

ACT ON REPRESENTATION IN THE AREA OF INDUSTRIAL PROPERTY RIGHTS

and

ACT ON AMENDMENTS TO THE ACT ON
REPRESENTATION IN THE AREA OF INDUSTRIAL PROPERTY RIGHTS*/**

NN 54/2005, in force from August 1, 2005

*NN 49/2011, in force from May 7, 2011

** NN 54/2013, in force from May 15, 2013

May, 2013

ACT

ON REPRESENTATION IN THE AREA OF INDUSTRIAL PROPERTY RIGHTS

I. FUNDAMENTAL PROVISIONS

Scope of Application

Article 1

This Act lays down conditions for performing activities related to representation in the area of industrial property rights before the State Intellectual Property Office of the Republic of Croatia (henceforth the "Office"), the procedure pertaining to the entry in the Register of Authorised Representatives (henceforth the "Register"), conditions for entry in the Register, deletion from the Register, and establishment of the Chamber of Representatives in the Area of Industrial Property Rights (henceforth the "Chamber").

General Representation Principle

Article 2

Natural and legal persons not having permanent residence or registered office in the territory of the Republic of Croatia have to appoint a representative in the area of intellectual property rights who is to represent them throughout the procedure before the Office, unless provided otherwise in international treaties by which the Republic of Croatia is bound.

Performing the Activities of Representation Before the Office

Article 3

The following persons may perform representation activities before the Office:

1. natural and legal persons entered in the Register of Representatives maintained by the Office (henceforth the "authorised representatives"), under the conditions and in the manner prescribed by this Act,
2. attorneys entered in the Register of Attorneys maintained by the Croatian Bar Association or law firms entered in the Register of Law Firms also maintained by the Croatian Bar Association.

Authorised Representatives in the Area of Industrial Property Rights

Article 4

Authorised representatives in the area of industrial property rights shall be:

1. patent representatives,
2. representatives for trademarks, industrial designs, geographical indications and designations of origin of products and services, and topographies

of semiconductor products (henceforth the "trademark representatives").

Conditions for Entry in the Register of Authorised Representatives Maintained by the Office

Article 5

(1) The following persons may be patent representatives:

1. any natural person who is a Croatian citizen having permanent residence in the territory of the Republic of Croatia, holding a university degree in technical or natural sciences and having passed the professional examination for patent representative before the Office,
2. any natural person who is a Croatian citizen having permanent residence in the territory of the Republic of Croatia, holding a university degree in an area other than technical or natural sciences, at least five years of working experience in jobs relating to the acquisition and maintenance of industrial property rights, obtained after completing the studies, and having passed the professional examination for patent representative before the Office,
3. an attorney entered in the Register of Attorneys maintained by the Croatian Bar Association who passed the professional examination for patent representative before the Office or a law firm employing such an attorney or cooperating with him pursuant to some other contractual relationship,
4. any legal person with registered office in the Republic of Croatia employing at least one person meeting the conditions referred to in points 1 or 2 of this paragraph or cooperating with such person pursuant to some other contractual relationship and performing the activities of representation before the Office as its registered activity.

(2) The following persons may be trademark representatives:

1. any natural person who is a Croatian citizen having permanent residence in the territory of the Republic of Croatia, holding a university degree, and having passed the professional examination for trademark representative before the Office,
2. an attorney entered in the Register of Attorneys maintained by the Croatian Bar Association who passed the professional examination for trademark representative before the Office or a law firm employing such an attorney or cooperating with him pursuant to some other contractual relationship,
3. any legal person with registered office in the Republic of Croatia employing at least one

person meeting the conditions from points 1 of this paragraph or cooperating with such person pursuant to some other contractual relationship and performing the activities of representation before the Office as its registered activity.

Professional Examinations

Article 6

- (1) The professional examinations referred to in Article 5, paragraph 1, points 1, 2 and 3 of this Act and paragraph 2, points 1 and 2 of this Act shall be organised before the exam commission in the Office. The composition of the exam commission, the procedure of sitting for the examination and separate examination programmes for patent representatives and trademark representatives shall be laid down in the Ordinance to be adopted by the Minister competent for the work of the Office.
- (2) The exam commission referred to in paragraph 1 of this Article shall be appointed by the Director General of the Office.

Power of Attorney

Article 7

- (1) Representatives shall represent the party in the procedure pursuant to the content and scope of a written power of attorney.
- (2) The power of attorney may refer to one or more applications or registrations or, if so indicated in the power of attorney, to all present and future applications or registrations.
- (3) The power of attorney referred to in paragraph 2 of this Article relating to all applications or registrations of the same grantor shall be a general power of attorney.
- (4) In the power of attorney, the party may limit the powers of the representative to specific actions, which the representative is authorised to take in the procedure pending before the Office.
- (5) The power of attorney based on which the representative may withdraw an application or recall a registration has to include an express approval by the party.
- (6) If a person claims in a submission filed with the Office that he is an empowered representative of the party, and the Office does not have the required power of attorney at the time of receiving the submission, the Office shall ask such person to provide a proper power of attorney within a period of 2 months. If the person fails to submit the required power of attorney to the Office within the said deadline, the Office shall dismiss the submission in question by issuing an official conclusion.
- (7) The Office shall maintain the Register of General Powers of Attorney.
- (8) If several general powers of attorney issued by the same grantor are entered in the Register referred to in paragraph 7 of this Article, the most recent general power of attorney shall prevail.

II. ACQUISITION AND LOSS OF THE RIGHT TO PERFORM THE ACTIVITY OF AUTHORISED REPRESENTATIVE

Acquiring the Right to Perform the Activity of Authorised Representative

Article 8

The right to perform the activity of authorised representative in the territory of the Republic of Croatia shall be acquired by entry in the Register.

Procedure for Entry in the Register

Article 9

- (1) The procedure for entry in the Register shall be initiated by submitting an application for entry in the Register.
- (2) The application referred to in paragraph 1 of this Article shall be accompanied by a proof that the conditions referred to in Article 5, paragraph 1 or 2 of this Act are met, as well as a proof that the administrative fee and procedural charges for entry in the Register have been paid.
- (3) The Office decides about the application for entry in the Register by issuing a decision. An appeal against the decision issued by the Office is not permissible, but an administrative dispute may be initiated within 30 days from the date of receipt of the decision.

Adopting a Decision on the Application for Entry in the Register

Article 10

- (1) The Office shall adopt the decision on entry in the Register if the conditions referred to in Article 5, paragraph 1 or 2 of this Act are met.
- (2) If the application for entry in the Register does not contain proof of the fulfilment of the conditions referred to in Article 5, paragraph 1 or 2 of this Act, the Office shall ask the applicant to provide the relevant proof within 30 days from the date of receipt of the request.
- (3) If the applicant referred to in paragraph 2 of this Article does not comply with the request of the Office, the Office shall issue a conclusion dismissing the application for entry in the Register.
- (4) The Office shall make the entry in the Register without any delay, if it establishes that the application for entry is well-founded.

Fees and Charges for Entry in the Register

Article 11

- (1) The administrative fee and procedural charges shall be paid for:
 1. entry in the Register,
 2. re- entry in the Register.
- (2) If the administrative fee and procedural charges referred to in paragraph 1, points 1 and 2 of this Article are not

paid, the Office shall issue a conclusion dismissing the application.

(3) The amounts of administrative fees and procedural charges shall be laid down in special regulations.

Data to be Entered in the Register

Article 12

The following data shall be entered in the Register:

1. registration number of the authorised representative,
2. with respect to natural persons: name and surname, permanent residence, occupation,
3. with respect to legal persons: company name, registered office, data about natural persons meeting the conditions for representation before the Office,
4. date of entry in the Register,
5. date of entry of any changes in the Register,
6. date of deletion from the Register,
7. date of re- entry in the Register.

Deletion from the Register

Article 13

(1) An authorised representative shall be deleted from the Register in the following cases:

1. on his own request,
2. in the case of death or business incapacity,
3. in the case of losing Croatian citizenship,
4. if he no longer has permanent residence or registered office in the territory of the Republic of Croatia,
5. if sentenced to an unconditional prison sentence longer than six months,
6. if the legal person no longer employs any of the natural persons referred to in Article 5, paragraph 1, point 1 or point 2, or paragraph 2, point 1 of this Act, respectively, or cooperates with such person based on some other contractual relationship, and the law firm no longer employs the attorney referred to in Article 5, paragraph 1, point 3, or paragraph 2, point 2 of this Act respectively, or cooperates with him based on some other contractual relationship,
7. if the legal person no longer performs the activities of representation before the Office as its registered activity.

(2) The Chamber of Representatives in the Area of Industrial Property Rights referred to in Article 17 of this Act shall deliver to the Office a notification about the facts referred to in paragraph 1, points 2 to 7 of this Article.

(3) If the conditions referred to in paragraph 1 of this Article are satisfied, the Office shall issue a decision on deletion from the Register. An appeal against the decision of the Office is not permissible, but an administrative dispute may be initiated within 30 days after the date of receipt of the decision.

Re- Entry in the Register

Article 14

(1) An authorised representative who is deleted from the Register may be re-entered in the Register if he files such a request to the Office in writing and submits proof that reasons that led to deletion from the Register no longer exist, and if he forwards to the Office proof that the administrative fee and procedural charges have been paid.

(2) If the conditions referred to in paragraph 1 of this Article are met, the Office shall issue a decision on re- entry in the Register.

Entry of Changes

Article 15

(1) All changes of the data referred to in Article 12 of this Act shall be entered into the Register based on a submitted application for entering the change.

(2) The application referred to in paragraph 1 of this Article shall be accompanied by a proof of the change as occurred.

(3) The Office shall decide on the application referred to in paragraph 1 of this Article by issuing a conclusion.

(4) The authorised representative shall submit the application referred to in paragraph 1 of this Article without any delay, and at the latest within 30 days from the occurrence of the change.

Publication of Data Contained in the Register

Article 16

(1) The data referred to in Article 12 of this Act shall be published in the official gazette of the Office.

(2) The entries of all the changes in the Register shall also be published in the official gazette of the Office.

III. CHAMBER OF REPRESENTATIVES IN THE AREA OF INDUSTRIAL PROPERTY RIGHTS

Association into the Chamber

Article 17

(1) Authorised representatives are obliged to associate into the Chamber as an independent and autonomous organisation having the capacity of a legal person.

(2) The ministry competent for supervising the work of the Office also controls the work of the Chamber and for this purpose may request the Chamber to provide relevant reports and data, taking into account the independence and autonomy of the Chamber.

(3) The Chamber cooperates with the Office in all issues related to representation in the area of industrial property rights.

Bodies of the Chamber

Article 18

(1) Bodies of the Chamber shall be the Assembly, Management Board, Executive Board, Chairman and other bodies laid down in the Articles of Association of the Chamber.

(2) The organisation, competence, composition, election procedure, and the rights and duties of the bodies of the Chamber shall be regulated by the Articles of Association and other general bylaws of the Chamber.

General Bylaws of the Chamber

Article 19

(1) The Assembly of the Chamber shall pass the Articles of Association of the Chamber and the Code of Representatives' Ethics.

(2) The Chamber shall pass other bylaws in accordance with its Articles of Association.

(3) The bylaws referred to in paragraph 1 of this Article shall be published in the Official Gazette.

IV. TRANSITIONAL AND FINAL PROVISIONS

Article 20

(1) Representatives entered in the Register before the date of entry into force of this Act shall meet all the conditions prescribed by this Act within 2 years from its entry into force.

(2) The representatives referred to in paragraph 1 of this Article who fail to meet all the required conditions within the prescribed time limit shall be deleted from the Register.

(3) Persons who file an application in accordance with Article 9 of this Act in the period from the entry into force of this Act to the commencement of its application, and who have not passed the examination referred to in Article 5 of this Act, shall be granted temporary entry in the Register.

(4) Representatives who are entered in the Register on a temporary basis based on paragraph 3 of this Article shall pass the examination referred to in Article 6 of this Act within 2 years from its entry into force.

(5) The representatives referred to in paragraph 4 of this Article who fail to pass the examination referred to in Article 6 of this Act shall be deleted from the Register.

Article 21

Representatives shall establish the Chamber referred to in Article 17 of this Act at the latest within 2 years from the entry into force of this Act.

Article 22

The Minister competent for the work of the Office shall pass the Ordinance referred to in Article 6, paragraph 1 of this Act within 6 months from its entry into force.

Article 23

As of the date of commencement of the application of this Act, the provisions of Article 116 of the Patent Act (OG 173/03), Article 84 of the Trademark Act (OG 173/03), Article 58 of the Act on Geographical Indications and Designations of Origin for Products and Services (OG 174/03), and Article 60 of the Industrial Design Act (OG 173/03) shall cease to have effect in the part relating to representation.

Article 24

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette, and shall be applied as of 1 August 2005.

ACT
ON AMENDMENTS TO THE ACT ON REPRESENTATION IN THE AREA OF
INDUSTRIAL PROPERTY RIGHTS*

Article 1

In the Act on Representation in the Area of Industrial Property Rights ("Official Gazette" No. 54/05) in Article 7, paragraph (6) is amended to read:

“(6) The Office shall order by a conclusion to a person who claims in a submission filed with the Office that he is an authorized representative of the party, and the Office does not have the prescribed power of attorney at the time of receipt of the submission, to provide a dully filed power of attorney within a period of two months from the day of receipt of the conclusion. If the person fails to comply with the conclusion of the Office, the mentioned submission shall be rejected by a decision.

Article 2

In Article 10 paragraph (2), the Croatian words translated as “shall ask the applicant” are replaced by the words “shall order the applicant by a conclusion”, and the Croatian word translated as “the request” is replaced by the word “the conclusion”

In paragraph (3), the Croatian word translated as “the request” is replaced by the word “the conclusion”, and the word “a conclusion” is replaced by the word “a decision”.

Article 3

In Article 11, paragraph (2) is deleted.

The former paragraph (3) becomes paragraph (2).

Article 4

In Article 15 paragraph (3), the word “a conclusion” is replaced by the word “a decision”.

Article 5

This Act shall enter into force on the eight day following the day of the publication thereof in the “Official Gazette”

ACT

ON AMENDMENTS TO THE ACT ON REPRESENTATION IN THE AREA OF INDUSTRIAL PROPERTY RIGHTS**

In the Act on Representation in the Area of Industrial Property Rights (“Official Gazette” No. 54/05 and 49/11) after Article 1, the headings above Articles and Articles 1a and 1b are added to read:

“Application of the EU acquis communautaire

Article 1a

The provisions of this Act are in accordance with Directive 2006/123/EC on services in the internal market.

Gender Neutrality of Expressions

Article 1b

The expressions used in this Act, having a gender meaning, irrespective of whether they are used in the male or female gender, shall include equally the male and female gender.”.

Article 2

Article 5 is amended to read:

“(1) A patent representative may be:

1. any natural person who is a citizen of the Republic of Croatia or a citizen of a Contracting State of the Agreement on the European Economic Area (hereinafter: the EEA), having permanent residence in the Republic of Croatia or in a Contracting State of the EEA, holding a university degree in technical or natural sciences and having passed the professional examination for patent representative before the Office,

2. any natural person who is a citizen of the Republic of Croatia or a citizen of a Contracting State of the EEA, having permanent residence in the Republic of Croatia or in a Contracting State of the EEA, holding a university degree in an area other than technical or natural sciences, having at least five years of working experience in jobs relating to the acquisition and maintenance of industrial property rights, obtained after completing the studies and having passed the professional examination for patent representative before the Office,

3. an attorney entered in the Register of Attorneys maintained by the Croatian Bar Association who passed the professional examination for patent representative before the Office, or a law firm employing such an attorney or cooperating with him pursuant to some other contractual relationship,

4. any legal person with registered office in the Republic

of Croatia or in a Contracting State of the EEA, employing at least one person meeting the conditions referred to in point 1 or 2 of this paragraph or cooperating with such person pursuant to some other contractual relationship and performing the activities of representation before the Office as its registered activity.

(2) A trademark representative may be:

1. any natural person who is a citizen of the Republic of Croatia or a citizen of a Contracting State of the EEA and having permanent residence in the Republic of Croatia or in a Contracting State of the EEA, holding a university degree and having passed the professional examination for trademark representatives before the Office,

2. an attorney entered in the Register of Attorneys maintained by the Croatian Bar Association who passed the professional examination for trademark representatives before the Office or a law firm employing such an attorney or cooperating with him pursuant to some other contractual relationship,

3. any legal person with registered office in the Republic of Croatia or in a Contracting State of the EEA, employing at least one person meeting the conditions referred to in point 1 of this paragraph or cooperating with such person pursuant to some other contractual relationship and performing the activities of representation before the Office as its registered activity.”.

Article 3

In Article 13 paragraph 1, items 3 and 4 are amended to read:

“3. in the case of losing Croatian citizenship or citizenship of a Contracting State of the EEA,

4. if he no longer has permanent residence or registered office in the Republic of Croatia or in a Contracting State of the EEA,”.

Article 4

This Act shall enter into force on the eight day following the day of the publication thereof in the “Official Gazette”, except for the provisions of Articles 2 and 3 of this Act which shall enter into force on the day of the accession of the Republic of Croatia to the European Union.