

**Industrial Design Law**

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Unofficial translation prepared by the State Intellectual Property Office of Croatia.

Part One Basic Provisions

Content of the Law

1. This Law regulates the protection of product design, defines the requirements and procedure for acquiring industrial design rights, rights and obligations of the right holders, infringements of rights, duration, cancellation and termination of rights, and judicial protection.

Subject Matter of the Protection

2.—(1) Industrial design right shall protect the three-dimensional or two-dimensional design of the whole or a part of a product to the extent that it fulfils the requirements as to novelty and individual character.



(2) For the purpose of this Law the term design shall mean the appearance (outer look) of a product, or the part thereof, characterised by its visible features, in particular: shape, contours, colour composition, texture, lines, motives, or a combination of these features.

(3) For the purpose of this Law the term product shall mean any article manufactured by industry or handicraft.

(4) A design incorporated in or applied to a product which embodies a part intended for incorporation in a complex product may be protected by an industrial design right, if the incorporated part, for the design of which protection is sought, remains visible during normal use of the complex product, and if the visible features of the incorporated part, taken individually, fulfil the requirements as to novelty and individual character.

(5) Normal use under the preceding paragraph of this Article shall mean a use with purpose by the user of the product and shall exclude the maintenance and repair of the product.

Novelty of Design

3. A product design shall be deemed new if it is not identical to any design available to the public prior to the filing date of the application or, if priority has been claimed, prior to the granted date of priority.

Individual Character of Design

4.—(1) A product design shall be considered to have individual character if the overall impression it produces on the user of the product substantially differs from the overall impression produced on such a user by any design which was previously available to the public.

(2) A product design shall not be considered to have individual character for the sole reason that it relates to other products.

(3) In assessing individual character of a product design, the degree of freedom of the designer in developing the new product design shall be taken into consideration.

Availability to the Public

5.—(1) For the assessment of novelty and individual character of a product design under the Articles 3 and 4 of this Law, the design shall be deemed to have been made available to the public:

1. if it has been published following the application or the grant of the industrial design right or otherwise, or
2. if it has been exhibited or used in trade, or



3. if it has been disclosed otherwise, in the normal course of business that has made it known to the relevant business circles in the Republic of Croatia.

(2) There shall be no effect on the assessment of the novelty and individual character within the meaning of Articles 3 and 4 of this Law when, for no more than twelve months prior to the filing date of the application, respectively if the priority was claimed prior to the granted priority date, it was made available to the public by the designer, his successor in title or a third party as a result of the data provided or the activities undertaken by the designer or his successor in title.

(3) Paragraph (2) of this Article shall also apply in the case when a design has been made available to the public by a third person who acquired the information on the product design in an unauthorised manner or to whom it has been disclosed as confidential information.

Protection Requirements—Absolute Grounds for Exclusion

6. An industrial design right shall not protect a product design which:

1. is not the subject matter of the protection under Article 2 of this Law;
2. is contrary to the public order and morality;
3. exclusively presents the technical plan or scheme;
4. exclusively presents the cartographic or photographic work;

5. contains, embodies or substantially imitates a national coat or any other public coat of arms, a flag or an emblem, the name or abbreviated name of a country or international organization, unless with the consent of the competent authority of that country or organization;

6. contains, embodies or substantially imitates the figure of a famous person, unless with the consent of this person or the competent authority or a person empowered to care of the image of a deceased famous person

Protection Requirements—Relative Grounds for Exclusion

7.—(1) An industrial design right may not protect a product design:

1. which is not new under Articles 3 and 5 of this Law;
2. which has no individual character under Articles 4 and 5 of this Law;

3. which is exclusively dictated by the type of that product or the product into which it is to be incorporated, or by technical or functional characteristics necessary for the achievement of a certain technical result or normal function of any of these products.



(2) An industrial design right may not protect a product design that infringes the earlier acquired rights of the holders specified under Article 24, paragraph (1), subparagraphs 1 to 5 of this Law.

(3) Grounds for the exclusion from the protection by industrial design right under paragraph (2) of this Article may be invoked only by the applicant of the earlier application or the holder of the earlier right.

Persons Entitled to the Acquisition of Industrial Design Right

8.—(1) The designer or his successor in title are entitled to initiate the procedure and acquire the industrial design right under this Law.

(2) If the designer is not the applicant for industrial design, the applicant shall be deemed entitled unless otherwise is proven.

(3) If several designers have jointly created an industrial design, all the designers or their successors in title shall be deemed authorized persons, or joint holders of rights by the subsidiary application of the Law on Ownership and Other Proprietary Rights (“Narodne novine”: the Official Gazette of the Republic of Croatia, No. 91/96). The joint holding of rights shall be established in proportion to the contributions of the designers unless otherwise agreed. If the contributions of the designers have not been fixed, they shall be deemed equal.

(4) A person who has only provided technical assistance in the creation of an industrial design shall not be deemed as designer.

Equal Status of Foreign Natural and Legal Persons

9. Foreign natural and legal persons shall enjoy under this Law equal rights as those enjoyed by the nationals of the Republic of Croatia or legal entities having their seat in the Republic of Croatia, if this results from the international treaties binding the Republic of Croatia or from the application of the principle of reciprocity.

Part Two
Procedure for the Grant of the Industrial Design Right

The Office Authority

10.—(1) Administrative procedures relating to the industrial design protection shall be performed by the State Intellectual Property Office (hereinafter: the Office).

(2) Administrative decisions made by the Office may not be appealed against, but an administrative lawsuit may be instituted.

Filing of the Application

11.—(1) The procedure for the grant of an industrial design right shall be initiated by a submission containing a request to the grant of industrial design right and other specific elements prescribed by this Law (hereinafter: industrial design application).

(2) If the application relates to one design (hereinafter: individual application), the design may be applied to one or to several products.

(3) If the application relates to several different designs (hereinafter: multiple application), all the designs for which protection is sought must relate to the products classified under a single subclass under the Locarno Agreement Establishing an International Classification for Industrial Designs (hereinafter: the International Classification).

The Content of an Application (minimum requirements)

12.—(1) An industrial design application shall contain:

1. a request for the grant of an industrial design;
2. indications allowing the identity of the applicant to be established;
3. photograph or a graphical representation of the design for which protection is sought;
4. indications sufficient to contact the applicant or his representative, if any, by mail;
5. an indication as to the products to which the design shall apply under the International Classification;
6. an indication as to the single or multiple application, and in the case of the multiple application, the indication of a total number of designs for which the protection is requested.

(2) Should the request to deferment of publication of the industrial design application be filed under Article 23, paragraph (1) of this Law, the design may be presented by a pattern of the product itself or its part instead of on a photography or a graphical representation.

(3) An application shall be deemed to have been filed if it complies with the requirements referred to in paragraphs 1 and 2 of this Article.

(4) Other components and supplements to the application shall be filed in the way and in the number of copies as provided by the Regulations whereby the implementation of this Law has been regulated (hereinafter: the Regulations).

Division of Industrial Design Application

13.—(1) A multiple industrial design application at the applicant's request during the grant procedure of the industrial design may be divided into two or more applications, each of which refers to one or several designs.

(2) The divided applications maintain the same priority right as the divided multiple application.

Filing Priority

14. If an industrial design application has been filed in compliance with Article 12, paragraphs (1) and (2), the applicant shall acquire the priority right on the basis of the application filing date over any other applicant filing the industrial design application at a later date for the identical design within the meaning of Article 3 of this Law, or a design differing only in minor details within the meaning of Article 4 of this Law.

Union Priority Right

15.—(1) If the applicant of industrial design has filed the application for the first time in the member state of the international union founded by the Paris Convention for the Protection of Industrial Property (hereinafter: the Paris Union), he may, when filing the application for the same industrial design in the Republic of Croatia, invoke the date of the first filing, provided that the application was filed in the Republic of Croatia within six months starting from that date.

(2) The applicant invoking the union priority right shall in the application filed to the Office, indicate the substantiality of the application he is invoking (State, date and number of the application) and shall at the latest, within three months from the filing date of the application to the Office, attach thereto a true copy of the first application certified by the competent authority of the Paris Union State member, as well as a Croatian translation thereof.

Exhibition Priority Right

16.—(1) If the applicant has exhibited the products containing or embodying the industrial design at an official or officially recognized international exhibition in the Republic of Croatia or in any of the member states to the Paris Union, he may request that the date of the first exhibition day of the products be accorded as the date of the first application, provided that the application is filed in the Republic of Croatia within six months from that date.

(2) The applicant invoking the exhibition priority right shall furnish with the application filing to the Office a certificate issued by a competent authority of the Paris Union member state indicating the type of the exhibition, the venue thereof, its opening and closing dates and the first day of the exhibition of the products specified in the application and a certificate on identity of the product design as exhibited and as applied for.

Examination of the Correctness of Industrial Design Application

17.—(1) The examination process of the correctness of industrial design application includes the examination of all the formal and legal requirements provided by this Law.



(2) An industrial design application shall be correct:

1. if a single or a multiple application has been filed under Article 11, paragraph (2) and paragraph (3) of this Law;

2. if the prescribed application fee and the proceeding fee have been paid respectively the prescribed fee for the request of application publication deferment under Article 23, paragraph (1), and the evidence of payment thereof attached thereto;

3. if it is drafted in the manner as to contain all the necessary components and supplements under Article 12, paragraph (1), paragraph (2) and paragraph (4) of this Law;

4. if an orderly power of attorney is supplemented in case the application has been filed through a representative.

Correction of an Industrial Design Application

18.—(1) If the application complies with the requirements under Article 12, paragraphs (1) and (2) of this Law, but has not been filed in a way as to contain all the necessary components and supplements in compliance with this Law and the Regulations, the Office shall invite the applicant to remedy it within 60 days from the date of the receipt of the invitation.

(2) If the applicant remedies the application within the prescribed term, it shall be deemed to be correct from the outset.

(3) If the application does not comply with the requirements under Article 12, paragraph (1) and paragraph (2) of this Law, it shall not be deemed an industrial design application and the Office shall invite the applicant to supplement the filed request within the term referred to in paragraph (1) of this Article.

(4) The date of receipt of the corrected application of industrial design under Article 12, paragraph 1 and paragraph 2 of this Law, shall be deemed as the day for establishing priority under Article 14 of this Law.

Extension of the Time Limit

19. At the reasoned applicant's request, the term under Article 18, paragraph (1) of this Law may be extended for not more than 60 days out of justified reasons.

Rejection of the Application

20. If the applicant of the industrial design shall not within the prescribed term comply with the invitation and shall not remedy the application under Article 18, paragraph (1) and paragraph (3) of this Law, the application shall be rejected by a decision.



Refusal or Partial Acceptance of an Industrial Design Application

21.—(1) If the design for which the industrial design application is filed has been excluded or partially excluded from protection for the reasons specified in Article 6 of this Law, the Office shall issue a decision on refusal or a decision on partial acceptance of the application.

(2) The decision on the refusal or the decision on the partial acceptance of the industrial design application may not be issued if the applicant has not been previously notified in writing and invited to declare on the reasons for the exclusion of the proposed design from protection, entirely or partially.

(3) The industrial design applicant shall have the right to make a declaration on the reasons for the exclusion of the design from protection within 60 days from the day of the receipt of a written notification and to submit evidence on the possible new facts that might influence the final decision of the Office.

(4) At the applicant's reasoned request, the term referred to in paragraph (3) of this Article may, out of justified reasons, be extended for not more than 60 days.

Publication of the Application

22.—(1) If an industrial design application complies with all the requirements related to the correctness of the application under Article 17, paragraph (2), if the product design is not excluded from the protection under Article 6 of this Law and if the prescribed publication fee has been paid, the application data shall be published in the Office Official Gazette.

(2) The publication of the industrial design application shall be deferred if the applicant filed with the application a publication deferment request under Article 23 of this Law. In this case only the information shall be published that the application has been filed.

(3) The content of the data from the application and the data on the application for which the publication deferment has been requested and which are to be published in the Office Official Gazette, shall be prescribed by the Regulations.

Deferment of the Application Publication

23.—(1) The applicant of the industrial design application for two-dimensional industrial design may together with its application file a request for deferment of the publication of the application for a term of 12 months counting from the date of filing the application and the request to the Office.

(2) In the case under paragraph (1) of this Article the Office shall upon the expiration of the term for deferment of the application publication, invite the applicant to furnish the photographs or the graphic representations of the two-dimensional designs from the application within a term of 30 days from the date of the invitation receipt.

(3) Should the applicant of the industrial design not comply with the invitation referred in the preceding paragraph of this Article, the protection shall cease on the expiration date of the deferment term of the application publication.

Opposition

24.—(1) An opposition relating to the published industrial design application may, within three months counting from the date of publication, be filed to the Office:

1. by the holder of an earlier industrial design, or by the applicant of an earlier industrial design application;

2. by a person who at the time of filing the industrial design application had a trade name provided that this trade name or the essential part thereof is identical to the published design or is substantially imitated by the published design;

3. by a natural person whose name and family name, or the image is identical to the published design or is essentially imitated by the published design;

4. by the holder of an earlier industrial property right, if the subject of such a right is identical to the published design or is essentially imitated by the published design;

5. by any person having a copyright in the work which is identical to the published design or is substantially imitated by the published design;

6. by any interested person who considers that the published design has not met the requirements as to novelty or individual character or is exclusively dictated by the kind or respectively by the functional features of the product under Article 7, paragraph (1) of this Law.

(2) The filing term for an opposition prescribed under paragraph (1) of this Article may not be extended.

(3) The opposition shall be filed in the manner as defined by the Regulations.

Opposition Procedure

25.—(1) The Office shall examine whether an opposition has been filed by a person entitled to file the opposition under Article 24, paragraph (1) of this Law, whether the opposition has been filed within the prescribed term and whether it is justified and supported by the appropriate documentation.

(2) Should the requirements referred to in paragraph (1) of this Article not be met, the Office shall make a decision on the rejection of the opposition.

(3) If the requirements referred to in paragraph (1) of this Article have been met, the Office shall notify the applicant of the industrial design about the reasons specified in the opposition and invite him to declare thereupon within 30 days.



(4) Should the applicant not declare himself in respect of the reasons specified in the opposition within the term referred to in paragraph (3) of this Article, the applicant shall be deemed not to oppose the reasons specified in the opposition and the application shall be rejected within the reasons specified in the opposition.

Examination of the Opposition

26.—(1) Should the applicant of the industrial design make a declaration on the reasons specified in the opposition and submit his comments opposing the opposition, the Office shall examine the justification of the opposition within the specified reasons, taking into consideration the facts and filed evidence.

(2) Should the Office establish that the opposition is unjustified, it shall be refused and the written decision to that effect shall be sent to the applicant of the application and to the applicant of the opposition.

(3) Should, in the opposition examination procedure, the Office establish that the opposition is justified, it shall refuse or partially accept the industrial design application and shall to that effect send a written decision to the applicant of the application and to the applicant of the opposition.

Grant of an Industrial Design Right and Entry in the Register

27.—(1) Should the reasons specified in Article 6 and Article 7, paragraphs (1) and (2), not constitute a ban to the grant of an industrial design right, the industrial design shall be entered into the register of industrial designs on the basis of the decision on the grant of the industrial design right, provided that the fee and the maintenance fee for the first five-year maintenance period of industrial design was previously paid.

(2) Should the maintenance fee for the first five-year term not be paid, the application of industrial design shall be rejected by a decision.

Publication of an Industrial Design

28.—(1) The data on the industrial design shall be published in the Office Official Gazette not later than within three months from the date of entry of the industrial design in the register.

(2) Data to be published in the Office Official Gazette shall be prescribed by the Regulations.

(3) The publication of an industrial design shall be subject to the payment of the prescribed fee relating to the publication of the industrial design in the Office Official Gazette.



Industrial Design Certificate

29.—(1) Upon the entry in the register of an industrial design and the payment of the prescribed fee for the issuance of the industrial design certificate, the Office shall issue to the right holder the Industrial Design Certificate not later than within six months from the date of publication of the industrial design in the Office Official Gazette.

(2) The data contained in the Industrial Design Certificate shall be provided by the Regulations.

Part Three Effects of an Industrial Design Right

Moral Rights of the Designer

30.—(1) The designer shall always have the right to be specified as the designer of the industrial design in all the documents and public presentations, irrespective of the fact whether he is the applicant or the right holder.

(2) The transfer or waiver of the right referred to in the preceding paragraph shall be deemed null and void.

(3) Should several designers have jointly create an industrial design, all the designers shall have an equal right to the title of the designer of the industrial design, irrespective of their contribution to the creation of the industrial design therefore all of them shall be listed.

Exclusive Rights

31.—(1) The holder of the industrial design shall acquire the exclusive rights to use the protected industrial design and to prevent any unauthorised use of the industrial design by third persons.

(2) Without the consent of the right holder of the industrial design the third person may not manufacture, offer, put on the market, import, export or use any product containing, constituting or substantially imitating the protected industrial design, nor store such a product for the specified purposes.

(3) The applicant of the industrial design the publication of which was deferred under Article 22, paragraph (2) of this Law, shall acquire the exclusive rights under this Article by publication of the application from the filing date of the application or from the date of granted priority right. Within the deferred term of the application publication the right to prevent an unauthorised use refers only to an infringement action in the case the third person obviously had knowledge of the product design from the application.

(4) The holder of an industrial design is entitled to demand from each person who shall place or intends to place on the market a product containing, constituting or imitating the

industrial design, information about the origin of the product and trade circulation of the product or the documentation relating to that product.

Limitation of Industrial Design Rights

32.—(1) The exclusive industrial design rights shall not affect the use of the products containing or constituting the protected product design:

1. for private and non-commercial purposes;
2. for experimental purposes;
3. for the purpose of informing the public or for the purpose of education, if this is in compliance with good business practices and shall not harm the interests of the right holder, and if it refers to the right holder and designer.

(2) The exclusive industrial design rights shall not relate to products containing the protected design or to which the protected product design has been applied if they constitute the equipment, accessories or spare parts of ships or aircrafts temporarily entering the territory (territorial waters) of the Republic of Croatia, including also the importation of the products for the purpose of repair, as well as the repair of such ships or aircrafts.

Right of a Third Person on the Basis of Prior Use

33.—(1) The right holder may not invoke the exclusive rights in relation to a third person who has used the same industrial design or who has performed the relevant preparations for the use of the same industrial design prior to the filing date of the application to the Office or to the date of granted priority right, if claimed, provided that the third person created the industrial design knowing nothing of the existence of the industrial design which was not available to the public at that time.

(2) The third person referred to in the preceding paragraph may not use the industrial design under paragraph (1) of this Article in a manner exceeding the boundaries of usual entrepreneurial activities.

(3) The third person may not transfer the right referred to in this Article not transferring at the same time the ownership of the form of entrepreneurship he has used exercising his right to use the industrial design.

(4) The data under this Article shall be entered in the register in the manner provided by the Regulations.

Acquiescence in the Use of an Industrial Design

34.—(1) The holder of the prior industrial design right shall have no right to request the invalidation of a later industrial design on the principles of his earlier priority right, nor prohibit the use of the later identical or substantially similar industrial design, had he within a

five year period consciously acquiesced this usage, unless the later industrial design was protected in bad faith.

(2) The holder of the industrial design with the later priority right shall have no right to prohibit the use to the holder of the earlier industrial design right.

(3) Acquiescence in the use of an industrial design under paragraph (1) of this Article may not constitute the reason for its cancellation from the register.

Part Four **Changes to an Industrial Design**

Entry of Changes

35.—(1) At the request of the applicant or the industrial design holder, the Office shall enter in the register all the changes relating to the personal name or the residence, if a natural person is concerned, to the company name or the residence of the applicant, as well as other changes which occurred after the filing of the industrial design application or after the grant of the industrial design, provided that these changes reflect the actual situation and shall have no affect on the industrial design itself.

(2) The changes entered in the register of industrial designs shall be published in the Office Official Gazette.

(3) The data to be contained in the request for the entry of any change incurred on the industrial design shall be prescribed by the Regulations.

License

36.—(1) The holder of an industrial design may transfer to third persons the right to use the industrial design, for the whole or a part of the territory of the Republic of Croatia.

(2) The right to use an industrial design shall be acquired on the basis of a licence contract, and such right shall have effect against third persons after the entry of the licence in the register. The entry of the licence shall be made at the request of the industrial design holder.

(3) The licence contract shall be drawn up in writing and signed by the contracting parties.

(4) The holder of the industrial design may exercise the industrial design rights against the licensee infringing any provision of the licence contract, particularly with regard to the duration, the registered scope of the industrial design use, the kind of products covered by the licence, the territory on which the industrial design may be used and in respect to the quality of the products manufactured.

(5) The licensee may institute a court proceeding in respect to the infringement of rights arising from the industrial design only if the holder of the industrial design shall approve it.

(6) The licensee shall be entitled to grant a sub-license only if expressly stipulated.

Rights in Rem and Levy of Execution

37.—(1) An industrial design may be the subject matter of the rights in rem and levy of execution.

(2) The rights referred to in paragraph (1) of this Article shall be effective against third persons only after the entry thereof in the register.

Assignment of Rights

38.—(1) The applicant or holder of the industrial design may assign, in whole or in part, his right from the application or the industrial design to another person.

(2) In supplement to the request to assignment of rights shall be filed a true copy of the contract or a part of the contract featuring the assignment of rights, or a certificate on the assignment of rights signed by the prior or the actual right holder.

(3) The contract on the assignment of rights shall particularly contain the indication of the contracting parties, the industrial design registration number or the number of the industrial design application.

(4) The entry of the assignment of rights shall be made at the request of the prior or the latest holder of the industrial design right and shall be published in the Office Official Gazette.

Part Five
Acquisition, Duration, Maintenance
and Termination of an Industrial Design Validity

Acquisition of an Industrial Design Right

39.—(1) An industrial design right shall be acquired by a decision on the grant of the right and by the entry of the industrial design in the register.

(2) The date of entry of the industrial design in the register shall be equal to the date of decision on the grant of the industrial design right.

Duration and Maintenance of an Industrial Design Right

40.—(1) An industrial design right shall be valid 10 years counting from the filing date of industrial design application.



(2) The industrial design validity may be renewed by periods of five years each up to the total term of 20 years of uninterrupted protection, provided that the industrial design holder, during the last year of protection or at the latest within six months upon the expiration of such a term files to the Office a request for the extension of the industrial design validity and pays of the appropriate fee and maintenance costs.

(3) The new period of protection shall begin with the day of expiration of the preceding term of protection.

(4) The data to be contained in the request for extension of the industrial design validity shall be prescribed by the Regulations.

Termination of an Industrial Design Validity

41.—(1) An industrial design shall cease to be valid:

1. if the term of the industrial design validity under preceding Article of this Law has expired;

2. upon the written declaration by a right holder on the waiver of the industrial design, on the day following the day of filing the waiver to the Office; this waiver shall have no legal effect if a specific right has been entered into the register in favour of third persons and the industrial design holder had not before obtained a written consent from those persons;

3. after termination of the legal entity who is the industrial design holder or upon the death of the natural person who is the industrial design holder or on the day of termination or on the day of death, unless the right has been transferred to the legal successors or the legal entity or to the heirs of the natural person.

(2) The termination of an industrial design validity shall be entered in the register of industrial designs.

Declaration of the Decision on the Grant of an Industrial Design Right Null and Void

42.—(1) The decision on the grant of an industrial design right shall be declared null and void by the Office if established that the conditions for the grant of that right, provided by this Law, did not exist.

(2) The decision on the grant of an industrial design right may be declared null and void during the whole term of protection, as well as after the termination of the validity of the industrial design right under preceding Article of this Law, ex officio, at the request of an interested person or at the proposal of the state attorney.

(3) In supplement to the proposal to declare the decision on the grant of an industrial design right null and void the necessary evidence shall be filed.

(4) The data to be contained in the proposal for the cancellation of the industrial design on the grounds of nullity shall be prescribed by the Regulations.



Part Six Common Provisions on the Procedure before the Office

Other Provisions Applied in the Procedure before the Office

43. The Law on the General Administrative Procedure shall apply to the specific matters of procedure which have not been regulated by this Law.

Payment of Procedure Fees and Costs

44.—(1) The acquisition and maintenance of an industrial design right shall be subject to the payment of procedure fees and costs in compliance with special provisions.

(2) Should the fees and costs in the procedure for the grant of the industrial design not be paid, the application shall be rejected and in the case of non-payment of the fees and maintenance costs the right shall cease to be valid.

Registers

45.—(1) The Office shall keep the register of applications, the register of industrial designs and the register of representatives.

(2) The registers referred to in paragraph (1) of this Article shall be open to the public.

(3) The Office shall enable any interested persons the inspection of data related to the published applications and the granted industrial design rights.

(4) The office shall issue at the request of any interested person an excerpt from the industrial design register.

(5) The data to be entered in the register under paragraph (1) of this Article shall be prescribed by the Regulations.

Office Official Gazette

46.—(1) The Office shall issue the Official Gazette in which shall be published the industrial design applications, rights granted, extensions of industrial design validity, transfers of rights, cancellations of industrial designs from the register and other data related to the industrial designs prescribed by this Law.

(2) The content of the data to be published in the Office Official Gazette shall be prescribed by the Regulations.



Search

47. At the request of any interested person, the Office shall carry out the services of searches related to the identity and similarity of industrial designs filed and registered with effect in the Republic of Croatia.

Representation

48. General principles of representation and special requirements, on the basis of which the natural persons or legal entities not having residence or real and effective business seat on the territory of the Republic of Croatia may exercise the rights under this Law in the procedure at the law-courts and administrative authorities through their representatives, shall be regulated by special regulations.

International Registration

49. In the procedure for the grant of the industrial design rights under the provisions of the International treaties the Republic of Croatia is a member thereunder, the provisions of this Law shall apply to all the issues not regulated by these treaties.

Part Seven Civil Protection

Legal Action Related to the Infringement of Rights

50.—(1) An industrial design holder may, if his rights under Article 31 of this Law have been infringed or threatened, institute a legal action in a law-court and request:

1. the establishment of the infringement of the industrial design rights;
2. the prohibition of committed or intended infringement of the industrial design right;
3. remedy of the state caused by the infringement of the industrial design right including the destruction of articles by which the industrial design right has been infringed;
4. payment for the damages;
5. publication of the law-court decision at the defendant's expense.

(2) The procedure following the action under paragraph (1) of this Article shall be urgent.

Limitation of an Action

51. A legal action related to the infringement of an industrial design right may be instituted within three years upon the knowledge acquired on the infringement and the infringing person, and not later than within five years from the infringement act.

Provisional Measures

52.—(1) Should the holder of registered industrial design make probable that his right has been infringed or should a danger exist of his right to be infringed of which threatens an irreparable harm, he may request in a law-court:

1. A declaration of injunction on the prohibition of the infringing acts on the right of the industrial design holder;

2. Provisional seizure of articles which unlawfully contain, embody or substantially imitate the industrial design or their exclusion from circulation;

3. The measures aimed at providing the evidence on the articles referred to in the previous subparagraph of this paragraph and the measures securing the existing state.

(2) The holder of registered industrial design may request a declaration of injunction even before instituting a legal action, provided that the action be instituted within 20 working days or 31 calendar days, depending which term is longer.

(3) Should the holder of the industrial design not institute a legal action within the term under paragraph (2) of this Article, a law-court may at the defendant's request suspend the procedure and cancel the requested measures.

Compensation for Damages

53.—(1) A law-court may order the holder of the registered industrial design to pay damages if the measures requested under Article 52, paragraph (1) of this Law have been proven unjustified.

(2) A law-court may order the holder of the registered industrial design to deposit an appropriate amount of money as a security for the persons against whom the provisional measure has been ordered.

Judicial Grant and Transfer of Rights

54.—(1) If the application was filed by an unauthorized person or if the industrial design right has been granted and entered in the register to the name of an unauthorized person contrary to the provisions of Article 8 of this Law, the authorized person may bring to a law-court a request for the grant of authorities based on the law and/or for the whole or a part of the pertaining rights transfer, irrespectively of other rights and requests arising from the industrial design.

(2) The authorized person under preceding paragraph may initiate a court proceeding within three years from the day of the publication of the application, or, in the case when the court has established that the unauthorized person did not act in good faith, during the entire term of protection of the industrial design.



(3) Should a law-court make a final decision on the grant and transfer of the rights under this Article, the right of licence and other rights entered in favour of third persons shall cease on the day of entry of the changes in the register. If, before the grant of the rights referred to in this Article, the unauthorized right holder or licensee used the right or performed convincing preparations for the use of the right in good faith, they may obtain the right of non-exclusive licence within the term and under the conditions usually required for the use of the right, if requested within three months from the day of the receipt of a notification sent to them by the Office after the entry of the new right holder.

(4) The Office shall enter in the register the facts established in the submitted final court decision and other changes under this Article.

Part Eight Provisions on Infringement

Offenses

55.—(1) Any legal entity who shall manufacture, offer, place on the market, import, export or use a product containing or embodying another person's industrial design, or shall store such a product for the stated purposes, shall be punished against offense by a fine of 5,000.00 to 50,000.00 HRK.

(2) Any natural person and the responsible person in a legal entity who shall refuse to provide data on the origin and the manner of a product acquisition, who has been caught in the possession of such products unlawfully manufactured or put into circulation, or who shall transfer the rights to a third person or use the licence contrary to the provisions of the licence contract, or who shall unlawfully usurp the designer title of the industrial design, shall be punished by a fine of 1,000.00 to 5,000.00 HRK.

(3) For the offense referred to in paragraph (1) of this Article, the responsible person at the legal entity shall be punished by a fine of 6,000.00 to 60,000.00 HRK.

(4) For the offense referred to in paragraph (1) of this Article a natural person shall be punished with a fine of 1,000.00 to 5,000.00 HRK.

(5) A natural person shall be punished by a fine of 20,000.00 HRK for the offenses referred to in paragraph 1 of this Article committed in the purpose of a financial gain.

(6) The products intended for or used in the offenses committed under paragraph (1) of this Article shall be seized and destroyed.



Part Nine Transitional and Final Provisions

Pending Procedures

56.—(1) The procedures for the grant of industrial design, pending on the initial implementation day of this Law, shall continue under the provisions of this Law.

(2) The holder of a model or pattern right, the validity of which has not ceased by the day of entry into force of this Law, may, after a 10-year validity request the extension of the protection twice by a five-year period each under the same conditions and with the same rights as the holders of industrial design rights under this Law.

(3) In the case referred to in paragraph (2) of this Article, the Office shall rename a model or a pattern the validity of which is being extended, enter it in the register of industrial designs and publish the extension of the right in the Office Official Gazette.

(4) The procedures on the infringement of a model or a pattern or on the infringement of the rights deriving from the application of model or pattern, and the procedures declaring decisions on the grant of the right to a model and a pattern null and void, pending on the initial implementation day of this Law, shall be finished under the provision in force until the initial implementation day of this Law.

Termination of Validity of Other Regulations

57. On the day the application of this Law shall start, the provisions of the Industrial Property Law (“Narodne novine”—The Official Gazette of the Republic of Croatia, No. 53/91, 19/92, 61/92 and 26/93) in the section relating to models and patterns, shall cease to be valid, except for the provisions on the representation (Article 172a) which shall apply until the enactment of a special provision.

Implementing Provision Enacted by the Director to the Office

58. The Director to the Office shall define, by the Regulations, the matters of this Law under the Articles 12, paragraph (4), Article 18, paragraph (1), Article 22, paragraph (2), Article 24, paragraph (3), Article 28, paragraph (2), Article 29, paragraph (2), Article 33, paragraph (4), Article 35, paragraph (3), Article 40, paragraph (4), Article 42, paragraph (4), Article 45, paragraph (5) and Article 46, paragraph (2).



Entry into Force of this Law

59. This Law shall enter into force on the eighth day following the date of its publication in “Narodne novine”—The Official Gazette of the Republic of Croatia, and shall be applied starting from January 1, 2000.