

Industrial Design Protection Act

Passed 18 November 1997

(RT¹ I 1997, 87, 1466; consolidated text RT I 2002, 9, 45),

entered into force 11 January 1998,

amended by the following Acts:

26.11.2009 entered into force 01.01.2010 - RT I 2009, 62, 405;

10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330;

22.11.2007 entered into force 18.04.2008 - RT I 2008, 1, 1;

24.01.2007 entered into force 15.03.2007 - RT I 2007, 13, 69;

07.12.2006 entered into force 01.01.2007 - RT I 2006, 58, 439;

15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308;

10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141;

17.12.2003 entered into force 08.01.2004 - RT I 2003, 88, 594;

05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336.

Part I

General Part

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act regulates the legal protection in the Republic of Estonia of industrial designs created in the field of industrial design and, in the cases provided for in this Act, the rights

and obligations related to industrial designs unregistered or registered by the Office for Harmonization in the Internal Market (hereinafter Community designs) on the basis of Council Regulation (EC) No 6/2000 of 12 December 2002 on Community designs (Official Journal L 003 , 05/01/2002 P. 0001 – 0024) (hereinafter Community Design Regulation).

(2) The Minister of Economic Affairs and Communications shall issue a regulation for the implementation of this Act in matters where the competence of a Member State for taking decisions arises from corresponding legal acts of the European Union or from this Act (hereinafter regulation on industrial designs).(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 2. Legal acts providing legal protection of industrial designs

(1) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) The legal protection of industrial designs provided for in this Act is independent of the protection provided for in the Copyright Act.

§ 3. Equality of rights and obligations of natural and legal persons of the Republic of Estonia and of foreign states

The rights and obligations prescribed in this Act and other legal acts regulating the legal protection of industrial designs apply equally to natural and legal persons of the Republic of Estonia and of foreign states (hereinafter persons).

Chapter 2

Bases for Legal Protection of Industrial Designs

§ 4. Definition of industrial design

(1) An industrial design is the two-dimensional or three-dimensional design of a product.

(2) For the purposes of this Act, a design means the set of features of a product which, either separately or in combination, form the shape, configuration, ornamentation, colours, texture and material of the product.

(3) For the purposes of this Act, a product means a single product, as well as such spare parts and components of a product which are visible upon the normal use of the product from the outside when assembled in the product. The normal use of a product does not include the service, maintenance or repair of the product.

(4) Industrial designs may have variants. The variants of an industrial design are such modifications of the industrial design which produce a similar overall impression on persons knowledgeable in the field.

(5) A set of industrial designs is a logical group of industrial designs which pursuant to the Locarno Agreement Establishing an International Classification for Industrial Designs (RT II 1996, 23, 87) belong to the same class and are designed in the same manner.

(6) For the purposes of this Act, a set of industrial designs is equivalent to one industrial design.

§ 5. Provision of legal protection to industrial design

(1) Legal protection is granted to industrial designs which are new, have an individual character and may be used for manufacturing industrial or handicraft products.

(2) Industrial designs acquire legal protection by registration in the register of industrial designs (hereinafter also register) pursuant to the procedure provided for in this Act.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) The representation of an industrial design which is entered in the register is the basis for determination of the scope of legal protection of the industrial design. The industrial design represented by the representation is deemed to have acquired legal protection. Legal protection also extends to any industrial design which is confusingly similar to the industrial design represented by the representation.

(3¹) In assessing the scope of legal protection of an industrial design in respect of a product manufactured according to the industrial design, the requirements in force at the time of development of the design shall be taken into consideration.

(05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

(4) A set of industrial designs acquires legal protection as a whole. The industrial designs forming the set do not acquire legal protection independently.

(5) Each variant of an industrial design acquires legal protection independently.

§ 6. Novelty of industrial design

(1) An industrial design is deemed to be new if no identical or confusingly similar industrial design is disclosed in the Republic of Estonia or any foreign state prior to the filing date of the registration application for the industrial design (hereinafter registration application) or, if priority is claimed, prior to the date of priority. In determining the novelty of an industrial design, identical or confusingly similar registered industrial designs are also taken into consideration after they are disclosed if such industrial designs have an earlier registration application filing date or earlier date of priority.

(2) (Repealed - 05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

§ 7. Individual character of industrial design

(1) An industrial design has an individual character if the overall impression it produces on persons knowledgeable in the field differs from the overall impression produced on such persons by industrial designs which are disclosed in the Republic of Estonia or in a foreign state prior to the filing date of the registration application or, if priority is claimed, prior to the date of priority.

(2) In proving individual character in respect of a product manufactured according to an industrial design, the precepts in force at the time of manufacture are taken into consideration.

§ 8. Disclosure of industrial design

- (1) An industrial design is deemed to be disclosed if it is published in a public publication or made otherwise available to a large number of people.
- (2) Disclosure does not include making an industrial design available to other persons as confidential information.
- (3) In determining the novelty and individual character of an industrial design no information is taken into consideration which is disclosed within twelve months before the filing date of the registration application or, if priority is claimed, before the date of priority, by a person who is entitled to apply for the registration of the industrial design, or by any other person who has received this information from such person against or according to the will of the person.

(05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

§ 9. Industrial designs which are not subject to protection

Legal protection is not granted to an industrial design which:

- 1) derives solely from the technical function of the product, unless the industrial design allows specific assembly or connection of products within a modular system or parts of products;

(05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

- 2) is contrary to good practice;
- 3) is unstable;
- 4) is a layout design of integrated circuits;

(25.11.98 entered into force 16.03.99 - RT I 1998, 108/109, 1783)

- 5) is a spare part or component which is not visible upon normal use when assembled in the product.

§ 10. Special cases of legal protection

(1) No legal protection is granted to industrial designs which contain the name of the Republic of Estonia or an administrative unit thereof, the current or historical name of an association or foundation registered in Estonia, or its abbreviation, flag, armorial bearings, emblem, seal, honorary distinction, symbol or an element of the symbol, unless a competent authority or official has given written consent thereto.

(2) Without the written consent of a competent authority or official, no legal protection is granted to industrial designs which contain the following:

1) the armorial bearings, flag or any other state emblem of a foreign state, official signs and hallmarks indicating control and warranty which are protected pursuant to Article 6 *ter* of the Paris Convention for the Protection of Industrial Property, or any imitation of these signs;

2) the name or abbreviation of an intergovernmental organisation, its armorial bearings, flag or any other emblem which is protected pursuant to Article 6 *ter* of the Paris Convention for the Protection of Industrial Property, or any imitation of these signs;

(3) Without the written consent of the entitled persons, no legal protection is granted to industrial designs which contain:

1) the surnames, pseudonyms or portraits of well-known persons;

2) the name, or part of the name, of another legal person;

3) representations or names of architectural sites;

4) well-known trade marks or trade marks which are registered or filed for registration in the name of another person;

5) hallmarks indicating control and warranty;

6) the names of registered proprietary medicinal products.

(05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

§ 11. Priority

(1) Priority is the privilege of the person who files the first registration application to apply for legal protection of an industrial design. The first registration application is the first registration application filed for the industrial design, regardless of the country where the filing takes place. The filing date of the first registration application is deemed to be the date of priority. Commencing from the date of priority, the person who files the first application has privilege in relation to persons who file later registration applications for an identical or confusingly similar industrial design.

(2) If a registration application is filed within six months after the filing date of the first application, priority may be established:

1) in any State party to the Paris Convention for the Protection of Industrial Property on the basis of the filing date of the first registration application (Convention priority);

2) in a state which is not a state party to the Paris Convention for the Protection of Industrial Property on the basis of the filing date of the first registration application if such state guarantees equivalent conditions to persons who file first registration applications in the Republic of Estonia;

(3) Priority may be established on the basis of a subsequent registration application which is filed for the registration of an identical industrial design after the first registration application if the first registration application is, at the filing date of the subsequent application, withdrawn, deemed to be withdrawn, or if registration thereof has been refused and the registration application has not been the basis for claiming priority.

(4) Priority may be established on the basis of several first registration applications. If several first registration applications have been filed earlier, the six month term provided for in subsection (2) of this section shall be calculated from the earliest date of priority.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapter 3

Author and Owner of Industrial Design

§ 12. Author of industrial design

- (1) The author of an industrial design is the natural person who created the industrial design through his or her creative activities.
- (2) If an industrial design is created by several natural persons through joint creative activities, such persons are joint authors.
- (3) In the case of joint authorship, all rights are exercised by the authors jointly, unless they agree otherwise in writing.
- (4) Authorship is inalienable and unspecified in term.

§ 13. Rights of author of industrial design

- (1) The author of an industrial design has the following personal moral rights:
 - 1) the right to request the disclosure of the author's name as the author;
 - 2) the right to prohibit the disclosure of the author's name as the author;
 - 3) the right to revoke at any time the prohibition on disclosure of the author's name.
- (2) The personal moral rights of the author of an industrial design are inseparable from the person of the author and are not transferable during the lifetime of the author.
- (3) The economic right of the author of an industrial design is the right to a fair portion of the profit received from the industrial design. Authors have the right to alienate such right and such right also transfers to successors.

§ 14. Right to apply for registration of industrial design

- (1) The right to apply for the registration of an industrial design and to become the owner of the industrial design is vested in the author or person who has acquired the right to apply for the registration of the industrial design from the author or by way of transfer of such right.

- (2) The right to apply for the registration and ownership of an industrial design created in the performance of duties of employment or contractual obligations is vested in the employer or the customer, unless the duties of employment or the contract prescribe otherwise.
- (3) Several persons may apply for the registration of an industrial design jointly.
- (4) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 15. Owner of industrial design

The owner of an industrial design is the person who has full legal control (exclusive right) over a registered industrial design and is entered in the register as the owner of the industrial design.

§ 16. Rights of owner of industrial design

- (1) The owner of an industrial design has the exclusive right to manufacture products according to the industrial design, and to distribute, sell, offer for sale, or import, export or stock for the aforementioned purposes products which are manufactured according to the registered industrial design.
- (2) The owner of an industrial design has the right to prohibit other persons from manufacturing without authorisation products according to an identical or confusingly similar industrial design and from distributing, selling, offering for sale or importing, exporting or stocking for the aforementioned purposes products which are manufactured according to the registered industrial design.
- (3) The owner of an industrial design has the right to demand from persons who violate the rights provided for in subsection (1) of this section termination of the violation of such rights, elimination of the consequences of the violation and compensation for damage caused by the violation.
- (4) The rights of the owner of an industrial design may only be restricted in the cases and pursuant to the procedure prescribed by law.

§ 17. Acts which do not constitute violation of rights of owner of industrial design

The following acts do not constitute a violation of the rights of the owner of an industrial design:

- 1) the use of the industrial design on the territory of the Republic of Estonia temporarily or accidentally within the construction or equipment of a water craft, aircraft or land vehicle which is registered in a foreign state;
- 2) the importation in the Republic of Estonia of spare parts and accessories manufactured according to the industrial design for the purpose of repairing such craft or vehicle specified in subsection (1) of this section;
- 3) the private and non-commercial use of the industrial design;
- 4) the non-commercial use of the industrial design for study purposes if reference is made to the owner of the industrial design and such use does not harm the owner's interests;
- 5) the use of the industrial design for experimental purposes;

(05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

- 6) the distribution, sale, offer for sale or importation, exportation or stocking for the aforementioned purposes of products manufactured according to the industrial design and put on the market in the Republic of Estonia or a State party to the Agreement of the European Economic Area by the owner of the industrial design or with the owner's consent.

(05.12.2001 entered into force 28.12.2001 - RT I 2001, 100, 644)

§ 18. Right of prior use

- (1) A person who, prior to the filing of a registration application for an industrial design by another person, has, in good faith and independently of the applicant for registration of the industrial design (hereinafter applicant), used an identical or confusingly similar industrial design or has made serious preparations for the use of such industrial design in the Republic of Estonia may continue to use the industrial design in the same manner or commence use of the industrial design as planned (hereinafter right of prior use). Use or preparations for use are

in good faith unless the person knew or should have known that the filing of a registration application for the industrial design was intended.

(2) A right of prior use can only be transferred to another person together with the enterprise or a part thereof with regard to which the right of prior use is established.

(3) For the purposes of this Act “enterprise or a part thereof” has the meaning provided for in § 5 of the Commercial Code.

Part II

Registration Application and Processing Thereof

Chapter 4

Registration Application and Filing Thereof

§ 19. Registration application

A registration application may include one industrial design, the variants of an industrial design or a set of industrial designs.

§ 20. Registration application documents

(1) A registration application shall comprise the following documents:

- 1) a request for the registration of an industrial design;
- 2) the representation of the industrial design;
- 3) a document certifying payment of the state fee;
- 4) an authorisation if the application is filed via a patent agent or if the applicants have a joint representative;
- 5) documents certifying the priority claim if priority is claimed.

(2) A registration application may be accompanied by a description explaining the industrial design.

(3) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(4) Registration application documents shall be filed in Estonian. Documents certifying priority claims may be filed in a foreign language.

§ 21. Request for registration of industrial design

(1) A request for the registration of an industrial design shall set out:

- 1) a request for registration of an industrial design;
- 2) the name of the industrial design;
- 3) the given name, surname and residential address of the applicant if the applicant is a natural person, or the name and address of the seat of the applicant if the applicant is a legal person;
- 4) information on acquisition of the right to apply for the registration of the industrial design pursuant to the provisions of subsection 14 (1) or (2) of this Act;
- 5) the given name, surname and residential address of the author;
- 6) the given name and surname of the patent agent if the application is filed by a patent agent;
- 7) the given name and surname of the representative if the representative is a natural person, or the name and address of the seat of the representative if the representative is a legal person, if the applicants have a joint representative;
- 8) a declaration of priority if priority is claimed;
- 9) a request to suspend the processing of an industrial design if the applicant wishes to defer entry of the industrial design in the register;
- 9¹) the number of variants, if variants of the industrial design are filed;

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

10) prohibition against disclosure of the given name, surname and residential address of the author if the author so requests;

11) the mailing address of the applicant;

12) the signature of the applicant, patent agent or joint representative.

(2) A request for the registration of an industrial design may set out the numbers of the classes and subclasses of the International Classification of Industrial Designs to which the industrial design belongs.

§ 22. Representation of industrial design

(1) A representation of an industrial design shall give a clear and complete depiction of the industrial design.

(2) A representation of an industrial design shall contain the perspective view of the industrial design and other views which are necessary for a clear and complete impression of the industrial design.

(3) A representation of an industrial design shall be photographic or graphic.

(4) A representation of a variant of an industrial design shall contain the perspective view of the variant of the industrial design and other views which are necessary for a clear and complete impression of the variant of the industrial design.

(5) A representation of a set of industrial designs shall contain the perspective view of the set of industrial designs and other views which are necessary for a clear and complete impression of the set of industrial designs as a whole.

§ 23. Documents certifying declaration of priority

(1) Documents certifying a declaration of priority are:

1) a document from the administrative agency which received the first registration application certifying the filing date of the registration application;

2) a copy of the first registration application the authenticity of which is certified by the administrative agency which received the first registration application.

(2) Translation of the documents specified in subsection (1) of this section into Estonian may be required in the course of processing a registration application.

§ 24. Filing of registration applications

(1) Registration applications are filed with the Patent Office.

(2) A state fee shall be paid upon filing of a registration application.

(3) A state fee for the filing of a registration application shall be paid within two months as of the filing date of the registration application. The term for payment of the state fee cannot be extended or restored.

(4) If a registration application contains more than two variants of an industrial design, a supplementary state fee shall be paid upon filing the registration application for every variant commencing with the third variant.

(5) A priority claim is filed upon filing of the registration application. Documents certifying a declaration of priority shall be filed within nine months as of the date of priority. The term for submission of the specified documents cannot be extended. Documents certifying the priority claim need not be submitted if priority is claimed on the basis of a first registration application in the Republic of Estonia.

(6) An authorisation document issued to the representative of the applicant shall be submitted within two months as of the filing date of the registration application. The term for submission of the authorisation document cannot be extended.

(7) The formal and substantive requirements for the registration application and other documents to be submitted to the Patent Office shall be established by the regulation on industrial designs.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 25. Representation of applicant

(1) Procedures related to registration and continued validity of industrial designs shall be performed in the Patent Office and in the Industrial Property Board of Appeal (hereinafter Board of Appeal) by interested persons or patent agents who are expressly authorised by the interested persons and who have been awarded patent agent qualification for operation in the area of industrial designs pursuant to the Patent Agents Act. An interested person or patent agent may involve, at own expense, an interpreter or adviser without the right of representation in oral proceedings in the Patent Office or in the Board of Appeal.

(2) A person with no residence, seat or commercial or industrial enterprise operating in the Republic of Estonia shall authorise a patent agent as the person's representative to perform procedures related to registration and continued validity of an industrial design in the Patent Office and in the Board of Appeal, except the filing of an application.

(3) If procedures related to registration and continued validity of an industrial design are performed in the Patent Office or in the Board of Appeal by several persons together, they may authorise a patent agent as their representative or choose a representative from among themselves (hereinafter joint representative) whose residence, seat or operating commercial or industrial enterprise is in the Republic of Estonia. A joint representative has the right to perform all procedures related to the processing of an application in the name of the applicants, except transfer of the application.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 26. Authorisation

(1) An authorisation may be in unattested written form.

(2) An authorisation shall set out the following:

1) the given name, surname and residential address of the person represented if the person is a natural person, or the name and address of the seat of the person represented if the person is a legal person;

2) in the case of a patent agent, the given name and surname of the patent agent;

- 3) in the case of a joint representative who is a natural person, the given name and surname of the natural person; in the case of a joint representative who is a legal person, the name of the legal person;
- 4) the scope of the authorisation;
- 5) the term of the authorisation, if the authorisation is granted for a specified term;
- 6) the signature of the person represented;
- 7) the place and date of issue of the authorisation.

Chapter 5

Processing of Registration Application

§ 27. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 28. Filing date of registration application and acceptance for processing

(1) Upon receipt of a registration application, the Patent Office shall mark every document of the registration application with a notation of receipt. The following information shall be entered in the notation of receipt:

- 1) the date of receipt of the registration application;
- 2) the sequence number of receipt of the registration application (hereinafter registration application number).

(2) If a registration application is filed by post, the date of receipt of the registration application is deemed to be the date the registration application is received by the Patent Office.

(3) The date of receipt of a registration application by the Patent Office is deemed to be the filing date of the registration application if at least the following documents are filed on the date of receipt:

- 1) a request for registration of an industrial design;
- 2) the representation of the industrial design;
- 3) indications allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Patent Office;
- (4) If any information specified in subsection (3) of this section is missing from an application, the applicant shall be notified thereof and a term of two months shall be set for elimination of deficiencies. The Patent Office is not required to give notice if the filed documents do not contain the name or address of an applicant or the name of the representative of the applicant.
- (5) If the name or address of an applicant or the name of the representative of the applicant is missing, the applicant shall, on own initiative, file all documents and information specified in subsection (3) of this section within two months as of the date of receipt of the initially filed documents in the Patent Office.
- (6) If an applicant files the missing documents and information relating to the registration application within a term set pursuant to subsection (4) of this section or, if subsection (5) applies, within the term provided for therein, the date on which all the documents and information specified in subsection (3) are submitted to the Patent Office shall be deemed to be the filing date of the registration application.
- (7) The filing date of a registration application shall not be established if the applicant fails to submit the missing documents and information relating to the registration application to the Patent Office within the term prescribed in the cases provided for in subsections (4) and (5) of this section.
- (8) A registration application the filing date of which is established pursuant to subsection (3) or (6) of this section shall be accepted for processing. The Patent Office shall notify the applicant of the filing date and number of the registration application.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 29. Refusal to accept registration application for processing

(1) The Patent Office shall refuse to accept a registration application for processing if the filing date of the registration application is not established on the bases prescribed in subsection 28 (7) of this Act.

(2) The Patent Office shall make a decision on refusal to accept a registration application for processing and shall notify the applicant thereof in writing. The applicant is entitled to a refund of the state fee paid by the applicant.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 30. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 31. Examination of formal and substantive requirements of registration application documents

(1) The Patent Office shall verify:

1) the existence of the registration application documents pursuant to the provisions of § 20 of this Act and their compliance with the substantive and formal requirements;

2) compliance with the terms for the filing of registration application documents pursuant to the provisions of § 24 of this Act;

3) the industrial design pursuant to the provisions of § 4, clauses 9 2) and 4, subsections 10 (1) and (2) and § 19 of this Act;

4) the class and subclass numbers of the International Classification of Industrial Designs (if no numbers are indicated, the Patent Office determines the numbers).

(2) The Patent Office does not verify:

1) the industrial design pursuant to the provisions of subsection 5 (1), §§ 6 and 7, clauses 9 1) and 3) and subsection 10 (3) of this Act;

2) the right of the applicant to apply for the registration of an industrial design pursuant to the provisions of subsection 14 (1) or (2) of this Act.

(3) If in the course of the verification pursuant to subsection (1) of this section it becomes evident that the registration application is not in compliance with the provisions of § 4, clauses 9 2) and 4, subsections 10 (1) and (2) or § 19 of this Act or a document specified in clause 20 (1) 1) of this Act is missing from the registration application or the documents filed do not conform to the established formal and substantive requirements, the Patent Office shall notify the applicant thereof in writing and shall establish a term of at least two months for the elimination of the deficiencies or provision of explanations.

(4) If an applicant fails to respond to the notice specified in subsection (3) of this section by the due date or fails to submit, within the term provided for in subsection 24 (3) of this Act, a document certifying payment of the state fee in the prescribed amount or fails to file an authorisation document within the term specified in subsection (6) of this section, the application shall be deemed to be withdrawn.

(5) If an applicant does not submit documents certifying a priority claim within the term provided for in subsection 24 (5) of this Act if priority is claimed, or the documents submitted do not conform to the provisions of § 23 or do not certify priority, the Patent Office shall not take the priority claim into consideration, and shall inform the applicant thereof.

(6) The Patent Office may, at the request of the applicant and in justified cases, extend the term established pursuant to subsection (3) of this section for the elimination of the deficiencies in the registration application or provision of explanations up to six months. The request shall be filed before the end of the term provided for in subsection (3) of this section. A state fee shall be paid for extension of the term.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 32. Suspension of processing of registration application

(1) On the basis of a request from the applicant, the Patent Office may suspend the processing of a registration application for up to twelve months.

(2) The applicant is notified of the suspension of processing of a registration application in writing.

§ 33. Division, correction and supplementation of registration application

- (1) During processing, the applicant may divide a registration application which contains several variants of the industrial design into two or more registration applications, by distributing the variants among the applications. A state fee shall be paid for dividing a registration application.
- (2) Applications which are the result of the division of a registration application shall preserve the filing date and priority of the initial registration application.
- (3) An applicant may correct and supplement a registration application during processing so long as no alterations are made to the industrial design which was applied for in the registration application on the filing date of the registration application.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 34. Withdrawal of registration application

(1) An applicant may withdraw a registration application during processing by filing a written request for withdrawal of the registration application. A registration application is deemed to be withdrawn from the date of receipt of a request for withdrawal of the registration application by the Patent Office. Registration application documents are not returned.

(2) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 35. Termination of processing of registration application

(1) If a registration application is withdrawn or deemed to be withdrawn, the processing of the registration application is terminated and the applicant is notified thereof in writing.

(2) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 36. Resumption of processing of registration application

(1) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) An applicant may request that the processing of a registration application which has been terminated be resumed if the applicant failed to respond to the demand of the Patent Office to eliminate deficiencies in the registration application or to provide explanations by the end of the term established pursuant to subsection 31 (3) or (6) of this Act due to *force majeure* or some other impediment independent of the applicant or the applicant's representative.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) A request for resumption of the processing of a registration application may be filed within one year after the end of the term established pursuant to subsection 31 (3) or (6) of this Act. The request shall include a document certifying payment of the state fee.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(4) The Patent Office shall resume the processing of a registration application if the applicant proves the existence of *force majeure* or some other impediment independent of the applicant or the applicant's representative and responds to the demand of the Patent Office to eliminate deficiencies in the registration application or to provide explanations within two months after the *force majeure* or other impediment ceases to exist. The applicant shall be notified of the resumption of processing of the registration application in writing.

§ 37. Decision to register industrial design

If an industrial design is not contrary to the requirements of § 4, clauses 9 2) and 4) or subsections 10 (1) or (2) of this Act and the registration application complies with the substantive and formal requirements provided for in § 19 and subsection 33 (3) of this Act, the Patent Office shall make a decision to register the industrial design and shall notify the applicant thereof in writing.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 38. Decision to refuse registration of industrial design

If an industrial design is contrary to any of the requirements of § 4, clauses 9 2) and 4) or subsections 10 (1) or (2) of this Act, or the registration application fails to comply with the

substantive and formal requirements provided for in § 19 and subsection 33 (3) of this Act or the applicant, upon responding to the notification specified in subsection 31 (3), has failed to eliminate the deficiencies in the registration application or to provide explanations or provides insufficient explanations, the Patent Office shall make a decision to refuse registration of the industrial design and shall notify the applicant thereof in writing.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 39. Filing appeals against decisions of Patent Office

(1) An applicant may file an appeal with the Board of Appeal against a decision of the Patent Office made on the basis of this Act.

(10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330)

(2) An applicant may file an appeal with the Board of Appeal within two months as of the date on which the decision of the Patent Office is made, and shall pay a state fee.

(3) If an appeal is granted in full or in part, the Board of Appeal shall annul the decision of the Patent Office and require the Patent Office to continue the proceedings taking into account the circumstances set forth in the decision of the Board of Appeal.

(4) If an appeal is allowed, the applicant shall have the right to have the paid state fee refunded.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapter 6

(Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Part III

Registration of Industrial Designs

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapter 7

Register of Industrial Designs

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 55. Register of industrial designs

(1) The register of industrial designs (hereinafter register) is maintained on the basis of this Act and the Principles of Legal Regulation of Industrial Property Act and pursuant to the procedure provided for in the specified Acts.

(2) Notices concerning register entries are published in the official gazette of the Patent Office in the cases provided for in the Acts specified in subsection (1) of this section. The Patent Office may, in the public interest and pursuant to the procedure established in the statutes of the official gazette of the Patent Office, publish notices concerning other register entries and other information in the official gazette of the Patent Office the publication of which is not prohibited or restricted on the basis of the Acts specified in subsection (1) or international agreements.

(3) The statutes of the official gazette of the Patent Office shall be established by the regulation on industrial designs. The title of the official gazette of the Patent Office is «Eesti Tööstusdisainilahenduse Leht».

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 55¹. Registration of industrial design in register

(1) If a registration application is accepted for processing, the number and filing date of the registration application and the receipt in the Patent Office of the documents submitted on the basis of § 20 of this Act and other documents submitted on the applicant's own initiative, and information contained in such documents pursuant to § 25 of the Principles of Legal Regulation of Industrial Property Act, shall be entered in the register.

(2) In the course of processing a registration application, information and notices concerning the procedural acts performed pursuant to this Act, documents received and

issued, terms provided for in this Act and terms established by the Patent Office shall be entered in the register.

(3) Upon grant of legal protection to an industrial design, registration entry shall be made in the register.

(4) Registration data entry shall be made on the basis of a decision to register an industrial design pursuant to § 37 of this Act.

(5) Registration data are:

- 1) the registration number;
- 2) the date of registration;
- 3) the name of the industrial design;
- 4) the representation of the industrial design;
- 5) the number of variants of the industrial design;
- 6) the number of the class and subclass according to the International Classification of Industrial Designs;
- 7) the given name, surname and residential address of the author of the industrial design;
- 8) the given name, surname and residential address and country code of the owner of the industrial design or, in the case of a legal person, the name, address of the seat and country code of the owner of the industrial design;
- 9) the date as of which the registration is valid;
- 10) the date on which the registration expires;
- 11) in the case of a patent agent, the given name and surname of the patent agent;
- 12) in the case of a joint representative who is a natural person, the given name and surname of the natural person, in the case of a joint representative who is a legal person, the name of the legal person;
- 13) the number of the registration application;

- 14) the filing date of the registration application;
- 15) information on priority (the date of priority, number and country of the registration application).
- (6) The applicant specified in a decision specified in subsection (4) of this section is entered in the register as the owner of the industrial design.
- (7) The Patent Office publishes a notice of entry of the registration data in the official gazette of the Patent Office. The publication date of the notice shall be entered in the register.
- (8) A registration shall enter into force on the publication date of a notice of entry of the registration data in the official gazette of the Patent Office.

§ 55². Certificate of Registration of Industrial Design

- (1) After the publication of a notice concerning the registration of an industrial design in the official gazette of the Patent Office, the Patent Office shall issue a certificate of registration of the industrial design to the owner of the industrial design.
- (2) Only one certificate is issued regardless of the number of owners of an industrial design.
- (3) A duplicate of the certificate of registration of the industrial design may be issued on the basis of a request from the owner of the industrial design. A state fee shall be paid for the issue of a duplicate of a certificate.
- (4) The requirements for the format and the procedure for the issue of certificates of registration of industrial designs shall be established by the regulation on industrial designs.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 56. Validity of registration

- (1) A registration is valid for five years from the filing date of the registration application.
- (2) A registration may be renewed by an owner of an industrial design for a period of five years at a time up to a total term of twenty-five years as of the filing date of the registration application. A state fee shall be paid for renewal of a registration.

(3) The request to renew a registration and information concerning payment of the state fee shall be filed with the Patent Office within six months before the date of expiry of the validity of the registration or, if additional state fee is paid, within six months as of the date of expiry of the validity of the registration together with the request to restore the term.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 57. Access to and release of data from register

(1) No information is released from the register on an author if the author has prohibited the disclosure of the author's name.

(2) Prior to the publication of a notice concerning the entry of registration data in the register, only the name of the industrial design, the registration application number, the filing date of the industrial design, priority data and the name of the applicant and of the representative of the applicant may be released from the register.

(3) Prior to the publication of a notice concerning the entry of registration data in the register, access to a registry file is granted to the applicant, a person who has written consent of the applicant, or a person who proves that the applicant, after the registration of the industrial design, intends to resort to legal remedies against the person.

(4) After the publication of a notice concerning the entry of registration data in the register, the register shall be public. Everyone has access to the registry file and data entered in a record, except in the case of the restriction specified in subsection (1) of this section.

(5) In order to have access to a registry file or to be issued copies or printouts from the register, a written request is submitted. A state fee shall be paid for each grant of access to a registry file and for each copy of a document in a registry file or printout from the register. Applicants and owners of industrial designs have access to the registry files concerning their industrial designs free of charge.

(6) In order to be issued a document certifying priority which consists of the confirmation by the Patent Office and a copy of the application, a written request of the owner of the industrial design shall be submitted. A state fee shall be paid for the issue of a document certifying priority.

(7) The procedure for access to the register and release of information from the register shall be established by the regulation on industrial designs.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 58. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 59. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 60. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 61. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapters 8 – 9 (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Part IV

Transfer, Extinguishment, Contestation and Protection of Rights of Owner of Industrial Design

Chapter 10

Transfer of rights of owner of industrial designs

§ 71. Transfer of right to apply for registration of industrial design

(1) Any person who pursuant to subsection 14 (1) or (2) of this Act has the right to apply for the registration of an industrial design may transfer such right to another person.

(2) The right to apply for the registration of an industrial design transfers to successors or legal successors.

§ 72. Transfer of registration application

(1) An applicant may transfer a registration application which is being processed by the Patent Office to another person.

(2) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(4) The Patent Office shall amend the data specified in clause 21 (1) 3) of this Act in the registration application.

(5) A registration application is deemed to be transferred to another person as of the date on which the data concerning the applicant in the information in the registration application is amended.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 73. Transfer of industrial designs

(1) The owner of an industrial design may transfer the industrial design to another person. Upon the transfer of an industrial design to another person, all the rights of the owner of an industrial design specified in § 16 of this Act transfer to the other person.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) In the event of the death of the owner of an industrial design or dissolution of the owner if the owner is a legal person, the rights of the owner transfer to the successors or legal successor.

(3) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(4) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(5) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(6) The rights of the owner of an industrial design are deemed to be transferred to another person from the date of transfer of the rights pursuant to a transaction or a court order, or from the date of legal succession.

(7) A person to whom the rights of the owner of an industrial design are transferred pursuant to the provisions of subsection (1) of this section may exercise such rights as of the date on which the entry of amendment of registration data becomes valid. A registry entry becomes valid on the date on which it is made. A registry entry shall have legal effect with regard to a third person as of the date on which a notice of the making of the registry entry is published in the official gazette of the Patent Office.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 73¹. Application for entry of transfer of registration application and industrial design in register

(1) A written request of the applicant, owner of the industrial design or another entitled person shall be the basis for making an entry of transfer of registration application and industrial design in register.

(2) A state fee shall be paid for making an entry of transfer of registration application and industrial design in register.

(3) If the request is submitted by the new applicant or new owner of the industrial design, a document certifying the transfer of the industrial design or a certified copy thereof shall be appended to the request.

(4) The request shall be submitted within one year as of the date on which the rights specified in the transaction are transferred or as of the date of creation of legal succession. If an industrial design is transferred pursuant to a court judgment, the request shall be filed within one month after the date on which the court judgment enters into force.

(5) In case of transfer of an industrial design encumbered with a registered security over movables, the written consent of the pledgee shall be appended to the request.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 73². Application for entry of amendment of registration data in other cases

(1) A written request of the owner of an industrial design shall be the basis for making an entry concerning the amendment of registration data.

(2) An entry concerning the amendment of registration data shall not alter the industrial design which was applied for in the registration application on the filing date of the registration application.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 73³. Division of industrial design

(1) The owner of an industrial design may divide a registration which contains several variants of the industrial design into two or more registrations, by distributing the variants among the registrations.

(2) Registrations which are the result of a division shall preserve the filing date and priority of the initial registration.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 73⁴. Application for entry of division of industrial design in register

(1) A written request of the owner of an industrial design shall be the basis for making an entry on division of the industrial design.

(2) A state fee shall be paid for an entry on division of an industrial design.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 73⁵. Application for entry concerning surrender of industrial design in register

A written request of the owner of an industrial design shall be the basis for making an entry on surrender of the industrial design.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 74. Licence

(1) The owner of an industrial design (licensor) may, by way of a licence, grant the use over a portion or all of rights of the owner of an industrial design specified in § 16 of this Act, to one or several persons (licensee).

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) With the consent of a licensor, a licensee may transfer the right of use deriving from the licence agreement by way of a sublicense to a third person.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) The term of a licence shall not be longer than the term of the registration.

(4) Licences may be registered in the register.

(5) If there is a conflict of rights granted by different licences to several licensees, preference is given to the licensee whose licence is registered.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(6) An unregistered licence has no legal force with respect to third persons.

(7) A written licence agreement shall be entered into upon the issue of a licence.

§ 75. Validity of licence upon transfer of rights of owner of industrial design

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(1) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(2) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(3) Upon the transfer of the rights of the owner of an industrial design to another person in the cases provided for in § 73 of this Act, the rights and obligations deriving from the licence are also transferred.

§ 76. Application for entry of licence in register

- (1) A written request of the licensor or the licensee shall be the basis for an entry concerning a licence in the register. A state fee shall be paid for an entry concerning a licence.
- (2) The licence agreement or a certified copy thereof shall be appended to the request for an entry concerning a licence in the register. Instead of the licence agreement or a certified copy thereof, an extract of the licence agreement containing data concerning the licensee and the nature, scope and term of validity of the licence which are necessary for making an entry may be filed.
- (3) An entry concerning a licence agreement shall be deleted at the end of the term of the validity of the licence or at the written request of the licensor or licensee upon premature termination of the licence agreement.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 76¹. Processing of requests specified in §§ 73¹-73³

- (1) If a request specified in §§ 73¹-73³ is filed by an authorised representative, an authorisation document shall be added to the request. The authorisation document need not be added if an authorisation document filed with the Patent Office earlier for the performance of the act is valid.
- (2) The applicant shall be given notice of the making of an entry not later than on the twentieth working day as of the date of receipt of a valid request and the necessary documents.
- (3) A notice concerning the making of an entry shall be published in the official gazette of the Patent Office.
- (4) If some of the information or documents necessary for the making of an entry are missing, the applicant shall be notified thereof not later than on the fifteenth working day as of the receipt of a defective request at the Patent Office and a term of two months shall be set for the elimination of deficiencies. If it is not possible to make the entry by the specified term on the basis of the documents submitted, the request is deemed to be not filed.

(5) If it is not possible to make an entry for any other reason provided in law, the applicant shall be notified thereof not later than on the fifteenth working day as of the receipt of the request at the Patent Office.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapter 11

Extinguishment of Rights of Owner of Industrial Design

§ 77. Bases for extinguishment of rights

(1) The rights of the owner of an industrial design extinguish upon expiry of the registration pursuant to § 56 of this Act.

(2) The rights of the owner of an industrial design extinguish prior to the date provided for in § 56 of this Act:

1) if the owner waives the rights of the owner of an industrial design without transferring the owner's rights to another person;

2) upon the death of the owner if the owner is a natural person if the rights are not transferred to a successor, or upon the dissolution of a legal person if the rights are not transferred;

3) on the basis of a court judgment entered into force which declares the industrial design to be contrary to the provisions of §§ 4-10, § 19 or subsection 33 (3) of this Act;

4) on the basis of a court order in force which declares that, pursuant to subsections 14 (1)–(3) of this Act, the owner specified in the registration had no right to apply for the registration of an industrial design, and the person who pursuant to a court order is declared the owner of the industrial design has failed to file a request for amendment of the data on the owner of the industrial design pursuant to the procedures prescribed in subsections 73¹ (3) and (4);

5) at the request of an interested person, if during one year as of the deletion of the company from the commercial register no written request is filed for the making of an entry on the transfer of the industrial design in the register.

(3) The making of an entry in the register on deletion of a registration constitutes the basis for the extinguishment of the rights of the owner of the industrial design.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 78. Making of entry on deletion of registration of industrial design

(1) The Patent Office shall make an entry on deletion of a registration pursuant to the provisions of subsection 77 (1) of this Act after six months after the expiry of the registration pursuant to § 56 of this Act or, if the registration is renewed to a total of twenty five years, after the expiry of such term.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) In order to make an entry on a deletion of a registration in the cases specified in subsection 77 (2) of this Act, the owner of the industrial design or an interested person shall file a request with the Patent Office. If a request is filed by an interested person, documents certifying the claim shall be appended to the request.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) The Patent Office shall refuse to make an entry on deletion of a registration pursuant to the provisions of clause 77 (2) 1) of this Act if the rights of the owner of the industrial design are the object of a registered licence.

(4) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 79. Legal consequence of entry on deletion of registration of industrial design

(1) Upon the making of an entry on deletion of a registration pursuant to the provisions of subsection 77 (1) of this Act, the rights of the owner of the industrial design extinguish on the date following the date of expiry of the registration.

(2) Upon the making of an entry on deletion of a registration pursuant to the provisions of subsection 77 (2) of this Act, the rights of the owner of the industrial design extinguish on the date following the date on which such entry is made.

(3) After a registration is deleted from the register, every person may manufacture products according to the industrial design, distribute, sell, offer for sale or import, export or stock for the aforementioned purposes products which are manufactured according to the industrial design. Such right is retroactive to the date on which the rights of the owner of the industrial design expire.

Chapter 12

Contestation and Protection of Rights of Owner of Industrial Design

§ 80. Contestation of authorship of industrial design

(1) Disputes concerning the authorship of an industrial design entered in the register are resolved in court.

(2) Any natural person who considers that he or she is the author of an industrial design pursuant to § 12 of this Act may file an action in court against the owner of the industrial design for certification of the right of authorship.

§ 81. Contestation of rights of owner of industrial design and industrial design

(1) A person who finds that the rights of the owner of an industrial design belong to the person pursuant to subsections 14 (1)–(3) of this Act may file an action in court against the owner of the industrial design for recognition of the right of ownership.

(2) An action specified in subsection (1) of this section may be filed also after the expiry of the registration or surrender of the industrial design.

(3) A person who finds that the person who became the owner of an industrial design had no right to become the owner of the industrial design pursuant to subsection 5 (1), §§ 6,7, or 9 or subsection 10 (1) or (2) of this Act and that the registration hinders such person in the

person's economic or business activities, may file an action in court for the termination of the rights of the owner of the industrial design.

(4) A person specified in subsection 10 (3) of this Act who finds that the person who became the owner of an industrial design had no right to become the owner of the industrial design pursuant to subsection 10 (3), may file an action in court for the termination of the rights of the owner of the industrial design.(5) An action specified in subsections (3) and (4) of this section may be filed also after the expiry of the registration or surrender of the industrial design.(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 82. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 83. Protection of rights of author of industrial design

(1) The author of an industrial design has a perpetual right to file an action in court upon violation of the right provided for in subsection 13 (1) of this Act or for the establishment of any other right deriving from his or her authorship.

(2) The author of an industrial design may file an action in court for the resolution of a proprietary dispute relating to the industrial design within three years after the date on which the author becomes or should have become aware of the violation of the author's right.

§ 84. Legal remedies in case of unlawful use of registered industrial design

In the case of unlawful use of an industrial design, the owner of the industrial design may demand:

1) compensation for damage caused by unlawful use of the industrial design pursuant to § 1043 of the Law of Obligations Act;

2) (Repealed - 19.06.2002 entered into force 01.09.2002 – RT I 2002, 63, 387)

3) the transfer of that which is received as a result of the unlawful use of the industrial design pursuant to §§ 1037 and 1039 of the Law of Obligations Act.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

§ 85. Protection of rights of other persons

(1) A person who uses an industrial design in good faith before a registration application is made may file an action in court against the owner of the industrial design for certification of the person's right of prior use.

(2) If the exclusive right of the owner of an industrial design is violated and the owner of the industrial design does not file an action against the offender, an action may be filed by a licensee with a registered licence, unless the licence agreement prescribes otherwise. The licensee shall notify the owner of the industrial design of the licensee's wish to file an action. The obligation to notify is deemed to be performed if the notice is sent to the owner of the industrial design by registered mail to the address indicated in the licence agreement or in the registration of the industrial design.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

§ 86. Specifications for resolution of industrial design disputes

(1) Appeals and actions specified in this Act fall within the jurisdiction of the court in the jurisdiction of which the Patent Office is located.

(1¹) Implementation of provisional measures referred to in Article 50 of the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement falls within the competence of the county court in the jurisdiction of which the offence occurred. An application for the securing of an action shall be immediately reviewed.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) A copy of all court decisions which have entered into force concerning disputes relating to industrial designs shall be immediately sent to the Patent Office

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 87. Representatives in court disputes in field of industrial design

(1) In resolution of a dispute related to an industrial design, a patent agent may act as a representative in a county court and in a circuit court. In Supreme Court, a patent agent may act as a representative only together with a sworn advocate.

(25.11.98 entered into force 16.03.99 - RT I 1998, 108/109, 1783; 15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(2) (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapter 12¹

(05.12.2001 entered into force - RT I 2001, 100, 644)

International Registration of Industrial Designs

(05.12.2001 entered into force - RT I 2001, 100, 644)

§ 87¹. Definition of international registration of industrial designs

(1) For the purposes of this Act, international registration of industrial designs means registration of industrial designs according to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter Geneva Act of the Hague Agreement), adopted at Geneva on 2 July 1999, in the international register of the International Bureau of the World Intellectual Property Organisation (hereinafter International Bureau).

(2) The Patent Office shall perform the functions arising from the Geneva Act of the Hague Agreement in Estonia and is the office within the meaning of this Agreement.

(05.12.2001 entered into force - RT I 2001, 100, 644)

§ 87². Legal protection of internationally registered industrial designs

Industrial designs which are protected in the Republic of Estonia by way of international registration are subject to the same legal regime and have the same benefits together with the

specifications arising from the Geneva Act of the Hague Agreement as industrial designs registered in the Republic of Estonia.

(05.12.2001 entered into force - RT I 2001, 100, 644)

§ 87³. Application for international registration of industrial designs

(1) An application for the international registration of an industrial design (hereinafter international application) shall be submitted either directly to the International Bureau or to the Patent Office. The Patent Office shall forward an international application to the International Bureau within five working days as of the date of submission of the international application if state fee has been paid for the forwarding of the international application. The Patent Office shall notify the applicant of the date of receipt of the international application and the date of forwarding thereof to the International Bureau.

(22.11.2007 entered into force 18.04.2008 - RT I 2008, 1, 1)

(2) An international application shall comply with the form and content requirements provided for in the Geneva Act of the Hague Agreement and common guidelines for the implementation of the 1999, 1960 and 1934 Acts of the Hague Agreement concerning the international registration of industrial designs. The Patent Office shall not verify the compliance of international applications to the requirements for the form and content of applications.

(22.11.2007 entered into force 18.04.2008 - RT I 2008, 1, 1)

(3) Upon submission of an international application to the Patent Office, a state fee shall be paid for forwarding the application to the International Bureau. Other fees according to the Geneva Act of the Hague Agreement shall be paid directly to the International Bureau.

(22.11.2007 entered into force 18.04.2008 - RT I 2008, 1, 1)

(4) The procedure for the submission of international applications to the Patent Office shall be established by the regulation on industrial designs.

(22.11.2007 entered into force 18.04.2008 - RT I 2008, 1, 1)

§ 87⁴. Processing of international registration of industrial designs

(1) The Patent Office shall verify, pursuant to the provisions of § 4, clauses 9 2) and 4), subsections 10 (1) and (2) and § 19 of this Act, the international registrations of industrial designs (hereinafter international registration) in which the Republic of Estonia is indicated as a Contracting Party.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) The Patent Office shall notify the International Bureau of refusal to grant protection within six months after the date on which the International Bureau sent a copy of publication of an international registration to the Patent Office if the international registration is contrary to the requirements of § 4, clauses 9 2) and 4), subsections 10 (1) and (2) or § 19 of this Act.(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(3) If, as a result of verification, it becomes evident that an international registration is not contrary to the requirements of § 4, clauses 9 2) and 4), subsections 10 (1) and (2) or § 19 of this Act, a notice of the international registration shall be published in the official gazette of the Patent Office six months after the date on which the International Bureau sent a copy of publication of the international registration to the Patent Office.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(4) The Patent Office shall establish and maintain the database of national processing of international registrations in which the Republic of Estonia is a Contracting Party.

(5) Information specified in subsection 57 (2) of this Act shall be released from the database of national processing of international registrations.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(6) A state fee shall be paid for the release of information from the database of national processing of international registrations, with the exception of the release of information to state agencies with supervisory authority or to a court.

(05.12.2001 entered into force - RT I 2001, 100, 644)

Chapter 12²

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Community Designs

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 87⁵. Registration of Community designs

(1) The registration of Community design shall mean the registration of a design with the Office for Harmonization in the Internal Market on the basis of the Community Design Regulation.

(2) The Patent Office is the central office in the field of legal protection of industrial property within the meaning of the Community Design Regulation.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 87⁶. Application for Community design

(1) An application for a Community design may be filed with the Patent Office which shall forward the application to the Office for Harmonisation in the Internal Market within two weeks as of the filing of the application, and shall issue a corresponding notice to the applicant. Upon filing an application for a Community design with the Patent Office, a state fee for the forwarding of the application to the Office for Harmonisation in the Internal Market shall be paid.

(2) An application for a Community design shall be in conformity with the requirements for the content and formal requirements specified in the Community Design Regulation and the Regulation concerning the enforcement of the Community Design Regulation. The application fee specified in Article 36 (4) of the Community Design Regulation shall be paid directly to the Office for Harmonisation in the Internal Market.

(3) The procedure for filing an application for a Community design with the Patent Office shall be established by the Minister of Economic Affairs and Communications by the regulation on industrial designs.

(4) The Patent Office does not accept or forward any other documents or letters to be submitted to the Office for Harmonisation in the Internal Market.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 87⁷. Specifications of judicial proceedings in matters relating to Community designs

(1) Matters relating to legal protection and validity of Community designs are heard by Harju County Court as the Community design court of first instance.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(2) Appeals against the judgments of the Community design court of first instance shall be filed to Tallinn Circuit Court as the Community design court of second instance.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 87⁸. Prohibition on the use of Community designs

In cases specified in subparagraphs (d), (e) and (f) of Article 25 of the Community Design Regulation, the owner of an earlier right specified in Article 110 (a) of the Community Design Regulation may file an action against an owner of the Community design for the protection of an exclusive right on the basis of § 84 of this Act for the prohibition on the use of the Community design in Estonia

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Part V

Final Part

Chapter 13

State fees

§ 88. State fees

In the cases prescribed in this Act, a state fee shall be paid for the performance of acts and issue of documents pursuant to the rates provided for in the State Fees Act.

(07.12.2006 entered into force 01.01.2007 - RT I 2006, 58, 439)

§ 89. Payment of state fees

(1) State fees shall be paid by applicants, owners of industrial designs or third persons who have an interest in the performance of acts and issue of documents prescribed in this Act. If the state fee for registration of an industrial design or renewal of a registration is paid by a third person, the consent of the applicant or the owner of the industrial design is required.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) The state fee is deemed to be paid upon receipt by the Patent Office of a document certifying payment of the state fee or, in the case of an appeal, upon receipt of such document by the Board of Appeal.

(3) Paid state fees are not refunded, except in the case provided for in subsection 29 (2) of this Act.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

§ 90. (Repealed - 10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

Chapter 13¹

Liability

(24.01.2007 entered into force 15.03.2007 - RT I 2007, 13, 69)

§ 90¹. Infringement of moral rights of author

- (1) Infringement of moral rights of an author is punishable by a fine of up to 300 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 500,000 kroons.

(24.01.2007 entered into force 15.03.2007 - RT I 2007, 13, 69)

§ 90². Procedure

- (1) The provisions of the Penal Code and the Code of Misdemeanour Procedure apply to the misdemeanours provided for in § 90¹ of this Act.
- (2) Extra-judicial proceedings concerning the misdemeanours provided for in § 90¹ of this Act shall be conducted by police authorities.

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 62, 405)

Chapter 14

Implementing Provisions

§ 91 (omitted from this text)

§ 92. Transitional provision

If a registration application upon the registration of the industrial design is filed within twelve months after the entry into force of this Act, every priority is acknowledged on the basis of a

first registration application filed on or after 20 February 1991 in a country which has acceded to the Paris Convention for the Protection of Industrial Property.

§ 93. Entry into force of Act

(1) This Act enters into force after one month after the date of its publication in the *Riigi Teataja*.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

(2) The provisions of this Act governing Community designs enter into force upon Estonia's accession to the European Union.

(10.03.2004 entered into force 01.05.2004 - RT I 2004, 20, 141)

¹ RT = *Riigi Teataja* = *State Gazette*

² Riigikogu = the parliament of Estonia