date of its receipt by the patent authority.

2. In the course of conducting the preliminary examination the presence of documents contained in the application for invention, observance of requirements established for them are checked and the question whether or not the claimed solution relates to the objects that can be recognized inventions.

3. The patent authority directs to the applicant a notification in the written form about this decision taken according to the results of preliminary examination and also about the date of filing the application established in accordance with Article 16 of the present Law within five working days from the date of taking the decision.

4. If in the course of preliminary examination it is established that the claimed solution relates to the objects that are not considered inventions in accordance with the present Law, the decision about the refusal to grant the patent shall be taken and an applicant shall be informed about such a decision in five days.

5. If submitted documents or data contained in them do not conform to the established requirements, the patent authority directs a query to the applicant with a proposal to submit materials drawn up duly within a three-month period from the date of querying. Upon a petition of the applicant this time limit may be prolonged, but not more than by three months providing that the petition has arrived before the expiration of this time limit.

If the applicant has not presented required documents or a petition about prolongation of the established time limit, the decision about the refusal to grant the patent for invention shall be taken, about which the applicant shall be informed in 5 days.

Article 20. Publication of Data about Application for Invention

1. Data about the application for an invention that has passed the preliminary examination, according to the results of which a positive decision is taken, is published in the official bulletin after the expiration of eighteen months from the date of filing such an application or if the priority is claimed – from the date of the earliest priority. Publication includes claims of an invention, as well as other information, determined by republican state administration body, which peruses a state policy, carries out regulation and management in the sphere of intellectual property rights protection.

2. At the petition of the applicant, the patent authority may publish the data about the application for invention prior to the time limit established by paragraph 1 of the present Article.

3. After the publication of data about the application for invention, any person is entitled to look through its materials being in the patent authority.

4. The data about the application for invention are not published if prior the expiration of the time limit for publication it is recalled or the decision about the grant of the patent has been taken or its registration in the State Register of Inventions of the Republic of Belarus is effected or the decision about the refusal to grant the patent has been taken, the possibility of appealing which are exhausted.

5. The author of the invention is entitled to refuse to be mentioned as such in the data published about the application for invention, unless he is the applicant.

Article 21. Patent Expert Examination of the Application for Invention

1. When filing the application for invention or within three years from the date of filing the application for invention with the patent authority, the applicant or any other interested person files the petition to the patent authority about holding a patent expert examination of the application for invention (hereinafter – patent examination). In case the petition on holding the patent examination is not received within the mentioned period, the decision about the refusal to grant the patent for an invention shall be taken and an applicant shall be informed about such a decision in 5 days.

When filing the divisional application for invention on the expiry of three years from the date of filling the initial application, the petition to the patent authority about holding a patent examination of the application for invention simultaneously with filling the divisional application or within two months from the date of receipt of such an application by a patent authority. In case the petition on holding the patent examination is not received within the mentioned period, the decision about the refusal to grant the patent for an invention shall be taken and an applicant shall be informed about such a decision in five days.

2. In the course of patent examination the patentability of the invention is checked and the priority of the invention is established.

3. In the period of holding the patent examination in case the data contained in the documents presented in accordance with paragraph 2 of Article 13 of the present Law do not comply with established requirements, the patent authority is entitled to request from the applicant the documents duly drawn up, including the changed claims of the invention.

The applicant is entitled, within two months from the date of sending the mentioned request of the patent authority, to inquire the patent authority about the copies of the materials opposed in the course of the patent examination to his application for invention.

The additional materials requested by the patent authority, drawn up in due manner, must be presented without the change of the essence of the invention within three months from the date of sending to the applicant the request or copies of the materials opposed to the application for invention. Upon a petition of the applicant this time limit may be prolonged, but not more than for twelve months provided that the petition has arrived before the expiration of this time limit.

In case, if the applicant does not present, within the mentioned time limit, the documents duly drawn up or a petition on prolongation of the time limit for presenting the answer to the request of the patent authority, the decision about the refusal to grant the patent shall be taken.

Documents duly drawn up, presented by the applicant, are not taken into consideration in the part changing the essence of the claimed invention when processing the application for invention, about which the applicant shall be informed.

4. If as a result of conducted patent examination it is established that the claimed invention expressed in the claims of the invention offered by the applicant complies with the terms of patentability, the patent authority takes the decision about the grant of the patent with such claims and with indication of the established priority.

The decision about the grant of the patent, which is sent to an applicant, provides that to transfer materials of an application for an invention for registration of an invention and publication of patent information, an applicant shall submit to a patent authority a description of an invention, abstract, drawings (if necessary), that are in compliance with claims of an invention contained in a decision about the grant of the patent, in three-month term from the date of sending him a decision about the grant of the patent.

If in the course of the patent examination is established that the applicant filed several application for identical inventions, the patent is granted only on the application for invention with the earliest priority.

5. At establishing the non-compliance of the claimed invention expressed by the claims proposed by the applicant with the terms of patentability, the patent authority takes the decision to refuse to grant the patent.

The decision about the refusal to grant the patent is taken also in the case when the applicant does not change the claims of the invention after being notified about the fact that the claims proposed by him characterizes the invention complying with the terms of patentability but contain the features absent in the first description (claims) of the invention.

6. The patent authority shall send a notification to the applicant in written form within five working days from the date of taking the decision taken according to the results of the patent examination and also about establishing the priority of the invention.

7. The applicant is entitled to request the copies of the materials opposed to his application for invention as a result of conducting the patent examination within two months from the date of sending the decision on the application for invention.

8. The decision about the grant of the patent may be revised by the patent authority before the registration of the invention in connection with the receipt of an application for invention, utility model enjoying an earlier priority in accordance with paragraphs 3-6 of Article 16 of the present Law and also in connection with detecting an application or a granted patent for identical invention or utility model with the same priority.

9. The patent authority may revise the decision on the results of the patent examination if it has been taken with violation of the order of processing the application for invention established by the present Law. The decision about granting the patent may be revised before the registration of the invention in the State Register of Inventions of the Republic of Belarus.

10. When the applicant does not agree with the decision of the patent authority about the refusal to grant the patent, the applicant has the right, within four-months time limit from the day of sending the decision or copies of the materials requested by him, which were opposed to the application for invention, to apply to the patent authority with a petition on holding a repeat patent examination.

11. The repeat patent examination is held within six months from the day of receipt by the patent authority of the relevant petition of the applicant.

Article 22. Temporary Legal Protection of Invention

1. The claimed invention is granted temporary legal protection in the amount of the published claims of invention from the date of publication of the data about the application for invention till the date of publication of the data about the patent.

2. A natural or legal person using the claimed invention within the period of validity of its temporary legal protection shall pay monetary compensation to the patent owner after the receipt of the patent for invention. The amount and order of paying such compensation are determined by an agreement of the parties, and in case of a dispute – through court proceedings.

3. Temporary legal protection is considered as not existing if the application for invention is recalled or the decision about the refusal to grant the patent has been taken, the possibility of appealing which are exhausted.

Article 23. Expert Examination of the Application for Utility Model

1. The expert examination of the application for utility model is conducted by the patent authority in accordance with the present Law and resolutions of the Council of Ministers of the Republic of Belarus.

2. In the course of the expert examination of the application for utility model, the compliance of the claimed utility model with the conditions of patentability established by the present Law is not checked.

3. In the course of holding the expert examination of the application for utility model, availability of the necessary documents, observance of the requirements established for them shall be checked and the question whether the claimed proposal relates to subject matters of the utility model shall be considered, as well as the priority of the utility model is established.

4. The expert examination of the application for utility model is conducted within three months from the date of its receipt by the patent authority.

5. If as a result of the expert examination of the application for utility model it is established that the application for utility model is drawn up on the proposal that does not relate to subject

matters of the utility model, the patent authority makes the decision about the refusal to grant the patent and an applicant shall be informed about such a decision in five days.

6. If submitted documents or data contained in them do not conform to the established requirements, the patent authority directs a query to the applicant with a proposal to submit duly drawn up or absent documents within a three months period from the date of sending the query. Upon a petition of the applicant this time limit may be extended, but not more than for twelve months provided that the petition has arrived before the expiration of this time limit.

If the applicant has not presented required documents or a petition for the extension of the established time limit, the decision about the refusal to grant the patent shall be taken, about which the applicant shall be informed in five days.

7. If on the application for utility model the applicant submits additional documents, in the course of the expert examination it is checked whether they change the essence of the claimed utility model.

8. Additional materials in the part changing the essence of the claimed utility model are not taken into account in the course of consideration of the application for utility model and may be formalized by the applicant as an independent application for utility model.

9. If the application for utility model is submitted with violation of the requirement of unity of utility model, the applicant is offered to inform within three-month term which of the proposals shall be considered and to specify the relevant description, claims of the utility model and the drawings.

In case when the applicant does not inform within three months from the date of sending the notification about violation of the requirement of unity of utility model which of the proposals should be considered and does not present the clarified documents, the decision about the refusal to grant the patent shall be taken and an applicant shall be informed about such a decision in five days.

10. The applicant and interested persons have the right to petition for conducting information search on the application for utility model for determining the state of the art in comparison with which the estimation of the novelty of the utility model can be carried out. The order of holding the information search and presentation of the data about it is determined by the Council of Ministers of the Republic of Belarus.

11. If as a result of expert examination of the application for utility model it is established that the application is submitted for the proposal relating to the subject matters of the utility model and its documents are drawn up accurately, the patent authority shall take the decision to grant the patent.

12. The patent authority sends to the applicant the notification about the decision taken according to the results of the expert examination of the application for utility model, and also about establishing the priority of the utility model in accordance with Article 16 of the present Law, in a written form within five working days from the day of taking the decision.

13. Before the registration of the utility model, the application has the right to recall the application for utility model.

Article 24. Expert Examination of the Application for Industrial Design

1. The expert examination of the application for industrial design is conducted by the patent authority in accordance with the present Law and resolutions of the Council of Ministers of the Republic of Belarus.

2. In the course of the expert examination of the application for industrial design, the compliance of the claimed industrial design with the conditions of patentability established by the present Law is not checked.

3. In the course of holding the expert examination of the application for industrial design, availability of the necessary documents, observance of the requirements established for them shall be checked, and the question whether the claimed proposal relates to subject matters of the industrial design shall be considered, as well as the priority of the industrial design is established.

4. The expert examination of the application for industrial design is conducted within three months from the date of receipt of the application for industrial design by the patent authority.

5. If as a result of the expert examination of the application for industrial design it is established that the application for industrial design is drawn up on the proposal that does not relate to subject matters protected as industrial designs, the patent authority makes the decision about the refusal to grant the patent and an applicant shall be informed about such a decision in 5 days.

6. If submitted documents or data contained in them do not conform to the established requirements, the patent authority directs a query to the applicant with a proposal to submit duly drawn up or absent documents within a three months period from the date of sending the query. Upon a petition of the applicant this time limit may be extended, but not more than for twelve months provided that the petition has arrived before the expiration of this time limit.

If the applicant has not presented required documents or a petition for the extension of the established time limit, the decision about the refusal to grant the patent shall be taken, about which the applicant shall be informed in five days.

7. In the course of the expert examination of the application for industrial design, additional materials presented by the applicant changing the appearance of the product, presented on the images filed earlier are not taken for consideration. Such materials may be formalized by the applicant as an independent application for industrial design.

8. If the application for industrial design is submitted with violation of the requirement of unity of industrial design, the applicant is offered to inform within a three-month period which of the industrial designs shall be considered and to specify the relevant documents.

In case when the applicant does not inform within three months from the date of sending the notification about violation of the requirement of unity of industrial design which of the industrial designs should be considered and does not present the clarified documents, the decision about the refusal to grant the patent shall be taken.

9. If as a result of the expert examination of the application for industrial design it is established that the application for industrial design is drawn up on the proposal that relates to subject matters protected as industrial designs and the documents of the application for industrial design are drawn up accurately, the patent authority makes the decision to grant the patent and an applicant shall be informed about such a decision in five days.

10. The patent authority sends to the applicant the notification about the decision taken according to the results of the expert examination of the application for industrial design, and also about establishing the priority of the industrial design in accordance with Article 16 of the present Law, in a written form within five working days from the day of taking the decision.

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

Article 25. Appeal of the Decision of the Patent Authority on the Results of Application Expert Examination

1. In case of disagreement with the decision of the patent authority on the results of the preliminary or patent expert examination, and also with the decision on the results of the expert examination of an application for utility model or industrial design, the applicant has the right to file a motivated complaint with the Board of Appeals under the patent authority (hereinafter – the Board of Appeals) or to the court.

2. Filing of the complaint with the Board of Appeals or to the court is carried out by the applicant within one year from the day of receipt of the relevant decision of the patent authority or of the copies of materials requested from the patent authority opposed to their application for invention.

The complaint must be considered by the Board of Appeals within one month from the day of its receipt. The procedure of filing and consideration of complaints by the Board of Appeals is established by the Council of Ministers of the Republic of Belarus.

3. The decision of the Board of Appeals may be appealed by the applicant in court within six months from the day of its receipt.

Article 26. Transformation of Applications for Invention, Utility Model

1. Before the publication of the information on the application for invention, but not later than the date of acceptance of the decision on granting the patent for invention, the applicant is entitled to transform it into the application for utility model by filing with the patent authority a relevant request.

Transformation of the application for utility model into the application for invention is possible before the date of acceptance of the decision on granting the patent for utility model, and in case of taking the decision on refusal to grant the patent – before the moment of expiration of the time limit for appealing such a decision.

2. Upon transformation of the application for invention into the application for utility model, the priority and the date of filing of the application for invention, and upon transformation of the application for utility model into the application for invention – the priority and the date of filing of the application for utility model, maintain (maintenance of the priority and the date of filing of the first application).

Upon transformation of the application for utility model into the application for invention, the applicant must, within three months from the date of filing of the request for transformation, present a copy of the first application for utility model filed in a Member State of the Paris Convention for the Protection of Industrial Property of 20 March 1883 if the conventional priority was claimed on the application for utility model.

Article 27. Renewal of Missed Time Limits

1. The time limits provided in paragraph 5 of Article 19, paragraphs 1, 3, part two of the paragraph 4 and paragraph 10 of Article 21, paragraph 2 of Article 25 of the present Law, missed by the applicant may be renewed, upon their request, by the patent authority provided that the patent fee is paid in the established amount and there are valid reasons for missing a relevant time limit.

2. The request for renewal of the time limit may be filed by the applicant to the patent authority not later than twelve months from the day of expiration of the relevant missed time limit and in respect of the time limits, provided in part two of paragraph 1 and part two of paragraph 4 of Article 21 of the present Law, not later than six months from the day of its expiration.

3. Upon renewal on a request of the applicant of time limits provided by paragraph 5 of Article 19, paragraphs 1, 3 and part two of paragraph 4 of Article 21 of the present Law, the patent authority cancels the decision on refusal to grant the patent, which was taken earlier.

Article 28. Registration of the Invention, Utility Model, and Industrial Design

1. On the basis of the decision to grant a patent and subject to the submission of a document confirming payment of the patent fee in the prescribed amount, and in respect of inventions – also of documents specified in part two of paragraph 4 of Article 21 of the present Law, the patent authority within one month from the date of their submission carries out registration of the invention in the State Register of Inventions of the Republic of Belarus, of the utility model – in the State Register of Utility Models of the Republic of Belarus, of the industrial design – in the State Register of Industrial Designs of the Republic of Belarus (hereinafter – state registers). The procedure of maintaining state registers is established by the republican body of public administration which conducts the state policy, realizes regulation and management in the sphere of protection of intellectual property rights. Information related to the registration of an invention, utility model, industrial design, as well as changes to this information is to be entered in the state registers. The list of information on the invention, utility model and industrial design, which are entered in the state registers, is determined by the patent authority.

2. When entering changes to state registers, the patent owner along with a request for entering changes to the relevant state register sends to the patent authority the documents confirming the grounds for entering these changes.

3. The patent authority may, on its own initiative or at the request of the applicant, make corrections of grammatical, typographical and other obvious errors in the record on the registration of an invention, utility model or industrial design in state registers.

4. In the event of failure to submit the document confirming payment of the patent fee in the prescribed amount for the registration of an invention, utility model, industrial design and the grant of a patent, and for inventions – also of the documents specified in part two of paragraph 4 of Article 21 of the present Law, registration of an invention, utility model, industrial design in state registers and the grant of a patent are not effected, and on the appropriate application a decision on refusal to grant a patent with indication of cancellation of a previously adopted decision to grant a patent is taken, of which the applicant is notified within five days.

Article 29. Publication of Information on the Patent

1. The information on the patent for invention, utility model, industrial design is published by the patent authority in the official bulletin within three months after the registration of the invention, utility model, industrial design in the state registers. The list of information for publication is determined by the republican body of public administration which conducts the state policy, realizes regulation and management in the sphere of protection of intellectual property rights.

2. All changes entered in the state registers are also published in the official bulletin.

Article 30. Grant of the Patent

1. Grant of the patent to the patent owner is made by the patent authority within five days from the day of publication of the information on the patent for invention, utility model, industrial design.

2. When there are several persons having the right to obtain the patent, they are granted one patent with indication of all patent owners.

3. Upon coincidence of the priority dates of an invention and a utility model identical to it on applications for the invention and the utility model of the same applicant, after the grant of the patent on one of such applications, the grant of the patent on the other application is possible only subject to filing with the patent authority of the request of the patent owner of the patent granted earlier for termination of its effect in relation to the identical invention or identical utility model. The effect of the patent granted earlier in relation to the identical invention or identical

utility model is terminated from the date of publication of the information on the grant of the patent on the other application. The information on the grant of the patent on the application for invention or utility model and the information on the termination of the effect of the patent granted earlier in relation to the identical invention or utility model shall be published at one time.

Article 31. [Excluded]

Article 32. Patenting in Foreign Countries

1. Natural persons with the permanent domicile (residence) in the territory of the Republic of Belarus and legal persons of the Republic of Belarus have the right to patent inventions, utility models, and industrial designs in foreign countries.

2. Before filing of the application in foreign countries, the applicant is obliged to file such application in the Republic of Belarus and inform the patent authority about the intention to patent the invention, utility model, industrial design in foreign countries.

If within three months from the date of filing of the application, there is no prohibition from the patent authority, the application may be filed in foreign countries.

Filing of the application in foreign countries may be carried out earlier than the mentioned time limit, but after the completion of an inspection, held according to the procedure established by the Council of Ministers of the Republic of Belarus, of the application for availability of the information, the disclosure of which can inflict harm to the security of the Republic of Belarus.

Inventions, utility models, industrial designs containing the information, the disclosure of which can inflict harm to the security of the Republic of Belarus, must be classified in the manner prescribed by the legislation and may not be patented in foreign countries.

3. Expenses connected with patenting an invention, utility model, industrial design in foreign countries are borne by the applicant or another natural person or legal entity under an agreement with them.

4. Applications in accordance with the treaties of the Republic of Belarus are submitted directly to the patent authority, unless otherwise established in accordance with the norms of these treaties.

CHAPTER 5

RECOGNITION OF THE PATENT AS INVALID, PRE-TERM TERMINATION OF THE PATENT, RESTITUTION OF THE EFFECT OF THE PATENT

Article 33. Recognition of the Patent as Invalid

1. A patent for invention, utility model, industrial design may, within all term of its validity, be recognized invalid in whole or in part in the cases of:

1.1. non-compliance of the protected invention, utility model, industrial design with the conditions of patentability established by the present Law;

1.2. presence in the claims of the invention, utility model of features absent in the initial description (claims);

1.3. unlawful designation in the patent of the author (co-authors) or patent owner(s);

1.4. grant of a patent in case where there are several applications for identical inventions with violation of requirements established by parts two and three of paragraph 8 of Article 16, part three of paragraph 4 of Article 21 of the present Law.

2. In case of provision of legal protection as an industrial design to a solution that is identical or confusingly similar to a trademark (service mark), which has an earlier priority, the exclusive right to which belongs to another person with respect to similar goods, in the absence

of a consent of such person, the patent granted may be recognized invalid in whole or in part within the period of its validity.

3. The patent authority shall publish in the official bulletin the information on recognition of the patent as invalid.

4. Any natural person or legal entity may file a reasoned objection against the grant of the patent to the Board of Appeals on the grounds specified in subparagraphs 1.1, 1.2 and 1.4 of paragraph 1 of the present Article. An objection against the grant of a patent on the ground specified in paragraph 2 of the present Article may be filed to the Board of Appeals by an interested natural person or legal entity.

An objection against the grant of a patent for a utility model on the ground specified in subparagraph 1.1 of paragraph 1 of the present Article shall be submitted along with a request to verify the compliance of a utility model with the conditions of patentability established by the present Law. Verification of compliance of the utility model with the conditions of patentability is carried out within three months from the date of receipt of the request. Requirements for a request to verify the compliance of a utility model with the conditions of patentability, the procedure for conducting such verification and taking of a decision on its results is established by the Council of Ministers of the Republic of Belarus.

An objection against the grant of the patent must be considered by the Board of Appeals within six months from the date of its receipt, and an objection against the grant of a patent for a utility model on the ground specified in subparagraph 1.1 of paragraph 1 of the present Article – within six months from the date of taking of the decision on results of verification of compliance of a utility model with the conditions of patentability. The person that submitted the objection and also the patent owner have the right to participate in its consideration. The procedure of submission and consideration by the Board of Appeals of objections against the grant of a patent is established by the Council of Ministers of the Republic of Belarus.

A decision of the Board of Appeals on the objection against the grant of the patent may be appealed by the person that submitted the objection against the grant of the patent or by the patent owner in court within six months from the day of receipt of the decision.

5. An objection against the grant of the patent on the grounds provided by subparagraph 1.3 of paragraph 1 of the present Article may be filed by an interested natural person or legal entity in court.

6. A patent for invention, utility model, industrial design recognized as invalid in whole or in part is recognized as such from the date of filing of the application with the patent authority.

7. Licence agreements concluded on the basis of the patent later recognized as invalid cease their effect from the date of taking of the decision on the invalidity of this patent.

8. Information on recognition of a patent as invalid on the basis of the decision of the Board of Appeals or the court is entered in the relevant state register and is published by the patent authority in the official bulletin.

Article 34. Pre-term Termination of a Patent

1. The effect of the patent is terminated ahead of the term:

1.1. on the ground of a request of the patent owner filed with the patent authority;

1.2. in case of non-payment in the prescribed time limit of the patent fee for maintaining of a patent in force;

1.3. in case of termination of the activity of the legal entity or the death of the natural person – the patent owner, if the exclusive right certified by the patent has not passed to the successor.

2. Information on the pre-term termination of the patent is entered in the relevant state register and is published by the patent authority in the official bulletin.

Article 35. Restitution of the Effect of the Patent. Right of Posterior Use

1. If the effect of the patent has been terminated as a result of non-payment of the patent fee for maintaining the patent in force within the established time limit and the term of validity of the patent has not expired, so at the request of the patent owner the effect of such a patent may be restituted by the patent authority subject to payment of the patent fee indebtedness and the patent fee for restituting the effect of the patent in the established amount.

2. Any natural person or legal entity that from the moment of termination of the effect of the patent for invention, utility model, industrial design till the date of its restitution in accordance with paragraph 1 of the present Article used in the territory of the Republic of Belarus an identical solution or made preparations necessary for that preserves the right to its further gratuitous use without the broadening of the scope of such use (the right of posterior use). The scope of acceptable use of an invention, utility model, industrial design by the person that has the right of posterior use, emerged before the date of restitution of the effect of the patent or resulting from the preparations made before this date, is reflected in an agreement concluded by such person with the patent owner and in the event of impossibility to reach agreement is determined by the court.

CHAPTER 6 USE OF INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN

Article 36. Use of Invention, Utility Model, Industrial Design

1. Use of an invention is deemed to be:

manufacturing, application, import, offering for sale, sale, other introduction into civil circulation or storage for these purposes of the product, in which the invention is applied, as well as commission of the mentioned actions in respect of the device, during operation or exploitation of which in accordance with its purpose is realized automatically a method, protected by the patent;

application of a method, protected by the patent for invention, or introduction into civil circulation or storage with these purposes of the product, made explicitly with the method, protected by the patent for invention. In this case, if this product is new, any identical product is considered to be made according to the patented method, until proved otherwise.

The invention is recognized to be applied in the product or method, if every feature of the invention, included in the independent item of the claims, or a feature, which is equivalent to it and became known as an equivalent feature in the given technical field before the date of priority of the invention, are used in them.

2. Use of a utility model is deemed to be manufacturing, application, import, offering for sale, sale, other introduction into civil circulation or storage for these purposes of the device, in which the utility model is applied.

The utility model is recognized to be applied in the device, if every feature of the utility model, included in the independent item of the claims, or a feature, which is equivalent to it and became known as an equivalent feature in the given technical field before the date of priority of the utility model, are used in it.

3. Use of an industrial design is deemed to be manufacturing, application, import, offering for sale, sale, other introduction into civil circulation or storage for these purposes of the article, in which the industrial design is applied.

The article is recognized as containing a protected industrial design, if its appearance does not differ from the appearance of an article, presented in the images or if this article makes the same overall impression that the patented industrial design makes, provided that the articles have the similar purpose.

4. Any natural person or legal entity willing to use the invention, utility model, industrial design is obliged to conclude with the patent owner a license agreement or any other agreement providing for assignment of the right to use the invention, utility model, industrial design.

5. Relations on use of the invention, utility model, industrial design, the patents for which belong to several persons, are determined by an agreement between them. In the absence of the agreement every such person has the right to use the invention, utility model, industrial design at his discretion except for concluding agreements, specified in paragraphs 3 and 4 of Article 11 of the present Law.

6. In case when a Eurasian patent and a patent of the Republic of Belarus for identical inventions or identical invention and utility model, having the same priority date belong to different patent owners, such inventions or invention and utility model may be used only with observance of rights of all patent owners.

Article 36-1. Dependent Invention, Dependent Utility Model

1. An invention, a utility model, the use of which is impossible without the use of another invention, another utility model protected by a patent and having an earlier priority, are accordingly a dependent invention, a dependent utility model.

As a dependent invention is recognized, in particular, an invention, the object of which is the use for a specific purpose of a product, in which another invention protected by a patent and having an earlier priority is used.

An invention, a utility model are also dependent if the claims of such invention, such utility model differs from the claims of another patented invention, another patented utility model, having an earlier priority, only by the purpose of the product, method or device.

2. A dependent invention, a dependent utility model cannot be used without the authorization of the patent owner, which owns the exclusive right to the invention, the utility model in relation to which they are dependent.

Article 37. Open License

1. The patent owner may file with the patent authority for official publication a request for assignment to any natural person or legal entity of the right to use an invention, utility model, industrial design on the terms of a simple (non-exclusive) license (hereinafter – open license), an announcement on which is subject to official publication within three months from the date of receipt of the request. The announcement on the open license published in the official bulletin, containing conditions on the subject matter, price and duration of a license agreement, is a public offer.

2. A person willing to use the mentioned invention, utility model, industrial design has the right to request from the patent owner to conclude a license agreement with them on the terms corresponding to those mentioned in the announcement on the open license.

Article 38. Compulsory License

1. In the event of non-use or insufficient use by the patent owner of an invention, utility model, industrial design during three years from the date of publication of information on the patent, resulting in insufficient supply of relevant goods, works or services on the market, any natural person or legal entity willing and ready to use the invention, utility model, industrial design, in case of refusal of the patent owner to conclude a license agreement on terms corresponding to the established practice, may appeal to the court with a request for the grant to them of a compulsory simple (non-exclusive) license.

If the patent owner fails to prove that non-use or insufficient use of the invention, utility model, industrial design is due to valid reasons, the court grants a compulsory simple (non-

exclusive) license with determination of the scope of use, amounts, time and procedure of payments. The right to use an invention, utility model, industrial design obtained under such license cannot be transferred to other persons.

The patent owner may require in the court the termination of a compulsory simple (non-exclusive) license upon termination of the circumstances that constituted the grounds to the grant of such license.

2. If the owner of a patent for a dependent invention, a dependent utility model cannot use the invention, the utility model, to which they have the exclusive right, without violating in this case the rights of another person, which is the owner of the patent for the invention, the utility model and which refused to conclude a license agreement based on conditions corresponding to the established practice, the owner of the patent for a dependent invention, a dependent utility model has the right to appeal to the court with a demand for the grant of a mandatory simple (non-exclusive) license to use the invention, utility model, the right to which belongs to another person. If the owner of the patent for a dependent invention, a dependent utility model proves that they represent an important technical achievement and have significant economic advantages over the invention, the utility model in respect of which they are dependent, the court takes a decision to grant them a compulsory simple (non-exclusive) license with determination of the scope of use, amounts, time and procedure of payments. The right to use an invention, a utility model obtained under such license cannot be transferred to other persons.

In case where the court takes a decision to grant a compulsory simple (non-exclusive) license in accordance with part one of this paragraph, the patent owner encumbered with such license has the right to require the grant to them of a compulsory simple (non-exclusive) license to use the dependent invention, dependent utility model, in relation to which the compulsory simple (non-exclusive) license was granted, under conditions corresponding to the established practice, and in case of the impossibility to reach an agreement – to appeal to the court with a demand for the grant of a compulsory simple (non-exclusive) license to use a dependent invention, a dependent utility model.

Article 39. Right of Prior Use

1. Any natural person or legal entity that before the date of priority of an invention, utility model, industrial design used in good faith in the territory of the Republic of Belarus an identical solution created independently of their author or made preparations necessary for that, preserves the right to its further gratuitous use without broadening the scope of such use (right of prior use). The scope of acceptable use of an invention, utility model, industrial design by the person that has the right of prior use, emerged before the date of their priority or resulting from the preparations made before this date, is reflected in an agreement concluded by such person with the patent owner and in the event of impossibility to reach agreement is determined by the court

2. The right of prior use may be transferred to another natural person or legal entity only as a part of the enterprise as a property complex where the use of the identical solution took place or where the preparations necessary for that were made.

CHAPTER 7

ORGANIZATIONAL BASICS OF LEGAL PROTECTION OF INVENTIONS, UTILITY MODELS, INDUSTRIAL DESIGNS. INFRINGEMENTS OF RIGHTS OF AUTHORS AND PATENT OWNERS, ENTAILING THE LIABILITY. ENFORCEMENT OF THEIR RIGHTS

Article 40. Functions of the Patent Authority

1. The patent authority in accordance with the present Law accepts for consideration the applications, carries out the state registration of inventions, utility models, industrial designs, grants the patents valid in the territory of the Republic of Belarus, within its powers carries out control over the observance of the patent legislation, gives clarifications about the procedure of its application, generalizes the practice of application of the patent legislation, renders the methodical assistance to the interested natural persons and legal entities on the mentioned matters, carries out the preparation of the patent engineers, conducts the patent information work, conducts the state attestation and registration of the patent attorneys, carries out other functions in accordance with the legislation.

2. [Excluded].

3. Employees of the patent authority have no right, within the period of the work and within one year after its end, to file an application, to acquire directly or indirectly the right to a patent, and also to draw up an application for anybody.

Article 40-1. Official Bulletin

1. The official bulletin is an official printed edition of the patent authority.

2. The official bulletin is issued in an electronic form. The official bulletin in an electronic form is placed on the official site of the patent authority in the global computer network Internet.

Article 41. Infringements of Rights of Authors and Patent Owners Entailing the Liability, Enforcement of Their Rights

1. Appropriation of the authorship, forcing to the co-authorship, unlawful disclosure of the essence of suggested invention, utility model, industrial design before the filing of the application for them without the consent of the author, as well as infringement of the exclusive rights of the patent owners, entail the liability in accordance with the legislative acts.

2. Employees of the patent authority bear responsibility for disclosing the essence of an application before its publication in accordance with the legislative acts.

3. Enforcement of infringed rights is to be sought by the author (co-authors) of the invention, utility model, industrial design and the patent owner in accordance with established procedure in court and other bodies in accordance with their competence.

4. Along with the use of means of enforcement of the exclusive rights provided for by the legislation, the patent owner or a person who was granted the right to use the invention, utility model, industrial design under a license agreement providing for the grant of an exclusive license may, at their option, demand from the person who violated the exclusive right to the invention, utility model, industrial design, instead of reimbursement of damages, payment of compensation in the amount of from one to fifty thousand basic units, as determined by the court taking into account the nature of infringement.

CHAPTER 8 FINAL PROVISIONS

Article 42. Treaties

If a treaty of the Republic of Belarus establishes other rules than those contained in the present Law, the rules of the treaty are applied.

Article 43. Rights of Foreign Citizens, Stateless Persons, and Foreign Legal Entities

Foreign citizens, stateless persons, and foreign legal entities enjoy the rights provided by the present Law and other acts of legislation of the Republic of Belarus on patents for inventions, utility models, industrial designs, and bear liability equally to the citizens and legal entities of the

Republic of Belarus, unless otherwise determined by laws of the Republic of Belarus and treaties.

Article 44. Entry of the Present Law into Force

1. The present Law enters into force in six months after its official publication with the exception of Article 46 that enters into force from the day of official publication of the present Law.

2. Until the bringing of the legislation of the Republic of Belarus in compliance with the present Law, normative legal acts of the Republic of Belarus are applied in that part in which they do not contradict the present Law, unless otherwise provided by the Constitution of the Republic of Belarus.

Article 45. Recognition of Some Legislative Acts as Invalid

In relation to the entry into force of the present Law are to be recognized as invalid:
the Law of the Republic of Belarus of February 5, 1993 “On Patents for Industrial Designs”;

the Law of the Republic of Belarus of July 8, 1997 “On Patents for Inventions and Utility Models”;

the Law of the Republic of Belarus of January 6, 1998 “On Amendments and Additions to the Law of the Republic of Belarus of July 8, 1997 “On Patents for Inventions and Utility Models”;

Articles 1 and 3 of the Law of the Republic of Belarus of July 16, 2001 “On Amendments to Certain 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 Procedure of the Entry into Force of the Law of the Republic of Belarus of February 5, 1993 “On Patents for Industrial Designs”.

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

The Council of Ministers of the Republic of Belarus shall, within a six-month period:
bring the decisions of the Government of the Republic of Belarus in compliance with the present Law;

ensure the bringing by the republican bodies of public administration of their normative legal acts in compliance with the present Law;

ensure the adoption of normative legal acts necessary for implementation of the present Law.

President of the Republic of Belarus

A.Lukashenko