

Legislative Decree No 168 of 27 June 2003

“Establishment of sections specialised in industrial and intellectual property in courts and appeal courts pursuant to Article 16 of Law No 273 of 12 December 2002”

published in Official Gazette No. 159 of 11 July 2003

THE PRESIDENT OF THE REPUBLIC

Having regard to Articles 76 and 87 of the Constitution;

Having regard to Article 16 of Law No 273 of 12 December 2002 concerning the delegation to the Government for the adoption of one or more legislative decrees on the establishment of chambers of specialised courts in the field of industrial and intellectual property;

Having regard to the preliminary deliberation of the Council of Ministers, adopted at its meeting of 23 May 2003;

Having obtained the opinion of the competent standing committees of the Chamber of Deputies and the Senate of the Republic;

Considering accepting the comments proposed by the relevant parliamentary committees;

Having regard to the deliberation of the Council of Ministers, adopted at its meeting of 27 June 2003;

On the proposal of the Minister for Justice, in consultation with the Ministers of Production and Economy and Finance;

And m a n a

the following legislative decree:

Art. 1.

Establishment of Sections

1. They are established in the courts and courts of appeal of Bari, Bologna, Catania, Florence, Genoa, Milan,

Naples, Palermo, Rome, Turin, Trieste and Venice sections specialised in industrial and intellectual property, without additional burdens for the budget of the State or increases in organic allocations.

Art. 2.

Composition of the Chambers and Judicial Bodies

2. The chambers specialising in industrial and intellectual property are composed of a number of judges of not less than six judges, chosen from among the judges with specific competences. The sections shall decide in a collegiate composition within the meaning of Article 50-bis(1)(3) of the Code of Civil Procedure, subject to the different provisions of special laws. The panel of judges is composed of three magistrates. The conduct of the investigation activities shall be assigned to a magistrate member of the college.

3. The judges of the specialised chambers may also be assigned, respectively by the President of the Tribunal or of the Court of Appeal, to the treatment of different trials, provided that this does not result in delay in the treatment and decision of the judgments in matters of industrial and intellectual property.

Art. 3.

Competence by subject matter of the sections

1. The specialised sections shall have jurisdiction in the field of disputes concerning: national, international and Community trademarks, patents for invention and for new plant varieties, utility models, designs and copyright, as well as cases of unfair competition interfering with the protection of industrial and intellectual property.

Art. 4.

Territorial competence of the sections

1. Disputes referred to in Article 3 which, according to the ordinary criteria for apportioning territorial jurisdiction and in accordance with the special regulatory provisions governing them, should be dealt with by the judicial offices listed below, shall be assigned to the specialised sections of the first and second instance established in accordance with the following criterion:

- a) for the territories included in the districts of the Court of Appeal of Bari, Lecce, Taranto (Section detached), and Potenza: the specialised sections of Bari are competent;
- b) for the territories included in the districts of the Court of Appeal of Bologna and Ancona: the specialised sections of Bologna are responsible;
- c) for the territories included in the districts of the Court of Appeal of Catania, Messina, Reggio Calabria and Catanzaro: the specialised sections of Catania are responsible;

- d) for the territories included in the districts of the Court of Appeal of Florence and Perugia: the specialised sections of Florence are competent;
- e) for the territories included in the district of Court of Appeal of Genoa: the specialised sections of Genoa are competent;
- f) for the territories included in the districts of the Court of Appeal of Milan and Brescia: the specialised sections of Milan are competent;
- g) for the territories included in the districts of the Court of Appeal of Naples, Salerno and Campobasso: the specialised sections of Naples are competent;
- h) for the territories included in the districts of the Court of Appeal of Palermo and Caltanissetta: the specialised sections of Palermo are responsible;
- i) for the territories included in the districts of the Court of Appeal of Rome, L'Aquila, Cagliari and Sassari (secondary section): the specialised sections of Rome are responsible;
- l) for the territories included in the district of Court of Appeal of Turin: the specialised sections of Turin are competent;
- m) for the territories included in the district of Court of Appeal of Trieste: the specialised sections of Trieste are competent;
- n) for the territories included in the districts of the Court of Appeal of Venice, Trento and Bolzano (secondary section): the specialised sections of Venice are competent.

Art. 5.

Competences of the president of the section

1. In the matters referred to in Article 3, the powers reserved by law to the President of the Tribunal and the President of the Court of Appeal shall lie with the President of the respective specialised sections.

Art. 6.

Transitional standard

1. The judgments concerning the matters referred to in Article 3 and registered as from 1 July 2003 shall be assigned to the discussion of the specialised sections for industrial and intellectual property.

2. Disputes concerning matters referred to in Article 3 and which were already pending on 30 June 2003, shall remain assigned to the competent court in accordance with the previous legislation.

Art. 7.

Entry into force

1. This Legislative Decree shall enter into force on the day following that of its publication in the Official

Gazette of the Italian Republic.