

# Patent Law

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## Chapter I General Provisions

1. This Law regulates property and personal non-property relations formed in connection with the creation, legal protection and exploitation of the industrial property objects – inventions, utility models and industrial designs.

2. For the purposes of this Law, unless expressly stated otherwise:

(a) “Sakpatenti” means National Intellectual Property Center of Georgia;

(b) International Bureau – International Bureau of World Intellectual Property Organization;

(c) Paris Convention – the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended at Stockholm on July 14, 1967 and on September 28, 1979;

(d) Patent Cooperation Treaty (PCT) – multilateral international treaty, signed on June 19, 1970 revised on September 28, 1979, amended on February 3, 1984;

(e) Object of industrial property – invention, utility model, industrial design;

(f) Patent – protective document granted in respect to this Law;

(g) Importation patent – patent granted in respect to this Law for the invention patented abroad;

(h) Applicant – natural person or legal entity claiming for a patent;

(i) Application – collection of documents necessary for granting of a patent, made in respect to the approved requirements;

(j) International application – application drawn up and filed under the PCT;

(k) Examination as to form – checking of application documents completeness, of drawing up and unity of objects described therein;

(l) Priority – privilege enjoyed by the application filed earlier in respect to the later application;

(m) Convention priority – priority enjoyed by the applicant in case of filing the application for obtaining of patent with the State party to the Paris Convention established by the filing date of the first application, in regard to the Article 4 of this Convention;

(n) Exhibition priority – priority enjoyed by the applicant in case of filing the application for obtaining of patent with the State party to the Paris Convention established by the exposition date of the invention, utility model or industrial design at official or officially recognized exhibition held in the states party to the above mentioned Convention, in regard to the Article 11 of this Convention;

(o) Patent Attorney – person registered at Sakpatenti acting in the name of another person in the sphere of industrial property;

(p) Depository – authorized organization, where the biological reproducible material is kept.

**3.** For an invention, utility model and industrial design is granted a patent, which confirms the authorship and grants the patent owner the exclusive right on the invention, utility model, or industrial design.

**4.—(1)** In the name of the foreign patent owner can be granted an importation patent.

(2) The importation patent is granted for the invention patented abroad, examination on which was conducted pursuant to all the criteria of patentability.

(3) The importation patent gives the patent owner the exclusive right to use, produce or sell goods, but it does not give him the right to prohibit the third party to import such product from abroad.

**5.—(1)** Patent validity term of the invention is 20 years as from the day application is filed with Sakpatenti.

(2) The validity term of the importation patent is defined by the validity term of foreign basic patent, but no longer than 10 years as from the day of filing with Sakpatenti.

(3) The patent validity term of utility model is eight years as from the day the application is filed with Sakpatenti.

(4) The patent validity term on industrial design is 15 years as from the day application is filed with Sakpatenti.

**6.—(1)** The legal protection scope of the invention is defined by claims of the invention.

(2) The legal protection scope of the utility model is defined by claims of the utility model.

(3) The legal protection scope of the industrial design is defined by the unity of characteristic essential features of the design itself or by the characteristic essential features represented in its reproduction.

7.—(1) A patent for an invention and utility model, which for the purposes of State defense classified as secret by the respective competent body, is granted only after their declassification on the basis of a decision taken by the competent body.

(2) The patent may be classified as secret for two years term, which can be extended by every following two years.

(3) The rules of legal protection and use of secret invention, utility model are defined by special normative acts.

## **Chapter II** **“Sakpatenti”**

8. “Sakpatenti” is a legal entity of public law, which provides the legal protection of the natural persons’ and legal entities’ rights in the sphere of intellectual property protection.

9. The Chamber of Appeals functions at Sakpatenti, which considers the litigation as regards to the procedure of securing of the rights for the intellectual property objects.

10.—(1) The functions and powers of Sakpatenti are defined by its regulation approved by the President of Georgia.

(2) Sakpatenti is headed by the Director General appointed by the President of Georgia.

11.—(1) Sakpatenti financial resources are the fees prescribed in respect to the approved rules related to the examination as to form and substantive examination of the objects of intellectual property, to registration and maintenance, to appeal and other procedures concerning main activities, as well as incomes obtained by information, consultation-research and other kinds of services.

(2) The fees and other incomes are transferred to Sakpatenti account, which is in charge of Sakpatenti only. The amounts unemployed by Sakpatenti during the year will be deferred for the coming year.

(3) It is admissible to appropriate the funds, the grants for Sakpatenti from the State budget in respect to the approved rule.

(4) Sakpatenti for December 1 of every year draws up the budget of coming year, representing total expenses of Sakpatenti and the source for their settlement.

(5) Sakpatenti budget is approved by the Director General of Sakpatenti.

## **Chapter III** **Patentability**

12.—(1) By a patent shall be protected an invention, which is patentable and satisfies the criteria of novelty, inventive step and industrial applicability.

(2) The invention is novel, if it does not relate to the existing state of the art.

(3) The invention involves the inventive step, if for the filing date of application or if the Convention priority is claimed, for the date of this priority it is not obvious from the existing state of the art for the person skilled in the art.

(4) Industrial application of the invention implies the capability of its production, or making use of it in the sphere of industry, agriculture, health, and other spheres of activities.

(5) The existing state of the art is defined by all those data, that have become commonly known on the basis of written or verbal descriptions, public use or other sources before the filing date of application for a patent, or if the Convention priority is claimed before the date of this priority.

(6) At determination of invention novelty in the state of the art along with the other information sources must also be included: applications for inventions and utility models filed with Sakpatenti provided that they have the earlier priority. The novelty is defined only on basis of considering one information source.

(7) At determination of an inventive step in state of the art, the applications for inventions and utility models pending with Sakpatenti shall not be included.

(8) The substances and mixtures known from the existing state of the art may be recognized as patentable if they are used by appointment unknown for the state of the art.

**13.—**(1) By a patent shall be protected such a utility model, which relates to improved devices, substances, or methods and satisfies the criteria of novelty and industrial applicability.

(2) The utility model is regarded novel, if it is not known from the existing state of the art.

(3) The industrial applicability of the utility model implies the capability of its production, or making use of it in the sphere of industry, agriculture, public health, and other spheres of activity.

(4) The state of the art is defined by all those data that have become widely known by written, or verbal description, also by applying it in Georgia and which refer to devices, substances, or methods having similar application before the filing date, or if the Convention priority is claimed before this priority date.

(5) At determination of novelty of the utility model in the state of the art shall be included apart from the other information sources all the applications for utility models filed earlier with Sakpatenti provided that they have earlier priority. The novelty is defined only on basis of considering one information source.

**14.—**(1) By a patent shall be protected an industrial design which represents a new artistic-constructive exterior of the article and complies the criteria of novelty and industrial applicability.

(2) The industrial design is novel, if the unity of its essential features, which define aesthetic peculiarities of the article, is not commonly known in written or verbal description, public usage or in any other way before the application filing date with Sakpatenti, or if the Convention priority is claimed before the date of this priority.

(3) At determination of industrial design novelty all the applications for the industrial designs filed with Sakpatenti shall be taken into account, provided that they have earlier priority.

(4) The industrial design is industrially applicable, if its multiple production is possible.

**15.** Disclosure of the information by the author of the invention, utility model or industrial design (or by the other person, who for the filing date of the application has the right to receive the patent, or by the third party for whom this information became available directly or indirectly from the author), which in other case would affect the patentability of the object presented in the application, shall not have influence on:

(a) patentability of the invention, if the information was revealed during 12 months before the filing date of application or, if the Convention priority is claimed, before this priority date;

(b) patentability of the utility model or industrial design, if the information is revealed during 6 months before the filing date of the application, or if the Convention priority is claimed, before this priority date.

**16.** The following shall not be regarded as an invention, or utility model:

(a) a discovery, scientific theory, or mathematical method;

(b) a result of artistic design;

(c) algorithms and programs for computers;

(d) education, teaching method and system, grammatical system of language, also methods for performing mental acts, rules for games or doing business.

(e) economical organization and managing method;

(f) plan and scheme of structures, buildings, territories;

(g) a presentation of the information.

If the objects mentioned in sub-paragraphs “(a)-(g)” of the Article are presented as such.

**17.** A patent is not granted:

(a) for the invention, utility model, or industrial design, the commercial exploitation of which may cause inhuman, immoral and/or anti-social action;

(b) for the invention, or utility model relating to the surgical, therapeutic and diagnostic methods of treatment of people and animals. This rule does not extend on devices, substances, which are applied in the mentioned methods;

(c) for the invention relating to the varieties of plants and breeds of animals, as well as for particularly biological methods for raising varieties of plants and breeds of animals. This rule does not extend on micro-biological methods and products obtained through these methods;

(d) for the utility model relating to the varieties of plants and breeds of animals, as well as for particularly biological methods for raising varieties of plants and breeds of animals, microorganism strains, cell cultures of plants and animals, objects of biotechnology and gene engineering, substances obtained by chemical methods;

(e) for the industrial design relating to:

(e.a) exterior of buildings and other real estate, except small architectural forms;

(e.b) liquid, gaseous, loose and other objects having unstable form;

(e.c) for articles the exterior of which is conditioned only by technical or functional appointment of their essential features;

(e.d) for printed production.

## **Chapter IV**

### **Inventor and Patent Owner**

**18.**—(1) As an author of an invention, utility model or industrial design shall be considered a natural person, in result of intellectual and creative work of which was made an invention, utility model or an industrial design.

(2) Authorship is a permanently protected unalienable right.

(3) At demand of the author Sakpatenti is obliged not to publish his name.

(4) If an invention, utility model, or industrial design was created in result of joint activities of several persons, then each of them shall be regarded as co-authors;

(5) Relations among co-authors are determined by mutual agreement.

**19.**—(1) The right to obtain a patent is entitled to an author or his successor;

(2) The right to obtain a patent for an invention, utility model or industrial design made in result of creative work of several persons is entitled to all the authors jointly, as well as to each of them separately in case of refusal for securing the patent by other authors.

**20.**—(1) For an invention, utility model or a design made by an employee, which is connected with official duties or conducting a special task and implies an inventive activity, the right to obtain patent is entitled to the employer, unless otherwise provided by the contract. If the patent belongs to the employer, than the employee is entitled to receive on basis of mutual agreement additionally the reasonable remuneration relevant to the invention exploitation.

(2) If creation of an invention, utility model, or industrial design is not related to conduction of the official duties or special tasks of an employer, then the employee is entitled to secure a patent. In this case, the employer has the prior right to a license and to the purchase of patent from the filing date of application.

(3) If an invention, utility model or industrial design are created under State order, or in the process of fulfillment of the work stipulated by the contract concluded among the organizations, then the right to a patent is determined under the conditions referred to in the order or contract.

**21.**—(1) An employee is obliged to notify an employer of an invention, utility model or industrial design created by him in a written statement.

(2) If the employer, who has been notified about the invention, utility model or industrial design created at the fulfillment of official duties or a special task, within three months period from the date of notification receipt does not file the application for the patent with Sakpatenti, then the employee is entitled to secure the patent by himself.

**22.**—(1) If two or more applications for one and the same invention, utility model or industrial design are filed with Sakpatenti at different times, the patent shall be granted to the first applicant.

(2) In the case, if the applications referred to in the first paragraph of this Article are filed at one and the same day, the patent is granted to the party (parties) indicated in the agreement of applicants. If the parties failed to reach the agreement the question of granting patent is decided by the Court.

## **Chapter V**

### **Filing of Application**

**23.**—(1) An application is filed with Sakpatenti by an inventor, employer or their successor in title.

(2) If an invention, utility model, or industrial design is the result of joint creative work of two or more persons, they file the patent application together on basis of mutual agreement even in the case, when the creative share of them in the invention is different.

(3) If any author refuses to file an application, the right to file the application is entitled to the others.

(4) The application may be filed by a patent attorney.

(5) The application is filed with Sakpatenti by submitting application documents directly or in any other way.

**24.**—(1) An application for granting of a patent for an invention, or utility model shall include:

(a) a request for acquiring of patent, wherein shall be indicated the author of the invention, or utility model and the person in whose name the patent is secured.

(b) a description of the invention, utility model;

(c) claims of invention or utility model;

(d) drawings, if they are necessary to explain the invention, utility model;

(e) the abstract, which is not used to define the state of the art and is only informative;

(f) other documents, if they are necessary to explain the invention, utility model.

(2) An application for an industrial design for the purposes of granting a patent shall include:

(a) the request, in which the author of an industrial design and the person in whose name a patent is claimed shall be indicated;

(b) the reproduction of the industrial design, or item of the design;

(c) the description of an industrial design, drawings and other documents, if necessary.

**25.**—(1) Each application, within one month from the filing date, shall be attached by the document confirming the payment of the established fee of the formal requirements examination.

(2) If the application is filed by a patent attorney, then the application documents within one month from the filing date of application shall be attached by the power of attorney issued by an applicant.

(3) If the application is filed by an assignee of the author, then the application documents within one month from the filing date of application, shall be attached by a document confirming the assignment.

**26.**—(1) A request for obtaining a patent shall be presented in the State language, other application documents – in any language.

(2) The applicant in case of filing an application documents in other language, within two months from the date of their presentation to Sakpatenti, must provide the Georgian translation.

(3) The description of the invention and utility model shall be filed in respect to the established rule and in full form as to enable the skilled person in the art to realize it.

(4) If the application concerns the biological reproducible material, which cannot be described in the application completely as to enable the skilled person to realize it or, if this biological material is not commonly available, the application shall be completed by the document confirming the deposit of the biological material issued by the Depository.

(5) Claims of invention and utility model must be drawn up under the established rule, represent its essence and must be based on the description. The claims of the invention can consist of one or more claims. The claims of an utility model must consist of one claim.

(6) The representation of industrial design must give the complete and detailed notion of the exterior.

(7) The description of the industrial design must include essential characteristic features.

**27.**—(1) An application shall be considered filed with Sakpatenti from the day of furnishing the following application documents:

(a) for an invention and utility model – a request for securing of patent, description, claims and drawings, if they are necessary for explaining the essence of the invention and utility model;

(b) for an industrial design – a request for securing of patent, a reproduction of an industrial design or an item.

**28.**—(1) An application claiming a patent for an invention and utility model must concern to one invention, or utility model, but may comprise a group of inventions united together under one inventive idea.

(2) An application claiming a patent for an industrial design must relate to one industrial design, but may comprise one or several articles (options) a group (a set) of articles, if they are united by one artistic-constructive idea.

**29.**—(1) An applicant has the right:

(a) to divide the pending application into component parts and file a divisional application;

(b) to amend the description, claims and drawings of the pending application;

(c) to convert the application for an invention to an application for a utility model and vice versa.

(2) The subject of divisional application considered in the sub-paragraphs “(a)” and “(b)” and amendments must be covered by the application filed earlier. Under this condition the date of earlier application is retained.

(3) Filing of the divisional application, introduction of amendments and conversion of an application is permitted before taking a decision on granting the patent.

**30.**—(1) An applicant, who wants to enjoy the Convention priority, is obliged to file with Sakpatenti an application for an invention and utility model within 12 months from the



filing date of the earlier application with State party to the Paris Convention, and for an industrial design – within six months.

(2) An applicant, who wants to enjoy the exhibition priority is obliged to file an application for an invention, utility model or industrial design with Sakpatenti during six months from the date of exposition of the invention, utility model or industrial design at official, or recognized as official, exhibition held in the State party to the Paris Convention. The Exhibition priority or Convention priority does not extend one another's term.

(3) If the applicant for some reason fails to file the application with Sakpatenti claiming the Convention priority or exhibition priority within the indicated term, the term indicated in paragraph (1) of this Article can be extended no longer than for two months.

(4) The applicant, who wants to enjoy the Convention or exhibition priority right, must indicate about it at filing the application with Sakpatenti or within two months term from filing date, and must attach it with the document confirming the right of such claim, or present it to Sakpatenti no later than three months from claiming of Convention priority or exhibition priority.

(5) The priority shall be established:

(a) by the date of presenting the additional documents, if the applicant has drawn them as an independent application and has presented to Sakpatenti during three months from the receipt of the notification saying, that the additional documents shall not be taken into account as they change the essence of the claimed object;

(b) by the earlier application filing date with Sakpatenti by the same applicant, in which the essence of this invention, utility model, industrial design is disclosed, provided that the application, on the basis of which such priority is claimed, was filed within 12 months from the filing date of the earlier application for an invention, utility model, or industrial design within six months from the filing date of earlier application. Hereto, the earlier application is considered withdrawn;

(c) on the basis of several applications filed earlier, for each of them under the observance of the conditions of subparagraph "(b)" the paragraph (5) of this Article.

(6) The priority shall not be established by the filing date of the application, for which the earlier priority has already been claimed and which is considered as abandoned.

**31.**—(1) Before filing of the application for the invention and utility model made in Georgia with the foreign patent office, the applicant is obliged to file the application with Sakpatenti and request from Sakpatenti a permission for patenting abroad.

(2) Sakpatenti within six months is obliged to notify the applicant of its decision on patenting abroad. If the applicant within this term has not been notified of the decision the applicant can file the application for the invention or utility model for patenting abroad.

## **Chapter VI**

### **Patent Examination and Granting of Patent**

**32.**—(1) Sakpatenti conducts patent examination on basis of which takes the decision about granting a patent.

(2) At examination Sakpatenti may demand from the applicant to present additional documents or make amendments in the application, without which it is impossible to continue the examination of the pending application.

**33.**—(1) Sakpatenti confirms the filing date of the application within one month in the case of presenting the document confirming the payment of the fee for the examination as to form.

(2) If it is revealed, that the application lacks for any application material provided for by the Article 27 of this Law, Sakpatenti asks the applicant to furnish the mentioned materials within one month from receipt of the notification.

(3) If the applicant fulfills the requirement of the paragraph (2) then as the application filing date shall be considered the date of fulfillment of this requirement. If the applicant fails to fulfill the requirement, the application shall not be considered filed.

(4) If in the description of the invention or utility model the drawings referred to are not presented in the application, Sakpatenti within the term provided for by paragraph (1) of this Article requires from the applicant to submit them. If the applicant satisfies the requirements, provided for by the paragraph (2) of this Article then the filing date of the application will be the day of receiving the said drawings. If the applicant fails to fulfill the requirement, the filing date of the application will be the receiving day of the application and any reference to the drawings will be considered withdrawn.

**34.**—(1) The examination as to form takes place within two months from the confirmation filing date of the application.

(2) The record-keeping on the application is terminated if it does not meet the requirements of examination as to form.

**35.**—(1) If it is proved that an application for an invention meets the requirements of the examination as to form, then Sakpatenti conducts the search to determine the state of the art for the invention described in the application, on basis of which conducts the examination on novelty and makes a documentary conclusion.

(2) Sakpatenti in respect to the approved rule provides for the search within six months in the case of payment of the established fee.

(3) The application for the invention for which the applicant has not paid the established fee, shall be regarded as application for the utility model.

**36.**—(1) Sakpatenti sends the applicant the documentary conclusion on state of the art. The applicant within two months from the receipt of the conclusion may present a new wording of claims, which must not exceed the essential scope of the patent description, or can send a written response.

(2) If within two months from the receipt of a documentary conclusion an applicant has not presented amendments or well-grounded response and requirements for novelty are fulfilled, Sakpatenti takes a preliminary decision on granting the patent for an invention.

**37.**—(1) In the case of payment of the prescribed fee under the approved rule and on the basis of a preliminary decision on granting a patent for an invention, Sakpatenti publishes the data in the Official Bulletin of the Industrial Property of Georgia and exhibits application documents and makes them available for public.

(2) Within three months from the date of data publication in the Official Bulletin the interested person in the case of payment of the fixed fee under the set rule can furnish the motivated protest on granting of the patent, which may reject the criteria of patentability.

(3) Sakpatenti within this term sends the appeal documents furnished by the third party to the applicant, who can within two months present Sakpatenti a written response or amend the claims.

(4) If the applicant does not furnish to Sakpatenti within this term a well-grounded response, or does not enter amendments in claims, Sakpatenti within two months term considers the third party opposition and takes a respective decision on granting the patent.

**38.**—(1) If it is proved, that the application for utility model meets the examination as to form, then the examination as to the novelty is carried out within a month by considering the registered applications and patents granted by Sakpatenti.

(2) If it is proved, that an application for utility model satisfies the requirements of the examination as to the novelty, then Sakpatenti takes a decision on granting a patent for utility model.

**39.** If it is proved, that an application for an industrial design satisfies the examination as to form, then Sakpatenti takes a decision on granting a patent.

**40.** Sakpatenti on the basis of a decision on granting a patent for invention, utility model and industrial design in case of payment of the prescribed fee by the approved rule, shall publish the data in the Official Bulletin. Besides, Sakpatenti publishes the description of the invention and utility model.

**41.**—(1) After publication of the data on granting of a patent Sakpatenti registers an invention, utility model or industrial design in Register of Industrial Property (hereinafter – the Register) and issues patent in case of payment of the fixed fee by the approved rule.

(2) Sakpatenti establishes the form of the patent and the data to be recorded in the Register.

(3) Any person has the right to familiarize himself with the Register in respect to the established rule.

(4) In order to maintain the patent valid the annual fees defined by the approved rule are to be paid.

**42.**—(1) Sakpatenti refuses the granting of a patent for the whole invention and utility model, or for its part, if the application:

(a) relates to such subjects, which according to Article 16 of this Law are not regarded as an invention and utility model;

(b) relates to an invention and utility model on which according to Article 17 of this Law the patent is not granted;

(c) does not satisfy the criteria of patentability requirements as to the novelty;

(d) does not satisfy the requirement of the paragraph (3) Article 26 of this Law;

(e) includes claims which does not correspond to the description;

(f) by its description and claims does not provide for conducting the search considered by Article 35;

(g) includes claims of invention presented by one independent claim, in which more than one invention is described and has not been divided by the request of Sakpatenti or by the initiative of the applicant;

(h) relates to the application separated from the first description of the invention, the essence of which was not given in the first description.

(2) If the unfavorable decision concerns only to the part of the application, then the corresponding claim of the claims shall be withdrawn.

**43.** Sakpatenti takes an unfavorable decision on granting a patent for an industrial design, if the application concerns such a design for which according to Article 17 of this Law the patent is not granted.

**44.** Record-keeping on the application is terminated, if the fees defined by the approved rule has not been paid.

**45.** The applicant has a right to recall his application before its publication.

**46.—(1)** The applicant has the right to request the extension of procedure terms under established rule.

(2) The applicant has a right in the case of violation of procedure terms by him, to demand the restoration of these terms from Sakpatenti in respect to the established rule.

**47.—(1)** For examination as to form of the patent application, for patent examination procedural, for granting a patent and its maintenance and for other activities having the legal importance, the established fees must be paid. The amount, term of payment and its return is defined by the approved rule.

(2) It is admissible to revise the fees respecting the international norms, changes of national currency rate and inflation.

## **Chapter VII**

### **Scope for the Use of Patent Rights**

**48.—(1)** The patent owner has the exclusive right to the use of an invention, utility model, industrial design at his own discretion, to produce goods protected by patent, put the object into economic circulation, gain profit by its exploitation, or prohibit said actions.

(2) The patent owner disposes with an invention, utility model, industrial design at his own discretion. He can sell or through other way assign the patent, issue license according to the approved rule.

**49.** If the exclusive right of the patent owner extends on the patent, the object of which is a method for obtaining a new product, then until proving the contrary any similar product made by another party will be deemed as obtained by this method.

**50.** If patent owners are several persons then:

(a) assignment of the patent or granting the license is allowed only by consent of all the patent owners;

(b) the patent owner has the right to use the object protected by patent in his own enterprise without consent of other patent owners.

**51.** From the day of publishing of the application for granting of the patent up to granting of the patent the applicant is entitled conditionally to the rights, which would be granted to him by the patent. If the patent is not granted, then said rights will not be considered as exercised.

**52.** Deriving from the patent, under the infringement of the exclusive right shall not be considered:

(a) putting of the product in the economic circulation by the patent owner or with his consent;

(b) the use of an invention, utility model and industrial design under private rule for personal benefit, where such action is not taken for commercial purposes;

(c) the use of an invention, utility model and industrial design on marine, air and land transport facilities of any country, at their temporary or casual presence within the territory of Georgia. In this case, the invention, utility model and industrial design shall be applied only to mentioned vehicles and not for production purposes;

(d) the use of an invention, utility model and industrial design at natural calamity, catastrophe, epidemic and other emergency situations.

**53.** If any person before the date of filing the application for an invention, utility model and industrial design or before the filing date of the first application, which is the basis to claim the priority established by the Paris Convention, used an invention, utility model and industrial design in good faith, or carried out preparatory works for its utilization, he has the right to use it individually irrespective of patent validity (the right of prior use).

**54.—(1)** Non-payment of the annual fee by the patent owner causes the termination of the patent validity term.

(2) If the patent owner has not paid annual fee for some valid reasons, he has the right to apply to Sakpatenti for reinstatement of the patent validity.

(3) The petition is drawn within six months from the date of expiration of the preferential period and the decision of reinstatement shall be recorded in patent register.

(4) In the case of taking a favorable decision on patent validity reinstatement, the patent shall be considered reinstated, if within three months from the date the taken decision and the annual fees are paid.

**55.** Any person, who from the date of patent validity termination until its reinstatement within the territory of Georgia has utilized in good faith or conducted preparations for exploitation of an invention, utility model and industrial design, which is the subject matter of patent, has the right to continue its usage for business. Assignment of the right is possible only together with the enterprise.

**56.** The patent shall be considered invalid in the case of submitting by the patent owner at Sakpatenti a written renunciation on patent.

**57.—(1)** A patent shall be considered invalid if the following is ascertained:

(a) the subject matter of patent is not patentable;

(b) the patent does not describe an invention, utility model and industrial design completely as to make its embodiment possible;

(c) the subject of a patent relates to such objects on which under this Law patent is not granted;

(d) the subject matter of patent is beyond the scope of the application contents, in respect of which the priority was established, or the patent is granted on the basis of a divisional application and its subject matter is beyond the scope of the contents of the first application;

(e) if the patent owner had no right to acquire the patent in accordance with Articles 20 or 21 of the Law.

(2) Non-use by the patent owner of the invention protected by the importation patent within the territory of Georgia during three years from the date of patent issuance causes the cancellation of the importation patent. Whereas, the import of the product in Georgia produced on basis of the invention protected by the importation patent shall not be considered as use.

**58.** Complete or partial nullity of a patent has retroactive force from the date of filing an application for patent.

### **Chapter VIII** **License for the Use of Invention, Utility Model and Industrial Design**

**59.**—(1) The patent owner or his assignee (licenser) has the right to grant a license to another party (licensee).

(2) The license shall be simple, or exclusive.

(3) The simple license retains all the rights derived from the patent to a licenser.

(4) The granting of exclusive license deprives a licenser of the right to issue other licenses under similar conditions.

**60.**—(1) The patent owner or his assignee has the right to announce an open licensing mode and request Sakpatenti to enter the corresponding record in the register, if for the patent on which open licensing is announced has not been issued the exclusive license.

(2) The open license can be only simple.

(3) The open licensing mode confers any person the right to the use of patent by the conditions agreed upon with the patent owner. If the agreement is not achieved the conditions of the use are defined by the court.

(4) In the case of announcement of open licensing the amount of a procedural fee is reduced twice.

(5) The patent owner can apply to Sakpatenti for cancellation of an open licensing at any time. If the licensing contract has not been concluded, or it is no longer valid, or each of the license holders give their consent, then Sakpatenti satisfies the mentioned request.

**61.**—(1) The compulsory or official license can be granted for an invention, utility model. The compulsory or official license is granted under the decision of the Compulsory Licensing Committee at the Ministry of Economy of Georgia.

(2) The compulsory license may be only simple. It is granted at the request of any party concerned after four years from the date the patent was granted.

(3) The compulsory license necessary for public requirements is claimed, if within the above mentioned term an invention, utility model has not been used within the territory of Georgia, or whether they have been used insufficiently, also if their usage is impossible without infringing the earlier patent.

(4) The compulsory license can be issued only in the case, if prior to this the interested party tried to obtain the permission from the patent owner or his assignee on basis of reasonable conditions and term, but his efforts have not been successful.

(5) The official license is a kind of compulsory license and is granted only in case of demand from the State Bodies, if the necessity of a patent use for the national defense, humane health protection, or the economic interests of the country is proved. An official license is granted before expiration of the four years period stated in the paragraph (2) of this Article.

(6) The granting of the official license at the request of a patent owner can be postponed, under the condition that the patent owner shall take the responsibility to satisfy government and public requirements by his own production.

(7) The use of a patent on the basis of the official license can be conducted by the State, as well as the private person, which shall be named by the competent body demanding a license or Court.

(8) The decision on granting of the compulsory or official license sets spheres of its application, validity term, rights and duties of a licenser and licensee and the amount of remuneration.

**62.**—(1) The license shall be concluded in a written form. Upon agreement the contract shall be registered within no later than two months from the date of its conclusion.

(2) The substantial changes in the license, if there is a wish of the parties, can be registered at Sakpatenti regarding the established rule no later than a month after the amendments are made.

(3) The data of granted license and amendments are published in the Official Bulletin.

## **Chapter IX**

### **Advantages and Privileges of Inventors**

**63.**—(1) The author of an invention, at any stage of the pending application is entitled to give the invention his name or a special title.

(2) On the basis of the petition of the Society of Inventors and Rationalizers an applicant may be exempted from payment of the fees, with the exception of annual fees paid for patent maintenance.

**64.** Other advantages and privileges for authors of inventions, utility model and industrial designs are regulated by legislation of Georgia.

## **Chapter X**

### **Patent Attorney**

**65.**—(1) A person who is not a domicile of Georgia, or a foreign legal entity, or his representative conducts relations with Sakpatenti through a registered patent attorney.

(2) The competence of the patent attorney is confirmed by the power of attorney issued by the applicant.

**66.** The requirements to a patent attorney, conditions for his attestation and registration are determined by the Regulations on Patent Attorneys approved by the President of Georgia.

**67.** Data on patent attorneys are recorded in the Register by Sakpatenti. Any person has the right to familiarize himself with the Register in respect to the approved rule.

## **Chapter XI**

### **Patent Litigation and Responsibility**

**68.** An applicant, a party concerned, within three months from the date of taking the decision by Sakpatenti has the right to oppose the patent examination decision at Sakpatenti Chamber of Appeals.

**69.**—(1) The patent owner has the right to appeal against the infringement of the rights proceeding from a patent.

(2) The holder of the exclusive license has the right to appeal against the infringement of the rights derived from the patent, if a patent owner himself, during the reasonable time from receipt of the notification on infringement does not present the appeal to the Court.

**70.** Production, use, or including in economic circulation or other use of a patented invention, utility model and industrial design without the permission of a patent owner or exposure of its essence on purpose (with the exception of the author) prior to publication of the data of an invention, utility model, industrial design by Sakpatenti, disclosure of secret invention, utility model, or misappropriation of authorship shall result in responsibility under the legislation.

**71.** Filing of application for secret invention abroad, shall carry the responsibility under the legislation of Georgia.

## **Chapter XII International Application**

**72.**—(1) The rules of this Chapter shall apply to those applications, which are filed with Sakpatenti in accordance to the Patent Cooperation Treaty (PCT).

(2) Sakpatenti deals with the international application in respect to the Patent Cooperation Treaty, this Law and other legislative acts and regulations.

**73.**—(1) The international application, on which for obtaining of a national patent for an invention, or utility model is indicated Georgia, is equal to the application filed with Sakpatenti and the international application shall be regarded as a national application.

(2) The international application with the indication of Georgia and which has been published in respect with the Article 21 of PCT, has equal rights provided by the Article 51 of this Law.

**74.**—(1) For the citizens, or domiciles of Georgia Sakpatenti acts as a “receiving office” for international applications.

(2) With Sakpatenti as a “receiving office” the international application shall be filed in English or Russian language. Whereas, the postage fee for sending it to the authorized international organizations or offices shall be paid to Sakpatenti within a month from the filing date of the international application.

**75.**—(1) Sakpatenti acts as “designated office” regarding those international applications in which Georgia is indicated for securing a national patent for an invention or utility model.

(2) Sakpatenti acts as an “elected office” regarding those international applications in which Georgia is indicated for securing a national patent for an invention or utility model, if the inventor selects Georgia under the provisions of Chapter II of PCT.

## **Chapter XIII Transitional Provisions**

**76.** For the applications, which are pending for the moment of entering into force of this Law, the record-keeping, as well as granting a patent must be conducted in respect to the resolution of Cabinet of Ministers of Georgia No. 302 of March 16, 1992 “On Approving and Enacting of the Statute on Inventions” and resolution No. 303 of March 15, 1992 “On Approving and Enacting of the Statute on Industrial Designs”.



## **Chapter XIV**

### **Final Provisions**

**77.**—(1) This law shall enter into force within three months from publication respecting the transitional provisions.

(2) Along with the enactment of this Law, taking into account the transitional provisions, the resolutions of Cabinet of Ministers of Georgia No. 302 of March “On Approving and Enacting of the Statute on Inventions” and resolution No. 303 of March 15, 1992 “On Approving and Enacting of the Statute on Industrial Designs” shall be considered as invalid.

(3) The Commission of Compulsory Licensing shall be established at the Ministry for Economy.

(4) Oblige the Ministry of Defense, the Inspection for Protection of the State Secret and Sakpatenti elaborate the normative act concerning the Rule of Legal Protection and Use of Secret Invention, Utility Model.

(5) Oblige Sakpatenti:

(a) to elaborate and approve in respect to the rule the Regulations on Chamber of Appeals;

(b) to elaborate the Regulation on Patent Attorneys and submit it to the President of Georgia.

**78.** The patents granted before the enactment of this Law are equal to the patents granted in respect to this Law.

This Law has entered into force on May 25, 1999.

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