

LEGISLATIVE DECREE 10 February 2005, n. 30

Industrial Property Code, pursuant to article 15 of law 12 December 2002, n. 273.

Chapter I
GENERAL PROVISIONS AND FUNDAMENTAL PRINCIPLES

THE PRESIDENT OF THE REPUBLIC

Having seen [articles 76 and 87 of the Constitution](#) ;

Having seen the [law of 12 December 2002, n. 273](#) , containing measures to encourage private initiative and the development of competition, as amended by [article 2, paragraph 8, of law 27 July 2004, n. 186](#) , conversion into law, with amendments, of the [legislative decree of 28 May 2004, n. 136](#) , and as further modified by [article 2 of law 27 December 2004, n. 306](#) , conversion into law, with amendments, of the [legislative decree of 9 November 2004, n. 266](#) , and in particular article 15, which delegates to the Government the reorganization of the provisions regarding industrial property;

Having seen [article 14 of law 23 August 1988, n. 400](#) , regulating government activities and the organization of the Presidency of the Council of Ministers;

Having seen the [royal decree of 29 June 1939, n. 1127](#) ;

Having seen the [royal decree of 5 February 1940, n. 244](#) ;

Having seen the [royal decree of 25 August 1940, n. 1411](#) ;

Having seen the [royal decree of 31 October 1941, n. 1354](#) ;

Having seen the [royal decree of 21 June 1942, n. 929](#) ;

Having seen the [decree of the President of the Republic of 8 June 1948, n. 795](#) ;

Having seen the [decree of the President of the Republic of 30 June 1972, n. 540](#) ;

Having seen the [decree of the President of the Republic of 12 August 1975, n. 974](#) ;

Having seen the [decree of the President of the Republic of 8 January 1979, n. 32](#) ;

Having seen the [decree of the President of the Republic of 22 June 1979, n. 338](#) ;

Having seen the [law of 3 May 1985, n. 194](#) ;

Having seen the [law of 14 October 1985, n. 620](#) ;

Having seen the [law of 14 February 1987, n. 60](#) ;

Having seen the [law of 21 February 1989, n. 70](#) ;

Having seen the [law of 19 October 1991, n. 349](#) ;

Having seen the decree of the President of the Republic of 1 December 1993, n. 595;

Having seen the [decree of the President of the Republic of 18 April 1994, n. 360](#) ;

Having seen the [decree of the President of the Republic of 18 April 1994, n. 391](#) ;

Having seen the [law of 21 December 1984, n. 890](#) ;

Having seen the [legislative decree of 12 April 2001, n. 164](#) ;

Having seen [paragraphs 8 , 8-bis , 8-ter and 8-quater of article 3 of the legislative decree of 15 April 2002, n. 63](#) , converted, with amendments, by [law 15 June 2002, n. 112](#) ;

Having seen the decree of the Minister of Productive Activities dated 17 October 2002, [published in the Official Journal no. 253 of 28 October 2002](#) ;

Having seen the preliminary resolution of the Council of Ministers, adopted at the meeting of 10 September 2004;

Having heard the opinion of the Council of State, expressed at the [general meeting of 25 October 2004](#);

[Having acquired the opinion](#) of the Unified Conference, referred to in [article 8 of the legislative decree of 28 August 1997, n. 281](#) , expressed in the session of 28 October 2004;

Having acquired the opinions of the competent commissions of the Chamber of Deputies, expressed on 22 December 2004 and of the Senate of the Republic, expressed on 21 December 2004;

Having seen the resolution of the Council of Ministers, adopted at the meeting of 23 December 2004;

On the proposal of the Minister of Productive Activities, in agreement with the Ministers of Justice, Economy and Finance, Foreign Affairs and the Public Function;

It emanates

the following legislative decree:

Article 1

Industrial property rights

1. For the purposes of this code, the expression industrial property includes trademarks and other distinctive signs, geographical indications, designations of origin, designs and models, inventions, utility models, topographies of semiconductor products, **((trade secrets))** and new plant varieties.

[Article 2](#)

[Constitution](#) and acquisition of rights

1. Industrial property rights are acquired through patenting, registration or in the other ways provided for by this code. Patenting and registration give rise to industrial property rights.
2. Inventions, utility models and new plant varieties are subject to patenting.
3. Trademarks, designs and models and topographies of semiconductor products are subject to registration.
4. Distinctive signs other than registered trademarks are protected, provided the legal conditions are met, **((trade secrets))**, geographical indications and designations of origin.
5. The administrative activity of patenting and registration has the nature of a constitutive assessment and gives rise to titles subject to a special regime of nullity and forfeiture on the basis of the rules contained in this code.

Article 3

Treatment of foreigners

1. To citizens of each State party to the Paris Convention for the protection of industrial property, Stockholm text of 14 July 1967, ratified by [law 28 April 1976, n. 424](#) , or of the World Trade Organization and to citizens of States not party to the aforementioned Conventions, but who are domiciled or have an actual industrial or commercial establishment in the territory of a State party to the Paris Union Convention for the Protection of Property industrial, the same treatment granted to Italian citizens is granted for the matters referred to in this code. With regard to new plant varieties, the treatment granted to Italian citizens is granted to citizens of a State which is part of the International Convention for the Protection of New Plant Varieties UPOV, Geneva text of 19 March 1991, ratified with law [23 March 1998, n. 110](#) . Regarding product topographies **a((semiconductors))**, the treatment granted to Italian citizens is granted to citizens of another State only if the protection granted by that State to Italian citizens is similar to that provided for by this code.
2. To citizens of states which are not party to the Paris Union Convention for the Protection of Industrial Property, nor to the World Trade Organization, nor, as regards new plant varieties, to the International Convention for the Protection of New Plants, the treatment accorded to Italian

citizens is granted, for the matters referred to in this code, if the State to which the citizen belongs grants reciprocity of treatment to Italian citizens.

3. All the benefits that the international conventions signed and ratified by **((Italy))** recognized to foreigners in the territory of the State, for the matters referred to in this code, are automatically extended to Italian citizens.

4. The right to obtain, pursuant to international conventions, the registration in Italy of a trademark previously registered abroad, to which reference is made in the application for registration, lies with the owner of the trademark abroad, or his successor in title.

5. Legal persons of the corresponding nationality are treated as citizens.

Article 4

Priority'

1. Anyone who has duly filed, in or for a State which is party to an international convention ratified by Italy which recognizes the right of priority, an application aimed at obtaining an industrial property title or its successor in title, benefits from a right of priority starting from the first application to file an application for an invention patent, a utility model, a new plant variety right, a design or model registration and a trademark registration, in accordance with the provisions of article 4 of the Paris Union Convention.

2. The priority term is twelve months for invention patents and utility models and plant varieties, six months for designs or models and trademarks.

3. Any filing having the value of a regular national filing, i.e. suitable for establishing the date on which the first application was filed, in accordance with the national legislation of the State in which it was made, is recognized as suitable for giving rise to the right of priority. , or bilateral or plurilateral agreements, whatever the further fate of this application.

Article 5

Exhaustion

1. The exclusive rights attributed by this code to the owner of an industrial property right are exhausted once the products protected by an industrial property right have been put on the market by the owner or with his consent in the territory of the State or in the territory of a Member State of the European Community or of the European Economic Area.

2. However, this limitation of the controller's powers does not apply((. . .))when there are legitimate reasons for the owner himself to oppose the further marketing of the products, in particular when their status is modified or altered after their placing on the market.

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3. The exclusive rights attributed by the patent on a protected variety, on varieties essentially derived from the protected variety when this is not, in turn, an essentially derived variety, on varieties that are not clearly distinguishable from the protected variety and on varieties whose production requires the repeated use of the protected variety, do not extend to acts concerning:

a) vegetative reproduction or multiplication material, whatever its form;

b) the product of the harvest, including whole plants and parts of them when such material or product has been sold or marketed by the breeder himself or with his consent in the territory of the State or of a Member State of the European Community or of the European Economic Area, unless they involve acts that imply a new reproduction or multiplication of the protected variety or an export of the material of the variety itself which allows it to be reproduced in a State that does not protect the variety of the genus or plant species to which it belongs, unless the exported material is intended for final consumption.

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Article 6

Communion

1. If an industrial property right belongs to more than one person, the relative faculties are regulated, unless otherwise agreed, by the provisions of the [civil code](#) relating to communion

insofar as they are compatible.

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1-bis. In the case of a right belonging to multiple subjects, the presentation of the patent or registration application, the continuation of the patenting or registration procedure, the presentation of the renewal application, where applicable, the payment of the maintenance fees, the presentation of the translation into Italian of the claims of a European patent application or of the text of the European patent granted or maintained in a modified or limited form and other proceedings before the Italian Patent and Trademark Office may be carried out by each of these subjects in the interest of all.

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Chapter II
RULES RELATING TO THE EXISTENCE, SCOPE AND EXERCISE OF INDUSTRIAL PROPERTY RIGHTS
Section I
Trademarks

Article 7

Subject of registration

1. All signs can be registered as trademarks((...)), in particular words, including personal names, drawings, letters, numbers, sounds, the shape of the product or its packaging, color combinations or shades, **((provided they are suitable:**

- a) to distinguish the products or services of a company from those of other companies; and**
- b) to be represented in the register in such a way as to allow the competent authorities and the public to determine with clarity and precision the the object of the protection conferred on the owner.))**

Article 8

Portraits of well-known people, names and signs

1. Portraits of people cannot be registered as trademarks without their consent and, after their death, without the consent of their spouse and children; in their absence or after their death, of the parents and other ascendants, and, in the absence or after the death of the latter, of the relatives up to and including the fourth degree.

2. Personal names other than those of the person requesting registration may be registered as trademarks, provided that their use is not such as to damage the fame, credit or decorum of those who have the right to bear such names. The Italian Patent and Trademark Office, however, has the right to make registration subject to the consent established in paragraph 1. In any case, registration will not prevent anyone who has the right to the name from using it in the company he has chosen, provided the conditions of referred to in the art. 21, paragraph 1.

3. If well-known, the following may be registered or used as a trademark only by the person entitled, or with the consent of the latter, or of the subjects referred to in paragraph 1: personal names, signs used in the artistic, literary, scientific, political or sporting, **((the images that reproduce trophies,))** the names and acronyms of events and those of bodies and associations not having economic purposes, as well as their characteristic emblems.

Article 9

Shape marks **((and other non-recordable signs))**

1. Established signs cannot be registered as a trademark **((exclusively:**
- a) by the shape, or other characteristic, imposed by the very nature of the product;**
 - b) by the shape, or other characteristic, of the product necessary to obtain a technical result;**
 - c) by the shape, or other characteristic, which gives substantial value to the product)).**

Article 10

Coats of arms

1. The coats of arms and other signs considered in the international conventions in force on the subject, in the cases and under the conditions mentioned in the conventions themselves, as well as the signs containing symbols, emblems and coats of arms which are of public interest (***including signs attributable to the police and armed forces and the names of Italian states and territorial public bodies***) they cannot be registered as a trademark, unless the competent authority has authorized their registration.
1-bis. (***Words, figures or signs detrimental to the image or reputation of Italy cannot also be registered***).
2. Since it is a trademark containing words, figures or signs with political meaning or of high symbolic value, or containing heraldic elements, the Italian Patent and Trademark Office, before registration, sends the copy of the trademark and anything else that may be necessary to the public administrations interested, or competent, to hear the advice, in accordance with the provisions of paragraph 4.
3. The Italian Patent and Trademark Office has the power to provide in accordance with the terms of paragraph 2 in any case in which there is doubt that the trademark may be contrary to the law, public order or morality.
4. If the interested or competent administration referred to in paragraphs 2 and 3 expresses an opinion against the registration of the trademark, the Italian Patent and Trademark Office rejects the application.

Article 11

Collective brand

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1. Legal persons governed by public law and trade associations of manufacturers, producers, service providers or traders, excluding the companies referred to in the fifth book, fifth title, fifth, sixth and seventh chapters of the civil code, can obtain the registration of collective brands which they have the right to grant for use to producers or traders.

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2. The regulations concerning the use of collective marks, controls and related sanctions must be attached to the registration application (***in compliance with the requirements of article 157, paragraph 1-bis***); regulatory changes must be communicated by the owners to the Italian Patent and Trademark Office to be included (***in the collection referred to in Article 185***).

3. The provisions of paragraphs 1 and 2 are also applicable to foreign collective marks registered in the country of origin.

4. By way of derogation from article 13, paragraph 1, a collective mark may consist of signs or indications which in trade can serve to designate the geographical origin of the products or services. (***Any person whose products or services come from the geographical area in question has the right both to make use of the trademark and to become a member of the trade association that owns the trademark, provided that all the requirements set out in the regulation are met.***) In this case, however, the Italian Patent and Trademark Office can refuse, with a reasoned provision, the registration when the requested trademarks could create situations of unjustified privilege or in any case prejudice the development of other similar initiatives in the region. The Italian Patent and Trademark Office has the right to request the notice of the interested or competent public administrations, categories and bodies in this regard. The successful registration of the collective trademark consisting of a geographical name does not authorize the owner to prohibit third parties from using the name itself in trade, provided that this use complies with the principles of professional correctness.

5. Collective brands are subject to all other provisions of this code insofar as they do not conflict with their nature.

Art. 11-bis

((***Certification mark***).))

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1. Natural or legal persons, including institutions, authorities and bodies accredited pursuant to current legislation on certification, to guarantee the origin, nature or quality of certain products or services, may obtain registration for specific trademarks as certification marks, provided that they do not carry out an activity involving the supply of products or services of the type certified.

2. The regulations concerning the use of certification marks, controls and related sanctions must be attached to the registration application in compliance with the requirements referred to in article 157, paragraph 1-ter; the regulatory changes must be communicated by the owners to the Italian Patent and Trademark Office to be included in the collection referred to in article 185.

3. The provisions of paragraphs 1 and 2 are also applicable to foreign certification or guarantee marks registered in the country of origin.

4. By way of derogation from Article 13, paragraph 1, a certification mark may consist of signs or indications which in trade can serve to designate the geographical origin of the products or services. In this case, however, the Italian Patent and Trademark Office can refuse, with a reasoned provision, the registration when the requested trademarks could create situations of unjustified privilege or in any case prejudice the development of other similar initiatives in the region. The Italian Patent and Trademark Office has the right to request the notice of the interested or competent public administrations, categories and bodies in this regard. The registration of the certification mark consisting of a geographical name does not authorize the owner to prohibit third parties from using the name itself in trade, provided that this use complies with the principles of professional correctness.

5. Certification marks are subject to all other provisions of this code insofar as they do not conflict with their nature.

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Article 11-ter

(((Historic brand of national interest).))

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1. The owners or exclusive licensees of trademarks registered for at least fifty years or for which it is possible to demonstrate continuous use for at least fifty years, used for the marketing of products or services created in a national production company of excellence historically connected to the national territory, can obtain registration of the trademark in the register of historical trademarks of national interest referred to in article 185-bis.

2. The «Historic brand of national interest» logo is established by decree of the Minister of Economic Development, which companies registered in the register referred to in article 185-bis can use for commercial and promotional purposes. The decree referred to in the first sentence also specifies the criteria for the use of the "Historic brand of national interest" logo.

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Article 12

(Novelty')

1. Signs which on the date of filing of the application cannot be registered as trademarks:

a) are identical or similar to a sign already known as a trademark or distinctive sign of products or services manufactured, put on the market or provided by others for identical or similar products or services, if due to the identity or similarity between the signs and the identity or affinity between the products or services could lead to a risk of confusion for the public, which could also consist of a risk of association between the two signs. The trademark is also considered to be known which, pursuant to article 6-bis of the Paris Convention for the protection of industrial property, text of Stockholm 14 July 1967, ratified by [law 28 April 1976, n. 424](#), is well known among the interested public, also by virtue of the notoriety acquired in the State through the promotion of the brand. The previous use of the sign, when it does not bring notoriety to it, or brings about purely local notoriety, does not detract from the novelty, but the third party user has the right to continue using the trademark, also for advertising purposes, within the limits of local diffusion. , despite the registration of the trademark itself.

The previous use of the sign by the applicant or his predecessor in title is not an obstacle to registration;

b) are identical or similar to a sign already known as a company, denomination or company name, sign or domain name used in economic activity, or another distinctive sign adopted by others, if

due to the identity or similarity between the signs and the identity or affinity between the business activity carried out by them and the products or services for which the trademark is registered could lead to a risk of confusion for the public, which could also consist of a risk of association between the two signs . The previous use of the sign, when it does not impose notoriety on it, or imposes purely local notoriety, does not detract from the novelty. The previous use of the sign by the applicant or his predecessor in title is not an obstacle to registration;

c) are identical to a trademark already registered by others in the State or with effect in the State following an application filed on an earlier date or having effect from an earlier date by virtue of a right of priority or a valid claim of seniority for products or services identical;

d) are identical or similar to a trademark already registered by others in the State or with effect in the State, following an application filed on an earlier date or having effect from an earlier date by virtue of a right of priority or a valid claim of seniority for identical or similar products or services, if due to the identity or similarity between the signs and the identity or affinity between the products or services there could be a risk of confusion for the public, which may also consist of a risk of association between the two signs;

e) are identical or similar to a trademark already registered by others in the State or with effect in the State, following an application filed on an earlier date or having effect from an earlier date by virtue of a right of priority or a valid claim of seniority for products or services **((identical, similar or not similar, when the earlier mark is registered in the European Union))** or in the State, of renown and when the use of the subsequent one without just reason would take undue advantage of the distinctive character or renown of the earlier sign or would cause harm to the same;

f) are identical or similar to a trademark already well known pursuant to article 6-bis of the Paris Convention for the protection of industrial property, for products or services **((identical, similar or))** not similar, when the conditions referred to in letter e) apply.

2. In the cases referred to in letters c), d) and e), the earlier trademark which has expired for more than two years or three if it is a collective trademark does not deprive it of novelty. **((or certification))** or may be considered lapsed due to non-use pursuant to Article 24 at the time the application or objection of nullity is lodged.

3. For the purposes set out in paragraph 1, letters c), d) and e), earlier applications are assimilated to earlier registered trademarks, subject to subsequent registration.

Article 13

Distinctive ability

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1. **Signs without distinctive character cannot be registered as trademarks and in particular:**

a) **those which consist exclusively of signs which have become commonly used in current language or in the constant usages of commerce;**

b) **those consisting exclusively of generic names of products or services or descriptive indications that refer to them, such as signs that in trade can serve to designate the species, quality, quantity, destination, value, geographical origin or the time of manufacture of the product or provision of the service or other characteristics of the product or service.**

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2. Notwithstanding paragraph 1 **((. . .))** Signs which, prior to the application for registration, following the use that has been made of them, have acquired distinctive character can be registered as a trademark.

3. The trademark cannot be declared or considered null if, prior to the filing of the application or the objection of nullity, the sign which is the subject of it, following the use made of it, has acquired distinctive character.

4. The trademark lapses if, due to the activity or inactivity of its owner, it has become a generic name for the product or **((service or have anyway))** lost its distinctive capacity.

Article 14

Lawfulness and rights of third parties

1. The following cannot be registered as a trademark:

a) signs that are contrary to the law, public order or morality;

b) signs capable of deceiving the public, in particular regarding the geographical origin, the nature or quality of the products or services, or the type of trademark **((, as well as signs evocative, usurpatory or imitative of geographical indications and designations of origin protected**

under state or European Union legislation, including international agreements to which Italy or the European Union are party));

c) signs the use of which would constitute a violation of another's copyright, industrial property right or other exclusive right of third parties;
c-bis) signs excluded from registration, in accordance with the legislation of the European Union or the State or international agreements on the subject to which the European Union or the State is a party, relating to the protection of designations of origin and geographical indications ;
c-ter) signs excluded from registration in accordance with European Union legislation or international agreements on the subject to which the Union is a party, relating to the protection of traditional terms for wines;
c-quater) signs excluded from registration in accordance with European Union legislation relating to the protection of guaranteed traditional specialties or international agreements on the subject to which the European Union is a party;
c-quinquies) signs which contain or reproduce in their essential elements a denomination of plant variety previously registered in accordance with the legislation of the European Union or the State or with international agreements to which the European Union or the State are party, relating to protection of rights relating to plant varieties and which, in relation to the latter, are of the same species or related species.

1-bis. For the purposes of paragraph 1, letter c-bis), previous applications for protection of designation of origin or geographical indication are assimilated to protected designations of origin or geographical indications, subject to subsequent protection and provided that the legislation of the The European Union or the State confers on the person authorized to exercise the rights deriving therefrom the right to prohibit the use of a later trade mark.

2. The trademark lapses:

a) whether it has become capable of misleading the public, in particular regarding the nature, quality or origin of the products or services, due to the manner and context in which it is used by the owner or with his consent, for the products or services for which you are registered;
b) if it has become contrary to the law, public order or morality;
c) for the owner's failure to adopt reasonably suitable measures to prevent use of the trademark that does not comply with the conditions of the regulations for the use of the collective mark or the certification mark and, in particular, of the controls provided for by the regulatory provisions on use of the collective mark or certification mark.

Article 15

Effects of registration

1. The exclusive rights considered by this code are conferred with registration.
2. The effects of the first registration start from the date of filing of the application. Since it is a renewal, its effects take effect **((from the day following to))** expiration date of the previous registration.
3. Without prejudice to the provisions of article 20, paragraph 1, letter c), the registration has effect limited to the products or services indicated in the registration itself and to similar products or services.
4. Registration lasts ten years from the date of filing of the application, except in the case of renouncement by the owner.
5. The renunciation becomes effective with its annotation in the trademark register and it must be reported in the Official Bulletin.

Article 16

Renovation

1. The registration may be renewed for the same previous trademark, with regard to the same type of products or services according to the international classification of products and services resulting from the Nice Agreement, Geneva text of 13 May 1977, ratified with [law 27 April 1982, n. 243](#) .
2. Renewal is carried out for periods of ten years.
3. The renewal of the registration of a trademark that has been transferred for part of the products or services is carried out separately by the respective owners.
4. The starting date and duration of the effects of registration for trademarks registered at the World Intellectual Property Organization in Geneva remain unchanged.

Article 17

International registration

1. For the registration of trademarks at the World Intellectual Property Organization in Geneva (WIPO), the provisions in force pursuant to international conventions remain unchanged.
2. International trademarks registered at the World Intellectual Property Organization (WIPO) in Geneva, on the basis of the Madrid Agreement concerning the international registration of trademarks, Stockholm text of 14 July 1967, ratified by law of [28 April 1976, n. 424](#) , and the related Protocol, adopted in Madrid on 27 June 1989, ratified with [law 12 March 1996, n. 169](#) , bearing the designation of Italy as the country in which protection is requested, must meet the requirements established for national trademarks by this code.
3. The Italian Patent and Trademark Office carries out the examination of international trademarks designating Italy in accordance with the provisions applicable to national trademark applications.

Article 18

Temporary protection

1. Within the limits and under the conditions indicated in paragraph 2, it may be granted, through **((decree of the Ministry of Economic Development))**, temporary protection for new trademarks affixed to products or materials relating to the provision of services appearing in national or international exhibitions, official or officially recognized, held in the territory of the State or in a foreign State which agrees on reciprocity of treatment.
2. Temporary protection traces the priority of registration, in favor of the owner or his successor in title, to the day of delivery of the product or material relating to the provision of the service for the exhibition, and takes effect provided that the application for registration is deposited within six months from the date of delivery and, in any case, no later than six months from the date of opening of the exhibition.
3. In the case of an exhibition held in a foreign country, if a shorter deadline is established there, the registration application must be filed within this deadline.
4. Among several identical or similar trademarks for identical or similar products or services presented for display on the same day, priority goes to the trademark for which the registration application was filed first.
5. The dates referred to in paragraphs 2, 3 and 4 must be indicated by the interested party and mentioned in the registration certificate, following their verification by the Italian Patent and Trademark Office.

Article 19

Right to registration

1. Anyone who uses it or intends to use it in the manufacture or trade of products or in the provision of services of his own company or of companies over which he has control or who use it with the his consent.

2. Anyone who has made the application in bad faith cannot obtain a trademark registration.

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3. The administrations of the State, regions, provinces and municipalities may also obtain trademark registrations, including those relating to distinctive graphic elements taken from the cultural, historical, architectural or environmental heritage of the relevant territory; in the latter case, the proceeds deriving from the exploitation of the brand for commercial purposes, including that carried out through the granting of licenses and for merchandising activities, must be allocated to the financing of institutional activities or to the coverage of any previous deficits of the institution.

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Article 20

Rights conferred by registration

1. The rights of the owner of the registered trademark consist of the right to make exclusive use of the trademark. The owner has the right to prohibit third parties, without his/her consent, from using in economic activity:

a) a sign identical to the trademark for products or services identical to those for which it was registered;

b) a sign identical or similar to the registered trademark, for identical or similar products or services, if due to the identity or similarity between the signs and the identity or affinity between the products or services, a risk of confusion could arise for the public, which may also consist of a risk of association between the two signs;

c) a sign identical or similar to the registered trademark for products or services, even if not similar, if the registered trademark enjoys a state of renown and if the use of the sign **((, also for purposes other than that of distinguishing products and services,))** without just cause allows undue advantage to be taken of the distinctive character or reputation of the trademark or causes damage to the same.

2. In the cases mentioned in paragraph 1, the trademark owner may in particular prohibit third parties from affixing the sign to the products or their packaging. **((or on packaging))**; to offer the products, to place them on the market or to hold them for these purposes, or to offer or provide the services characterized by the sign; to import or export products marked by the sign itself; to use the sign in commercial correspondence and advertising **((; to affix the sign on packages, packaging, labels, tags, safety or authentication devices or components thereof or on other means on which the brand can be affixed or to offer, place on the market, possess for such purposes, import or export such means bearing the trademark, when there is a risk that they may be used in activities constituting violation of the owner's right.))**.

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2-bis. The owner of the trademark can also prohibit third parties from introducing into Italy, in a commercial context, products that have not been released for free circulation, when said products or their packaging come from countries outside the European Union and bear without authorization a sign identical to the mark or which cannot be distinguished in its essential aspects from the said mark, if the goods in question fall within the scope of protection of the mark, unless during the proceedings to determine possible infringement of the mark, instituted in accordance to [Regulation \(EU\) 608/2013 of the European Parliament and of the Council of 12 June 2013](#) , the declarant or holder of the products provides evidence that the trade mark owner does not have the right to prohibit the placing on the market of the products in the country of final destination.

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3. The trader can affix his own brand to the goods he offers for sale, but he cannot suppress the brand of the producer or trader from whom he received the products or goods.

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3-bis. If the reproduction of a trademark in a dictionary, encyclopedia or similar reference work in paper or electronic format gives the impression that it constitutes the generic name of the goods or services for which the trademark is registered , upon request of the owner of the trademark, the publisher of the work ensures that the reproduction of the trademark is, promptly and at the latest in the next edition in the case of works in paper format, accompanied by the indication that it is a registered trademark.

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Article 21

Limitations of trademark rights

1. Registered trademark rights do not allow the owner to prohibit third parties from using it in economic activity, provided that the use complies with the principles of professional correctness:

a) of their name **((or)address ((, if it is a natural person))**;

b) of **((signs or indications that are not distinctive or that concern the species, quality, quantity, destination, value, geographical origin, time))** manufacturing of the product or provision of the service or other characteristics of the product or service;

c) of the company brand **((to identify or refer to the goods or services of the owner of that trademark, especially if the use of the trademark))** it is necessary to indicate the destination of a product or service, in particular as accessories or spare parts.

2. It is not permitted to use the trademark in a manner contrary to the law, nor, in particular, in such a way as to generate a risk of confusion on the market with other signs known as distinctive

of other companies, products or services, or in any case to mislead the public, in particular regarding the nature, quality or origin of the products or services, due to the way and context in which it is used, or by infringing another's copyright, industrial property right, or other exclusive right of third parties.

3. Anyone is prohibited from making use of a registered trademark after the relevant registration has been declared null and void, when the cause of nullity involves the illicit use of the trademark.

Article 22

Unity of distinctive signs

1. It is forbidden to adopt as a company, name or company name, sign or domain name **((of a site used in economic activity or other distinctive sign))** a sign that is the same or similar to another's trademark if, due to the identity or affinity between the business activity of the owners of those signs and the products or services for which the trademark is adopted, a risk of confusion may arise for the public which may also consist of a risk of association between the two signs.

2. The prohibition referred to in paragraph 1 extends to the adoption as a company, denomination or company name, sign and domain name **((of a site used in economic activity or other distinctive sign))** of a sign equal to or similar to a registered trademark for products or services, even if not similar, which enjoys renown in the State if the use of the sign without just cause allows undue advantage to be taken from the distinctive character or reputation of the trademark or causes harm to themselves.

Article 23

Brand transfer

1. The trademark may be transferred for all or part of the products or services for which it was registered.

2. The trademark may be the subject of a non-exclusive license for all or part of the products or services for which it was registered and for all or part of the territory of the State, provided that, in the case of licensing non-exclusive, the licensee expressly undertakes to use the trademark to distinguish products or services equal to the corresponding ones marketed or provided in the territory of the State with the same trademark by the owner or other licensees.

3. The owner of the trademark may assert the right to exclusive use of the trademark itself against the licensee who violates the provisions of the license agreement regarding duration; the manner of use of the trademark, the nature of the products or services for which the license is granted, the territory in which the trademark may be used or the quality of the products manufactured and services provided by the licensee.

4. In any case, the transfer and licensing of the trademark must not result in deception in those characteristics of the products or services that are essential in the appreciation of the public.

Article 24

Use of the trademark

1. Under penalty of forfeiture, the trademark must be used effectively by the owner or with his consent, for the products or services for which it was registered, within five years of registration, and such use must not be suspended for an uninterrupted period of five years, unless non-use is justified by a legitimate reason.

1-bis. In the case of an international trademark designating Italy and registered pursuant to the Madrid Agreement for the International Registration of Trademarks, Stockholm text of 14 July 1967, ratified by [law 28 April 1976, n. 424](#) , or the related protocol of 27 June 1989, ratified with [law 12 March 1996, n. 169](#) , the deadline indicated in paragraph 1 starts from the date on which the deadline expires for the Italian Patent and Trademark Office to formulate the provisional refusal referred to in article 171 or, if the registration has been subject to provisional refusal, from the date on which the Italian Patent and Trademark Office confirms the definitive protection of the international registration in Italy.

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1-ter. In the case of collective or certification marks, the requirements referred to in paragraph 1 are satisfied when the actual use is carried out by a person authorized to use.

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2. For the purposes of this article, the use of the same in a modified form is considered equivalent to the use of the trademark **((although not registered,))** which does not alter its distinctive character, as well as the affixing of the trademark on the products or their packaging in the State **((or packaging))** for the purposes of exporting them.

3. Except in the case of rights acquired on the trademark by third parties with the filing or use, the revocation cannot be enforced if between the expiry of the five-year period of non-use and the filing of the application or the exception of revocation effective use of the trademark has begun or resumed. However, if the owner makes preparations for the start or resumption of use of the trademark only after knowing that the application or objection for revocation is about to be proposed, such start or resumption will not be taken into consideration unless carried out at least three months before the submission of the application or objection of forfeiture; However, this period becomes relevant only if it expires after the expiry of the five-year period of non-use.

4. Furthermore, forfeiture due to non-use will not take place if the owner of the unused trademark is the owner, at the same time, of another or other similar trademarks still in force, at least one of which he actually uses to distinguish the same products or services.

Article 25

Nullity

1. The trademark is void:

- a) if one of the requirements provided for in Article 7 is lacking or if one of the impediments provided for in Article 12 exists;
- b) if it is in conflict with the provisions of articles 9, 10, **((11, 11-bis,))** 13, 14, paragraph 1, and 19, paragraph 2;
- c) if it is in conflict with the provisions of article 8;
- d) in the case of article 118, paragraph 3, letter b).

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1-bis. In case of conflict with the provisions regarding collective marks referred to in Article 11, paragraphs 1 and 2, or certification marks referred to in Article 11-bis, paragraphs 1 and 2, the nullity cannot be declared if the trademark owner complies with said provisions by modifying the regulations of use pursuant to articles 11 and 11-bis, paragraph 2.

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Article 26

Decadence

1. The trademark lapses:

- a) by popularization pursuant to article 13, paragraph 4;
- b) due to supervening illegality pursuant to article 14, paragraph 2;
- c) for non-use pursuant to article 24.

Article 27

Forfeiture and partial nullity

1. If the grounds for revocation or nullity of a trademark exist only for a part of the products or services for which the trademark is registered, the revocation or nullity concerns only this part of the products or services.

Article 28

Validation

1. The owner of an earlier trademark pursuant to Article 12 and the owner of a right of pre-use which entails notoriety that is not purely local, who have, during five consecutive years, tolerated, with knowledge of it, the use of an identical or similar later registered trademark, they cannot request the declaration of invalidity of the later trademark nor oppose the use of the same for the products or services in relation to which the said trademark has been used on the basis of their own earlier trademark or their own pre-use, except in the case in which the subsequent trademark was applied for in bad faith. The owner of the later trademark cannot oppose the use of the earlier one or the continuation of the prior use.
2. The provisions of paragraph 1 also apply to the case of a trademark registered in violation of articles 8 and 14, paragraph 1, letter c).

Section II Geographical indications

Article 29

Object of protection

1. Geographical indications and designations of origin that identify a country, region or locality are protected when they are adopted to designate a product originating from it and whose qualities, reputation or characteristics are due exclusively or essentially to the environment geographical origin, including natural, human and traditional factors.

Article 30

Protection

1. Without prejudice to the regulation of unfair competition, without prejudice to the international conventions on the matter and without prejudice to trademark rights previously acquired in good faith, it is prohibited, when it is likely to deceive the public (***or when it involves undue exploitation of the reputation of the protected name***), the use of geographical indications and designations of origin, as well as the use of any means in the designation or presentation of a product which indicate or suggest that the product itself comes from a location other than the true place of origin, or that the product presents the qualities that are typical of products that come from a location designated by a geographical indication.
2. The protection referred to in paragraph 1 does not allow third parties to be prohibited from using their name or the name of their predecessor in the same activity in the economic activity, unless this name is used in such a way as to deceive the public.

Section III Designs and models

Article 31

Subject of registration

1. The appearance of the entire product or part of it as resulting, in particular, from the characteristics of the lines, contours, colours, shape, surface structure or materials of the product may be the object of registration as designs and models. product itself or its decoration, provided that they are new and have an individual character.
2. Product means any industrial or artisanal object, including, inter alia, components that must be assembled to form a complex product, packaging, presentations, graphic symbols and typographical characters, excluding computer programs.
3. A complex product means a product made up of multiple components that can be replaced, allowing the product to be disassembled and reassembled.

Article 32
((Novelty'))

1. A design or model is new if no identical design or model has been disclosed before the date of submission of the application for registration, or, if priority is claimed, before the date of the latter. Designs or models are considered identical when their characteristics differ only in irrelevant details.

Article 33
Individual character

1. A design or model has individual character if the general impression it creates on the informed user differs from the general impression created on that user by any design or model that has been disclosed before the date of submission of the application for registration or, if priority is claimed before the date of the latter.

2. In ascertaining the individual character referred to in paragraph 1, the margin of freedom enjoyed by the author in creating the design or model is taken into consideration.

Art. 33-bis
((Legitimacy))

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1. A design or model that is contrary to public order or morality cannot be registered; the design or model cannot be considered contrary to public order or morality simply because it is prohibited by a legal or administrative provision.

2. A design or model which constitutes an improper use of one of the elements listed in Article 6-ter of the Paris Convention for the Protection of Industrial Property, text of Stockholm of 14 July 1967, ratified by law, cannot be the subject of registration . [28 April 1976, n. 424](#) , or of signs, emblems and coats of arms other than those contemplated by the said article and which are of particular public interest in the State.

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Article 34
Disclosure

1. For the purposes of applying Articles 32 and 33, the design or model is considered disclosed if it has been made accessible to the public as a result of registration or otherwise, or if it has been exhibited, put on the market or otherwise made public, unless such events could reasonably have been known by specialized circles in the sector concerned, operating in the Community, in the normal course of commercial activity, before the date of submission of the application for registration or, if priority is claimed, before the date of this 'last.

2. The design or model is not considered to have been made accessible to the public merely by virtue of having been revealed to a third party under explicit or implicit constraints of confidentiality.

3. For the purposes of the application of articles 32 and 33, the design or model disclosed by the author or his successor in title or by any third party by virtue of information or acts carried out by the author is not considered to have been made accessible to the public. or by his successor in title in the twelve months preceding the date of submission of the application for registration or, when priority is claimed, in the twelve months preceding the date of the latter.

4. Furthermore, for the purposes of the application of articles 32 and 33, the fact that the design or model has been made accessible to the public in the twelve months preceding the date of submission of the application or the priority date, if this appears to be , directly or indirectly, by an abuse committed against the author or his successor in title.

5. ((PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#)))).

Art. 34-bis

((*Temporary protection of designs.*))

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1. *Anyone who is interested may request temporary protection of designs or models appearing in an exhibition, official or officially recognized, held in the territory of the State or in the territory of a foreign State that grants reciprocity of treatment. Protection is arranged by decree of the Ministry of Business and Made in Italy.*

2. *The protection referred to in paragraph 1 gives priority to the application for registration, provided that said application is filed within six months from the date of display of the designs and models or of the products incorporating them or to which they are applied.*

3. *The priority referred to in paragraph 2 dates back to the date of exposure declared in the request for temporary protection and verified by the Italian Patent and Trademark Office. When several identical designs or models obtain the protection referred to in paragraph 1 on the same date, priority is attributed to the design or model for which the application for registration was filed first*

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Article 35

Complex product

1. The design or model applied or incorporated into the component of a complex product possesses the requirements of novelty and individual character only:

a) if the component, once incorporated into the complex product, remains visible during normal use, i.e. during use by the final consumer, excluding maintenance, assistance and repair interventions;

b) if the visible characteristics of the component in themselves meet the requirements of novelty and individuality.

Article 36

Technical function

1. Those characteristics of the appearance of the product which are determined solely by the technical function of the product itself cannot be registered as designs or models.

2. Characteristics of the appearance of the product which must necessarily be reproduced in their exact shapes and dimensions in order to allow the product in which the design or model is incorporated or to which it is applied to be joined or mechanically connected with another product, or to be incorporated into it or around or in contact with it, so that each product can carry out its own **(function)**. However, designs or models that meet the requirements of novelty and individual character may be the subject of registration when they have the purpose of allowing the union or multiple connection of interchangeable products in a modular system.

Article 37

Duration of protection

1. Registration of the design or model lasts five years from the date of submission of the application. The owner can obtain the extension of the duration for one or more periods of five years up to a maximum of twenty-five years from the date of submission of the registration application.

Article 38

Right to registration and effects

1. Exclusive rights to designs and models are attributed with registration.
2. The right to registration belongs to the author of the design or model and his assignees.
3. Unless otherwise agreed, registration for designs and models which are the work of employees, insofar as such work falls within their duties, is the responsibility of the employer, without prejudice to the employee's right to be recognized as the author of the design or model and to have his name included in the registration certificate.
4. The effects of registration start from the date on which the application with the related documentation is made accessible to the public.
5. The Italian Patent and Trademark Office makes the application for registration available to the public with the graphic reproductions or samples and any descriptions after filing, provided that the applicant has not excluded accessibility in the application for a period which cannot be more than thirty months from the filing date or the priority date.
6. For persons to whom the application with the reproduction of the design or model and any description has been notified by the applicant, the effects of the registration start from the date of such notification.

Article 39

Multiple registration

1. With a single application you can request registration for **(more)** designs and models, provided they are intended to be implemented or incorporated into objects included in the same class of the international classification of designs and models, formed pursuant to the provisions of the Locarno Agreement of 8 October 1968, and subsequent amendments, ratified by [law 22 May 1974, n. 348](#) .
2. Without prejudice to the provisions of paragraph 1 and article 40, applications relating to multiple registrations or a single registration for multiple designs and models are not permitted. If the application is not admissible, the Italian Patent and Trademark Office invites the interested party, assigning him a deadline, to limit the application to the admissible part, with the right to present, for the remaining designs and models, as many applications which will take effect from the date of first question.
3. The registration concerning multiple models or designs may be limited at the owner's request to one or more of them.
4. The application or registration concerning a design or model which does not meet the validity requirements, upon request of the owner, may be maintained in modified form, if the Italian Patent and Trademark Office verifies that the design or model in this form retains its identity. The modification can also result from partial renunciation by the owner or from the notation on the registration certificate of a sentence declaring the partial nullity of the registration itself.

Article 40

Simultaneous recording

1. If a design or model meets the registrability requirements and at the same time increases the usefulness of the object to which it refers, the patent for utility model and the registration for design or model can be requested at the same time, but both and other protection cannot be combined in a single security.
2. If the registration application includes an object whose shape or design gives it a new and individual character and at the same time increases its usefulness, the limitation procedure referred to in Article 39, paragraph 2 is applicable, making the necessary changes.

Article 41

Rights conferred by the design or model

1. Registration of a design or model gives the owner the exclusive right to use it and to prohibit third parties from using it without his consent.
2. In particular, the manufacturing, offering, marketing, import, export or use of a product in which the design or model is incorporated or to which it is applied, or the possession of such product for such purposes.
3. The exclusive rights conferred by the registration of a design or model extend to any design or model that does not produce a different overall impression on the informed user.
4. When determining the extent of protection, the author's margin of freedom in the creation of the design or model is taken into account.

Article 42

((Limitations of design right))

1. The rights conferred by the registration of the design or model do not extend to:
 - a) to acts carried out in a private context and for non-commercial purposes;
 - b) acts carried out for experimental purposes;
 - c) to acts of reproduction necessary for citations or for educational purposes, provided that they are compatible with the principles of professional correctness, do not unduly prejudice the normal use of the design or model and the source is indicated.
2. The exclusive rights conferred by the registration of the design or model cannot be exercised regarding:
 - a) the furnishings and installations of naval and air transport vehicles registered in other countries that temporarily enter the territory of the State;
 - b) the importation into the State of spare parts and accessories intended for the repair of the means of transport referred to in letter a);
 - c) carrying out repairs on the aforementioned means of transport.

Article 43

Nullity

1. Registration is void:
 - a) if the design or model is not registrable pursuant to articles 31, 32, 33, 34, 35 and 36;
 - b) if the design or model is contrary to public order or morality; the design or model cannot be considered contrary to public order or morality simply because it is prohibited by a legal or administrative provision;
 - c) if the owner of the registration did not have the right to obtain it and the author did not make use of the rights granted to him by article 118;
 - d) if the design or model conflicts with a previous design or model which was made known after the date of submission of the application or, when priority is claimed, after the date of the latter, but whose exclusive right begins from a previous date as a result of community, national or international registration or as a result of the relevant application;
 - e) if the design or model is such that its use would constitute a violation of a distinctive sign or an intellectual work protected by copyright;
 - f) if the design or model constitutes improper use of one of the elements listed in article 6-ter of the Paris Union Convention for the protection of industrial property, Stockholm text of 14 July 1967, ratified with [law 28 April 1976, n. 424](#) , or of signs, emblems and coats of arms other than those contemplated by the said article and which are of particular public interest in the State.
2. The invalidity of the registration of the design or model which is the subject of previous rights pursuant to paragraph 1, letters d) and e), may be **((promoted))** solely by the owner of such rights or his assignees.
3. The invalidity of the registration of the design or model which constitutes improper use of one of the elements listed in article 6-ter of the Paris Union Convention for industrial protection or of signs, emblems and coats of arms which are of particular public interest in the State , can be asserted only by the person interested in the use.

Article 44

Duration of the right of economic use by copyright

1. The rights of economic use of industrial designs and models protected pursuant to [article 2, first paragraph, number 10, of law 22 April 1941, n. 633](#) , last the entire life of the author and until the end of the seventieth calendar year after his death or after the death of the last of the co-authors.
2. ((**PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#)**)) .
3. ((**PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#)**)) .

Section IV
Inventions

Article 45

Object of the patent

1. Inventions in any technical sector which are new and which imply an inventive activity and are capable of having industrial application can be the subject of a patent for invention.
2. In particular, the following are not considered inventions pursuant to paragraph 1:
 - a) discoveries, scientific theories and mathematical methods;
 - b) plans, principles and methods for intellectual activities, for games or for commercial activities and computer programs;
 - c) presentations of information.
3. The provisions of paragraph 2 exclude the patentability of what is named in them only to the extent that the patent application or patent concerns discoveries, theories, plans, principles, methods, programs and presentations of information considered as such.
4. The following cannot be patented:
 - (a) methods for surgical or therapeutic treatment of the human or animal body and methods of diagnosis applied to the human or animal body;
 - b) plant varieties and animal breeds and essentially biological processes of animal or plant production, including new plant varieties with respect to which the invention consists exclusively in the genetic modification of another plant variety, even if said modification is the result of a genetic engineering process;
((b-bis) the plant varieties registered in the National Registry of Biodiversity of agricultural and food interest as well as the varieties from which production characterized by the brands of protected designation of origin, protected geographical indication or guaranteed traditional specialties derive and from which they derive traditional agri-food products)).
5. The provision of paragraph 4 does not apply to microbiological processes and products obtained through these processes, as well as to products, in particular substances or compositions, for the use of one of the named methods.
- 5-bis.** The biotechnological inventions referred to in article 81-quinquies cannot be the subject of a patent.

Article 46

Novelty'

1. An invention is considered new if it is not included in the state of the art.
2. The state of the art consists of everything that has been made accessible to the public in the territory of the State or abroad before the date of filing of the patent application, through a written or oral description, use or any other means .
3. The content of Italian patent applications or European patent applications designating Italy is also considered to be included in the state of the art **((or international applications designating and having effect for Italy))**, as they were filed, which have a filing date prior to that mentioned in paragraph 2 and which have also been published or made accessible to the public on this date or later.
4. The provisions of paragraphs 1, 2 and 3 do not exclude the patentability of a substance or a composition of substances already included in the state of the art, provided that it is related to a new use.

Article 47

((Non-enforceable disclosures and internal priority))

1. For the application of article 46, a disclosure of the invention is not taken into consideration if it occurred in the six months preceding the filing date of the patent application and results directly or indirectly from an evident abuse to the detriment of the applicant or his predecessor in title.
2. Disclosure which took place in official or officially recognized exhibitions pursuant to the Convention concerning international exhibitions, signed in Paris on 22 November 1928, and subsequent amendments, is also not taken into consideration.
3. For inventions for which priority has been claimed under international conventions, *((the relevant state of the art pursuant to Articles 46 and 48))* must be assessed with reference to the date to which the priority dates back.
- 3-bis. For invention patents and utility models, the national filing in Italy gives rise to the right of priority also with respect to a subsequent national application filed in Italy, in relation to elements already contained in the application for which priority is claimed.

Article 48

Inventive activity

1. An invention is considered to involve an inventive step if, for a person skilled in the art, it is not evident from the state of the art. If the state of the art includes documents referred to in paragraph 3 of article 46, these documents are not taken into consideration for the assessment of the inventive step.

Article 49

Industriality

1. An invention is considered capable of having an industrial application if its object can be manufactured or used in any kind of industry, including agriculture.

Article 50

Legality

1. Inventions whose implementation is contrary to public order or morality cannot be patented.
2. The implementation of an invention cannot be considered contrary to public order or morality simply because it is prohibited by a legal or administrative provision.

Article 51

Sufficient description

1. They must be added to the application for the granting of a patent for an industrial invention *((the description, claims and))* the drawings necessary for his intelligence.
2. The invention must be described in a sufficiently clear and complete manner so that any person skilled in the art can implement it and must be characterized by a title corresponding to its object.
3. If an invention concerns a microbiological process or a product obtained by such a process and involves the use of a microorganism not accessible to the public and which cannot be described in such a way as to allow any person skilled in the art to implement the the invention, in the patent

application it will be necessary to observe, as regards the description, *((the rules provided for by article 162))*.

Article 52

Claims

((
1. The claims specifically indicate what is intended to be the subject of the patent.

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*2. The limits of protection are determined**((give her))**claims; however, the description and drawings serve to interpret the claims.*

3. The provision of paragraph 2 must be understood in such a way as to guarantee at the same time fair protection for the owner and reasonable legal security for third parties.

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3-bis. To determine the scope of the protection conferred by the patent, due account is taken of any element equivalent to an element indicated in the claims.

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Article 53

Effects of patenting

1. The exclusive rights considered by this code are conferred with the granting of the patent.

*2. The effects of the patent start from the date on which the application with the description**((, the claims))**and any drawings are made accessible to the public.*

3. After the deadline of eighteen months from the filing date of the application or from the priority date, or after ninety days from the filing date of the application if the applicant has declared in the application itself that he wishes to make it immediately accessible to the public, the Italian Office patents and trademarks makes the application and attachments available to the public.

*4. Towards the people to whom the question with the description**((, the claims))**and any drawings have been notified by the applicant, the effects of the industrial invention patent start from the date of such notification.*

Article 54

Effects of the European patent application

*1. The protection conferred by the European patent application pursuant to Article 67, paragraph 1, of the European Patent Convention of 5 October 1973, ratified by [law no. 26 May 1978. 260](#) , starts from the date on which the owner has made accessible to the public, through the Italian Patent and Trademark Office, a translation into Italian of the claims or has notified it directly to the alleged infringer. *((Except as provided by article 46, paragraph 3,))*The effects of the European patent application are considered null from the origin when the application itself has been withdrawn or rejected or when the designation of Italy has been withdrawn.*

Article 55

Effects of the designation or election of Italy

*1. The international application filed under the Patent Cooperation Treaty, *((ratified under [law](#))*[26 May 1978, n. 260](#) , containing the designation or election of Italy, regardless of the designation of the European Patent Organization for the granting of a European patent, is equivalent to a patent application for an industrial invention or utility model filed in Italy on the same date ,*

and produces its effects, if within thirty months from the date of filing, or of priority, where claimed, a request for the opening of the national procedure for granting the Italian patent pursuant to the article is filed with the Italian Patent and Trademark Office. 160-bis, paragraph 1.

1-bis. The protection conferred by the application pursuant to paragraph 1 starts from the date on which the owner of the same has made accessible to the public, through the Italian Patent and Trademark Office, a translation into Italian of the application or has notified it directly to the alleged infringer. The designation of Italy in the international application is considered ineffective from the outset, except as provided in article 46, paragraph 3, when the application itself has been withdrawn or considered withdrawn or when the designation of Italy has been withdrawn or rejected, or when the application at the Italian Patent and Trademark Office has not been filed within the deadline established by paragraph 1.

1-ter. The methods of application of this article and of article 160-bis are determined by decree of the Ministry of Economic Development.

Article 56

Rights conferred by the European patent

1. *((The European patent issued for Italy and the European patent with unitary effect confer on the owner the rights referred to in Articles 25 and 26 of the Agreement on a Unified Patent Court, ratified and made enforceable pursuant to the law of [3 November 2016](#), [no. 214](#), and impose the limits referred to in Article 27 of the same Agreement. The European patent issued for Italy and the European patent with unitary effect produce effect from the date on which the mention of the granting of the patent.))* If the patent is subject to opposition or limitation proceedings, the scope of protection established with the grant or with the maintenance decision in modified form or with the limitation decision is confirmed from the date on which the mention of the patent is published. decision regarding opposition or limitation.

2. *((**PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 19 FEBRUARY 2019, N. 18](#)**))*.

3. The owner *((of a European patent issued for Italy))* must provide the Italian Patent and Trademark Office with a translation into Italian of the text of the patent granted by the European Office as well as the text of the patent maintained in modified form following the opposition procedure or limited following the limitation procedure.

4. The translation, declared perfectly compliant with the original text by the patent owner or his agent, must be filed within three months from the date of each of the publications referred to in paragraph 1.

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4-bis. *For European patents, for which a request for unitary effect has been submitted within the terms provided for in [Article 9, paragraph 1, letter g\) of Regulation \(EU\) no. 1257/2012](#), the term referred to in paragraph 4 starts from the date of receipt of the communication of the definitive act of rejection or revocation of the unitary effect or from the date of receipt of the request for withdrawal by the European Office.*

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5. In case of failure to comply with the provisions referred to in paragraphs *((3, 4 and 4-bis))*, the European patent is considered, from the outset, without effect in Italy.

Article 57

Text of the application or European patent which is authentic

1. The text of the European patent application or of the European patent, drawn up in the language of proceedings before the European Patent Office, is authentic as regards the scope of protection, without prejudice to the provisions of Article 70, paragraph 2, of the European Patent Convention of 5 October 1973, ratified with [law 26 May 1978, n. 260](#).

2. However, the translation into Italian of the relevant documents *((to the filed application or to the granted European patent))* is considered authentic in the territory of the State, if it confers less extensive protection than that conferred by the text drawn up in the procedural language of the European Patent Office.

3. The provision referred to in paragraph 2 does not apply in the case of an action for nullity.

4. A rectified translation may be presented, at any time, by the owner of the application or patent; it exerts its effects only after it has been made accessible to the public at the Italian Patent and Trademark Office or notified to the alleged infringer.

5. Anyone, in good faith, who has begun to implement in Italy **((an invention or))** has made effective preparations for this purpose without such implementation constituting infringement of the application or patent in the text of the translation initially presented, he may continue to exploit the invention free of charge in his company or for its needs even after the translation rectified has taken effect.

Article 58

Transformation of the European patent application

1. The European patent application, in which Italy has been designated, can be transformed into an Italian patent application for an industrial invention:

a) in the cases provided for by article 135, paragraph 1, letter a), of the European Patent Convention of 5 October 1973, ratified by [law no. of 26 May 1978. 260](#) ;

b) in case of non-compliance with the deadline referred to in Article 14, paragraph 2, of the European Patent Convention, when the application was originally filed in the Italian language.

2. The transformation into a national utility model application of a rejected, withdrawn or considered withdrawn European patent application or of the European patent is permitted **((also with unitary effect))** revoked whose object meets the patentability requirements established by Italian legislation for utility models.

3. Those who request the transformation referred to in paragraph 1 are allowed to simultaneously request the possible transformation into a utility model application pursuant to Article 84.

4. If a regular request for transformation pursuant to paragraphs 1, 2 and 3 has been sent to the Italian Patent and Trademark Office, the patent application is considered to have been filed in Italy on the same filing date as the European patent application; the documents annexed to said application which have been presented to the European Patent Office are considered to have been filed in Italy on the same date.

Article 59

((Relationships between the European patent and the Italian patent.))

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1. If, for the same invention proposed by the same inventor, an Italian patent and a European patent valid in Italy or a European patent with unitary effect, having the same filing date, have been granted to the same inventor or his successor in title or priority, the Italian patent maintains its effects and coexists with the European patent.

2. The provisions referred to in paragraph 1 continue to apply even in the event of subsequent cancellation or revocation of the European patent

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Article 60

((Duration).))

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1. The patent for an industrial invention lasts twenty years from the date of filing of the application and expires with the expiry of the last moment of the day corresponding to the day of filing of the application.

2. The patent cannot be renewed, nor can its duration be extended

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Article 61

(Supplementary certificate for medicinal products and plant protection products)

1. **((The certificates))**complementary certificates for medicinal products and complementary certificates for phytosanitary products are granted by the Italian Patent and Trademark Office on the basis of [Regulations \(EC\) no. 469/2009](#) , (EC) n. 1901/2006 and (EC) n. 1610/96 and produce the effects envisaged by these regulations.

Article 62

Moral right

1. The right to be recognized as the author of the invention can be asserted by the inventor and, after his death, by his spouse and descendants up to the second degree; in their absence or after their death, by parents and other ascendants and in their absence, or after their death, by relatives up to and including the fourth degree.

Article 63

Property rights

1. The rights arising from industrial inventions, except the right to be recognized as the author, are alienable and transmissible.
2. The right to a patent for an industrial invention belongs to the author of the invention and his successors in title.

Article 64

Employee inventions

1. When the industrial invention is made in the execution or fulfillment of a contract or a work or employment relationship, in which the inventive activity is envisaged as the object of the contract or relationship and remunerated for this purpose, the rights deriving from the invention itself belong to the employer, except for the right of the inventor to be recognized as its author.

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2. If remuneration is not foreseen and established, in compensation for the inventive activity, and the invention is made in the execution or fulfillment of a contract or a work or employment relationship, the rights deriving from the invention belong to the employer, but the inventor, always without prejudice to the right to be recognized as the author, is entitled to a fair reward for the determination of which will take into account the importance of the invention, the tasks performed and the remuneration received by the inventor, as well as the contribution he received from the employer's organisation. In order to ensure the timely conclusion of the patent acquisition procedure and the consequent attribution of the fair reward to the inventor, early examination of the application aimed at issuing of the patent.

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3. If the conditions provided for in paragraphs 1 and 2 do not apply and it is an industrial invention that falls within the employer's field of activity, the latter has the right of option for the exclusive or non-exclusive use of the invention or for the purchase of the patent, as well as for the right to request **((or acquire))**, for the same invention, patents abroad against payment of the fee **((or))** of the price, to be set with the deduction of a sum corresponding to the aid that the inventor has received from the employer to achieve the invention. The employer will be able to exercise the right of option within three months from the date of receipt of the communication of the filing of the patent application. The relationships established with the exercise of the option are automatically terminated if the amount due is not paid in full upon expiry.

4. Without prejudice to the jurisdiction of the ordinary judge relating to ascertaining the existence of the right to the fair premium, fee or price, if agreement is not reached regarding the amount of the same, even if the inventor is an employee of **((administration))**state, the amount is determined by a panel of arbitrators, made up of three members, one appointed by each of the

parties and the third appointed by the first two, or, in case of disagreement, by the President of the specialized section of the competent Court where the lender works habitually carries out his duties. The provisions of articles 806 and following of the code of civil procedure apply to the extent compatible .

5. The panel of arbitrators may also be consulted during the proceedings to ascertain the existence of the right to a fair premium, fee or price, but, in this case, the enforceability of its decision is subordinated to that of the sentence on the establishment of the right. The panel of arbitrators must proceed with fair assessment. If the determination is manifestly unfair or erroneous, the determination is made by the judge.

6. For the purposes of paragraphs 1, 2 and 3, the industrial invention for which the patent is requested within one year from when the inventor has left the private company or public administration within whose field of activity the invention falls.

Article 65

((*Inventions by researchers at universities, public research bodies and scientific hospitalization and treatment institutes - IRCCS*).))

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1. *By way of derogation from article 64, when the industrial invention is made in the execution or fulfillment of a contract or a work or employment relationship, even if for a fixed term, with a university, even if not legally recognized state government, a public research body or a scientific hospitalization and treatment institute (IRCCS), as well as in the framework of an agreement between the same subjects, the rights arising from the invention belong to the structure to which the inventor belongs, unless the right of the inventor to be recognized as the author, in the terms set out in this article. If the invention is achieved by more than one person, the rights deriving from the invention belong to all the structures involved in equal parts, unless otherwise agreed and without prejudice to the provisions of article 6.*

2. *The inventor must communicate the object of the invention to the structure to which he belongs with the burden on both parties to safeguard its novelty. If he does not make this communication, the inventor cannot file the patent application in his own name, pursuant to paragraph 3, without prejudice to the possibility of claiming pursuant to article 118 and the provisions of the contractual obligations.*

3. *The relevant structure, within six months of receiving the communication referred to in paragraph 2, files the patent application or communicates to the inventor the absence of interest in proceeding. The six-month deadline referred to in the first period is extended for a maximum of three months, upon communication to the inventor, provided that the extension is necessary to complete the technical evaluations initiated by the relevant structure immediately after receipt of the communication referred to in paragraph 2. If the structure to which he belongs does not file the patent application within the aforementioned deadline, the inventor can proceed independently with the filing of the patent application in his own name. The inventor can also proceed with the filing independently if the structure to which he belongs has communicated, pending the aforementioned deadline, the absence of interest in proceeding.*

4. *The subjects indicated in paragraph 1, within the scope of their autonomy, regulate:*
a) *the methods of application of the provisions of this article to subjects entitled to participate in research activities, including students of degree courses for the inventive results achieved in laboratory activities or in degree courses;*
b) *relationships with inventors and rewards associated with inventive activity;*
c) *relationships with the financiers of research that produces patentable inventions, regulated by contractual agreements drawn up taking into account the provisions of paragraph 5;*
d) *any other aspect relating to the best forms of valorisation of inventions.*

5. *The rights deriving from the invention created in the execution of research activities carried out by the subjects referred to in paragraph 1, financed, in whole or in part, by another subject, are governed by the contractual agreements between the parties drawn up on the basis of the guidelines guide, which identify the specific principles and criteria for the regulation of contractual relationships, adopted by decree of the Minister of Business and Made in Italy, in agreement with the Minister of University and Research, within sixty days from the date of entry into force of this provision. The agreements stipulated between the parties before the issuance of the aforementioned guidelines are reserved*

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(((Technology transfer offices).))

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1. University institutions and higher artistic, musical and dance education institutions, public research bodies or IRCCS can equip themselves, within the resources available under current legislation, also in associative form within their autonomy, of a technology transfer office with the function of promoting the valorisation of industrial property rights, also through the promotion of collaborations with companies. The staff assigned to the office referred to in this paragraph is in possession of professional qualifications suitable for carrying out the industrial property promotion activities of the same office

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Article 66

Patent right

1. Patent rights for industrial inventions consist of the exclusive right to implement the invention and profit from it within the territory of the State, within the limits and under the conditions established by this code.

2. In particular, the patent grants the owner the following exclusive rights:

a) if the subject of the patent is a product, the right to prohibit third parties, without the owner's consent, from producing, using, marketing, selling or importing the product in question for such purposes;

b) if the object of the patent is a process, the right to prohibit third parties, without the owner's consent, from applying the process, as well as from using, marketing, selling or importing for these purposes the product directly obtained with the process in question .

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2-bis. The patent also gives the owner the exclusive right to prohibit third parties, without their consent, from providing or offering to provide to parties other than those entitled to use the patented invention the means relating to an indispensable element of that invention and necessary for its implementation in the territory of a State in which the same is protected, if the third party has knowledge of the suitability and destination of said means to implement the invention or is able to have it with ordinary diligence.

2-ter. Paragraph 2-bis does not apply when the means consist of products currently on the market, unless the third party induces the person to whom they are supplied to carry out the acts prohibited pursuant to paragraph 2.

2-quater. For the purposes referred to in paragraph 2-bis, subjects who carry out the acts referred to in article 68, paragraph 1 are not considered to have the right to use the invention.

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Article 67

Process patent

1. In the case of a process patent, any product identical to that obtained through the patented process is presumed to have been obtained, unless proven otherwise, through said process, alternatively:

a) if the product obtained by the process is new;

b) if there is a substantial probability that the identical product was manufactured by the process and if the patentee has failed through reasonable efforts to determine the process actually implemented.

2. For the purpose of proving the contrary, the legitimate interest of the infringement defendant in the protection of its manufacturing and trade secrets must be taken into account.

3. When the owner of a patent concerning a new industrial method or process administers to others the means uniquely intended to implement the object of the patent, it is presumed that he has also given a license to use this method or process, provided that there are no agreements contrary.

Article 68

Limitations of patent rights

1. The exclusive power attributed by the patent right does not extend, whatever the object of the invention:

a) to acts carried out in a private context and for non-commercial purposes (...);

((a-bis) to acts carried out on an experimental basis relating to the object of the patented invention, or the use of biological material for cultivation purposes, or the discovery and development of other plant varieties;))

b) studies and experiments aimed at obtaining, even in foreign countries, an authorization to place a drug on the market and the consequent practical obligations including the preparation and use of the pharmacologically active raw materials strictly necessary for this purpose ;

c) to the extemporaneous preparation, and by unit, of medicines in pharmacies on medical prescription, and to medicines thus prepared, provided that industrially produced active ingredients are not used.

((c-bis) to the use of the patented invention on board ships of other countries of the International Union for the Protection of Industrial Property (Paris Union) or of members of the World Trade Organization, other than Italy, in the body of the ship in question, in the machinery, rigging, equipment and other accessories, when such ships temporarily or accidentally enter Italian waters, provided that the invention is used exclusively for the needs of the ship, or for the use of the patented invention in the construction or operation of aircraft or land vehicles or other means of transport of other countries of the International Union for the Protection of Industrial Property (Paris Union) or of members of the World Trade Organization, other than from Italy, or accessories of such aircraft or land vehicles, when they temporarily or accidentally enter Italian territory, without prejudice to the provisions of the [navigation code](#) and those of the International Convention for Civil Aviation, stipulated in Chicago on 7 December 1944 , made executive pursuant to [legislative decree 6 March 1948, n. 616](#) , ratified with [law 17 April 1956, n. 561](#) ;

c-ter) to the acts permitted pursuant to [articles 64-ter](#) and [64-quater of law 22 April 1941, n. 633](#) , and to the uses permitted therein of the information thus legitimately obtained.))

1-bis. PARAGRAPH SUPPRESSED BY [DL 24 JANUARY 2012, N. 1](#) , CONVERTED WITH AMENDMENTS BY [LAW 24 MARCH 2012, N. 27](#) .

2. The patent for industrial invention, the implementation of which implies that of inventions protected by previous patents for industrial inventions still in force, cannot be implemented, nor used, without the consent of the owners of the latter.

3. Anyone who, during the twelve months preceding the filing date of the patent application or the priority date, has made use of the invention in his own company may continue to use it within the limits of prior use. This right is transferable only together with the company in which the invention is used. Proof of pre-use and its extension is the responsibility of the pre-user.

Article 69

Implementation burden

1. The industrial invention which constitutes the subject of the patent must be implemented in the territory of the State to such an extent that it is not in serious disproportion with the needs of the country.

2. Inventions concerning objects which appear for the first time in an official or officially recognized exhibition held in the territory of the State are considered implemented from the moment the objects are introduced until the closing of the same, provided that they have been exhibited for at least ten days. or, in the case of exposure of shorter duration, for the entire period of it.

3. The introduction or sale in the territory of the State of objects produced in States other than those that are members of the European Union or the European Economic Area or those that are members of the World Trade Organization does not constitute implementation of the invention.

Article 70

Compulsory license for failure to implement

1. After three years from the date of issue of the patent or four years from the date of filing of the application if this term expires later than the previous one, if the owner of the patent or his successor in title, directly or through one or more licensees, has not implemented the patented invention, producing in the territory of the State or importing objects produced in a Member State of the European Union or the European Economic Area or in a Member State of the World Trade

Organization, or has implemented it to such an extent as to result in serious disproportion with the needs of the country, a compulsory license may be granted for the non-exclusive use of the invention itself, in favor of any interested party who requests it.

2. The compulsory license referred to in paragraph 1 may also be granted if the implementation of the invention has been suspended or reduced for more than three years to such an extent as to be in serious disproportion to the needs of the country.

3. The compulsory license is not granted if the failure or insufficient implementation is due to causes beyond the control of the patent owner or his successor in title. These causes do not include the lack of financial means and, if the product itself is distributed abroad, the lack of demand in the domestic market for the patented product or one obtained with the patented process.

4. The granting of the compulsory license does not exempt the patent owner or his successor in title from the burden of implementing the invention. The patent lapses if the invention has not been implemented within two years from the date of granting the first compulsory license or has been implemented to such an extent as to be seriously disproportionate to the needs of the country.

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4-bis. The provisions of this article and of articles 71 to 74 and 81-octies also apply to rights on the European patent with unitary effect relating to the national territory.

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Art. 70-bis

(((Compulsory license in case of national health emergency.))

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1. In the event of a declaration of a state of national emergency motivated by health reasons, to deal with proven difficulties in the supply of specific medicines or medical devices deemed essential, compulsory licenses for the use, non-exclusive, non-alienable and mainly aimed at supplying the internal market, of patents relevant for production purposes, with validity bound to the continuation of the emergency period or up to a maximum of twelve months from its termination.

2. The compulsory license for the medicines referred to in paragraph 1 is granted by decree of the Minister of Health, in agreement with the Minister of Economic Development, following the opinion of the Italian Medicines Agency regarding the essentiality and availability of the medicines with respect to the ongoing emergency and having consulted the owner of the intellectual property rights. The same decree also establishes the adequate remuneration in favor of the latter, determined taking into account the economic value of the authorization.

3. The compulsory license for the medical devices referred to in paragraph 1 is granted by decree of the Minister of Health, in agreement with the Minister of Economic Development, following the opinion of the National Agency for Regional Health Services regarding the essentiality and availability of the devices with respect to the ongoing health emergency and having consulted the owner of the intellectual property rights. The same decree also establishes the adequate remuneration in favor of the latter, determined taking into account the economic value of the authorization

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Article 71

Employee patent

1. Compulsory license may be granted if the invention protected by the patent cannot be used without prejudice to the rights relating to a patent granted on the basis of a previous application. In this case, the license can be granted to the owner of the subsequent patent to the extent necessary to exploit the invention, provided that this represents, compared to the object of the previous patent, an important technical progress of considerable economic importance.

2. The license thus obtained cannot be transferred except together with the patent on the dependent invention. The owner of the patent on the main invention is in turn entitled to the grant of a compulsory license on reasonable terms on the patent of the dependent invention.

Article 72

Common provisions

1. Anyone who requests the granting of a compulsory license pursuant to the **((articles 70, 70-bis and 71))**, he must prove that he had previously contacted the patent owner and that he had not been able to obtain a contractual license from him on fair terms.
2. The compulsory license can only be granted against payment by the licensee and in favor of the patent owner or his assignees, of fair compensation and provided that the license applicant provides the necessary guarantees regarding satisfactory implementation of the invention in accordance with the conditions set out in the license itself.
3. The compulsory license cannot be granted when it appears that the applicant has infringed the patent, unless he demonstrates his good faith.
4. The compulsory license can be granted for exploitation of the invention aimed mainly at supplying the internal market.
5. The compulsory license is granted for a duration not exceeding the remaining duration of the patent and, unless there is the consent of the patent owner or his successor in title, it can only be transferred with the licensee's company or with the particular branch of this in which the license itself is used.
6. The granting of the compulsory license does not prejudice the exercise, even by the licensee, of judicial action regarding the validity of the patent or the extension of the rights deriving from it.
7. The decree granting the license determines the scope, duration, methods for implementation, guarantees and other conditions to which the concession is subject in relation to its purpose, the amount and methods of payment of the compensation. In case of opposition, the amount and methods of payment of the compensation are determined in accordance with Article 80.
8. The conditions of the license may, by decree of the Ministry of Productive Activities, be varied at the request of each of the interested parties, if there are valid reasons in this regard. **((In the cases referred to in article 70-bis, the decree referred to in this paragraph is adopted in accordance with paragraphs 2 and 3 of the same article))**.
9. Article 80 applies to the modification of the compensation.
10. In the event that the owner of the patent for which a compulsory license has been granted or his successor in title grants third parties the use of the patent under more advantageous conditions than those established for the compulsory license, the conditions themselves are extended to compulsory license, upon request of the licensee.

Article 73

Revocation of compulsory license

1. The compulsory license is revoked by decree of the Ministry of Productive Activities, if the conditions established for the implementation of the invention are not fulfilled or if the license holder has not paid the compensation in the amount and in the manner prescribed.
2. The compulsory license is also revoked by decree of the Ministry of Productive Activities if and when the circumstances that determined the concession cease to exist and are unlikely to occur again or at the mutual request of the parties.
3. Revocation may be requested by the patent owner with a request submitted to the Italian Patent and Trademark Office, which promptly informs the owner of the compulsory license by registered letter with acknowledgment of receipt, who, within sixty days from the date of receipt of the registered letter, he can justifiably oppose the revocation, with a request submitted to the Italian Patent and Trademark Office. The provisions of article 199, paragraphs 3, 4, 5, 6 and 7 apply.
4. In case of revocation, the person who had obtained the license can implement the invention under the same conditions, within the limits of pre-use or those resulting from serious and effective preparations.

Article 74

Military inventions

1. The provisions relating to the granting of compulsory licenses for failure or insufficient implementation of inventions, or for dependent patents, do not apply to patented inventions belonging to the military administration or to those subjected by the military administration to secrecy.

Article 75

Forfeiture for non-payment of fees

1. The invention patent lapses for failure to pay within six months from the expiry date of the annual fee due, subject to compliance with the provisions of paragraphs 2, 3 and 4.
2. Once the month of expiry of the annual fee has elapsed and the subsequent six months in which payment is permitted with the application of a late payment fee have also elapsed in vain, and in any case the deadline for payment of the fee has expired, the Italian Office patents and trademarks notifies the interested party, by registered mail, that the payment of the due fee has not been made within the prescribed period. The Italian Patent and Trademark Office, thirty days after the date of the aforementioned communication, acknowledges in the patent register, with a specific annotation, that the patent has been forfeited due to failure to pay the annual fee, then publishing the news of the forfeiture in the Official Bulletin. itself.
3. The patent owner, if he proves that he has made the payment promptly, may request, by appeal to the Appeals Commission, within six months from the date of publication of the Official Bulletin, the cancellation of the aforementioned forfeiture notice and the rectification of the publication. The Commission proceeds, having heard the interested party or its representatives and taking into account their possible written observations. Both the presentation of the appeal and the disposition of the sentence must be noted in the patent register and published in the Official Bulletin.
4. Once the publication referred to in paragraph 2 has occurred and six months have passed from the date of such publication, or if the appeal has been rejected, the patent is considered to have lapsed for anyone from the end of the last year for which it has been usefully paid. the right.

Article 76

Nullity

1. The patent is void:
 - a) if the invention is not patentable pursuant to articles 45, 46, 48, 49, and 50;
 - b) if, pursuant to Article 51, the invention is not described clearly and completely enough to allow a skilled person to implement it;
 - c) if the subject matter of the patent extends beyond the content of the initial application **((or patent protection has been extended))**;
 - d) if the owner of the patent did not have the right to obtain it and the person entitled did not make use of the rights granted to him by article 118.
2. If the causes of invalidity only partially affect the patent, the relative sentence of partial invalidity entails a corresponding limitation of the patent itself **((, and in the case provided for by article 79, paragraph 3, establishes the new claims resulting from the limitation))**.
3. The invalid patent can produce the effects of a different patent for which it contains the validity requirements and which would have been desired by the applicant, if he had known of its invalidity. The conversion request can be proposed at any stage and level of the judgement. The sentence that ascertains the requirements for validity **((of the different patent))** provides for the conversion of the invalid patent. The owner of the converted patent, within six months of the conversion ruling becoming final, submits a request for correction of the text of the patent. The Office, having verified the correspondence of the text to the sentence, makes it accessible to the public.
4. If the conversion involves the extension of the original duration of the invalid patent, the licensees and those who, in view of the next expiry, had made serious and effective investments to use the object of the patent have the right to obtain a compulsory and free non-exclusive license for the longer period of time.
5. The European patent may be declared invalid for Italy pursuant to this article and, also, when the protection conferred by the patent has been extended.

Article 77

Effects of nullity

1. The declaration of invalidity of the patent has retroactive effect, but does not affect:
 - a) the acts of execution of infringement sentences which have become final and have already been completed;
 - b) contracts concerning the invention concluded before the sentence declaring the invention became final to the extent that they have already been executed.In this case, however, the judge, taking into account the circumstances, can grant a fair refund of amounts already paid in execution of the contract;
 - c) payments already made pursuant to articles 64 and 65, by way of fair premium, fee or price.

Article 78

Give up

1. The owner may renounce the patent with an act received from the Italian Patent and Trademark Office, to be noted in the patent register.
2. If, in relation to the patent, deeds or sentences are transcribed which attribute or ascertain the property rights of third parties on the patent or judicial requests requesting the attribution or ascertainment of such rights, the waiver is without effect if not accompanied by the written consent of the third parties themselves.

Article 79

Limitation

1. The patent may be limited upon request of the owner, to which the description, claims and modified drawings must be added.
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2. If the Italian Patent and Trademark Office accepts the request, the applicant must comply with the regulatory provisions relating to the republication of the patent and the payment of the related fees, where applicable.
3. In a nullity judgment, the patent owner has the right to submit to the judge, at every stage and level of the judgment, a reformulation of the claims that remains within the limits of the content of the patent application as initially filed and does not extend the protection conferred by the granted patent.))
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3-bis. Where both a limitation of the European patent occurs following a limitation procedure referred to in the European Patent Convention, and a limitation of the same European patent with effect in Italy following a national procedure, the scope of protection conferred by the patent is determined taking into account each of the limitations that have occurred.
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4. The Italian Patent and Trademark Office publishes the news of the patent limitation in the Bulletin.

Article 80

Law license

1. The applicant or owner of the patent in the application or with a request also from the agent that reaches the Italian Patent and Trademark Office, if no exclusive license is transcribed, can offer the public a license for the non-exclusive use of the invention.
2. The effects of the license start from the notification to the holder of the acceptance of the offer, even if the compensation is not accepted.

3. In the latter case, the amount and methods of payment of the compensation are determined by a panel of arbitrators, composed of three members, one appointed by each of the parties and the third appointed by the first two or, in case of disagreement, by the president of the appeals commission. The panel of arbitrators must proceed with fair assessment. If the determination is manifestly unfair or erroneous or if one of the parties refuses to appoint its own arbitrator, the determination is made by the judge.

4. The compensation may be modified in the same ways prescribed in determining the original compensation, if facts have arisen or been revealed which make the compensation already set appear manifestly inadequate.

5. The applicant or owner of the patent who has offered a license to the patent to the public is entitled to a reduction of half the annual fees.

6. The reduction of which (*in paragraph 5 it is granted*) by the Italian Patent and Trademark Office. The offer declaration is noted in the patent register, published in the Bulletin and its effects last until it is revoked.

Article 81

((ARTICLE REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

((Section IV-BIS
Biotechnological inventions))

Art. 81-bis

(((Postponement)))

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1. The provisions of section IV on industrial inventions also have effect in the matter of biotechnological inventions, insofar as they are not derogated from the rules referred to in Section IV bis.

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Art. 81-ter

(((Definitions)))

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1. For the purposes of this code:

a) biological material: material containing genetic information, self-reproducing or capable of reproducing in a biological system;

b) microbiological process: any process in which a microbiological material is used, which involves an intervention on microbiological material or which produces a microbiological material.

2. A plant or animal production process is essentially biological when it consists entirely of natural phenomena such as crossing or selection.

3. The notion of plant variety is defined by [Article 5 of Regulation \(EC\) No. 2100/94 of the Council, of 27 July 1994](#) .

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Article 81-quater

(((Patentability)))

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1. They are patentable provided they meet the requirements of novelty and inventive activity and are susceptible to industrial application:

- a) a biological material, isolated from its natural environment or produced through a technical process, even if pre-existing in its natural state;
 - b) a technical process through which biological material is produced, processed or used, even if pre-existing in its natural state;
 - c) any new use of a biological material or a technical process relating to biological material;
 - d) an invention relating to an element isolated from the human body or otherwise produced, through a technical process, even if its structure is identical to that of a natural element, provided that its function and industrial application are concretely indicated and described . By technical procedure we mean that which only man is capable of implementing and which nature in itself is not capable of carrying out;
 - e) an invention concerning plants or animals or a plant group, characterized by the expression of a specific gene and not by its entire genome, if their application is not limited, from a technical point of view, to obtaining a specific variety plant or animal species and only essentially biological processes are not used to obtain them, according to the methods provided for in article 170-bis, paragraph 6.
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Article 81-quinquies

(((Exclusions)))

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1. Without prejudice to the exclusions referred to in article 45, paragraph 4, the following are excluded from patentability:

- a) the human body, from the moment of conception and in the various stages of its development, as well as the mere discovery of one of the elements of the body itself, including the sequence or partial sequence of a gene, in order to guarantee that the right patent rights are exercised in compliance with fundamental rights regarding the dignity and integrity of man and the environment;
- b) inventions whose commercial exploitation is contrary to human dignity, public order and morality, the protection of health, the environment and the life of people and animals, the preservation of plants and biodiversity and the prevention of serious environmental damage, in accordance with the principles contained in Article 27(2) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This exclusion concerns, in particular:
 - 1) any technological process of human cloning, whatever the technique used, the maximum stage of programmed development of the donated organism and the purpose of the cloning;
 - 2) the procedures for modifying the germinal genetic identity of the human being;
 - 3) any use of human embryos, including human embryonic stem cell lines;
 - 4) procedures for modifying the genetic identity of animals, capable of causing suffering on the latter without substantial medical use for the human being or the animal, as well as the animals resulting from such procedures;
 - 5) inventions relating to genetic screening protocols, the exploitation of which leads to discrimination or stigmatization of human subjects on genetic, pathological, racial, ethnic, social and economic grounds, or having eugenic and non-diagnostic purposes;
- c) a simple DNA sequence, a partial sequence of a gene, used to produce a protein or a partial protein, unless the indication and description of a function useful for the evaluation of the industrial application requirement is provided and that the corresponding function is specifically claimed; each sequence is considered autonomous for patent purposes in the case of sequences overlapping only in the parts not essential to the invention.

2. However, any technical process that uses human embryonic cells is excluded from patentability.

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Art. 81-sexies

(((Extension of protection)))

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1. The protection attributed by a patent relating to a biological material endowed, following the invention, with certain properties extends to all biological materials derived from it through reproduction or multiplication in identical or differentiated form and endowed with the same properties.

2. The protection attributed by a patent relating to a process that allows the production of a biological material endowed, as a result of the invention, with certain properties extends to the biological material directly obtained from this process and to any other biological material

derived from the biological material directly obtained by reproduction or multiplication in identical or differentiated form and endowed with the same properties.

3. Without prejudice to the provisions of Article 81-quinquies, paragraph 1, letter a), the protection attributed by a patent to a product containing or consisting of genetic information extends to any material in which the product is incorporated and in which genetic information is contained and performs its function.

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Article 81-septies

(((Limitations to the extent of protection)))

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1. The protection referred to in article 81-sexies does not extend to biological material obtained through reproduction or multiplication of biological material marketed in the territory of the State by the patent holder or with his consent, if the reproduction or multiplication necessarily derives from the use for which the biological material was marketed, provided that the material obtained is not subsequently used for other reproductions or multiplications.

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Article 81-octies

(((Compulsory license)))

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1. The Italian Patent and Trademark Office also issues a compulsory license to:

a) of the breeder, for the non-exclusive exploitation of the invention protected by the patent, if this license is necessary for the exploitation of a plant variety;

b) of the owner of a patent concerning a biotechnological invention for the use of the patent on a plant variety.

2. The issuing of the license referred to in paragraph 1 takes place according to the procedures and conditions referred to in articles 71 and 72, insofar as they are compatible.

3. In case of granting of the compulsory license, the owner of the patent and the owner of the plant variety right are mutually entitled to a license according to conditions which, in the absence of agreement between the parties, are determined by the Italian Patent and Trademark Office.

4. The issuing of the license referred to in paragraph 1 is subject to demonstration by the applicant:

a) who has turned in vain to the owner of the patent or plant variety right to obtain a contractual licence;

b) that the plant variety or invention constitutes a significant technical progress, of considerable economic interest compared to the invention indicated in the patent or the protected plant variety.

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Section V Utility models

Article 82

Object of the patent

1. New models suitable for conferring particular effectiveness or ease of application or use on machines, or parts thereof, instruments, utensils or objects of use in general, such as new models consisting of particular conformations, arrangements, configurations or combinations of parts.

2. The patent for the machines as a whole does not include the protection of individual parts.

3. The effects of the utility model patent extend to models that achieve equal utility, as long as they use the same innovative concept.

Article 83

The right to patent

1. The right to the patent belongs to the author of the new utility model and his successors in title.

Article 84

Alternative patenting

1. Anyone applying for a patent for an industrial invention, pursuant to this code, is permitted to simultaneously submit an application for a patent for a utility model, to be valid in the event that the first is not accepted or is only partially accepted.

2. If the application concerns a model rather than an invention or vice versa, the Italian Patent and Trademark Office invites the interested party, assigning a deadline, to modify the application itself, which however takes effect from the date of original submission.

3. If the utility model patent application also contains a *((invention))* or vice versa, Article 161 is applicable.

Article 85

Duration and effects of patenting

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1. The utility model patent lasts ten years from the date of submission of the application and expires with the expiry of the last moment of the day corresponding to the date of submission of the application

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2. The rights conferred and the effective date of the patent are regulated in accordance with article 53.

Article 86

Postponement

1. The provisions of section IV, on industrial inventions, in addition to such inventions, also have effect in the matter of utility models, insofar as they are applicable.

2. In particular, the provisions regarding employee inventions and compulsory licenses are extended to utility model patents.

Section VI

Topographies of semiconductor products

Article 87

Object of protection

1. Any finished or intermediate product is a semiconductor product:

- a) consisting of a set of materials including a layer of semiconductor material;
- b) which contains one or more layers composed of conductive, insulating or semiconducting material, arranged according to a pre-established three-dimensional pattern;
- c) intended to perform, exclusively or together with other functions, an electronic function.

2. The topography of a semiconductor product is a series of related drawings, however fixed or codified:

- a) representing the three-dimensional scheme of the layers that make up a semiconductor product;
- b) in which series each image reproduces in whole or in part a surface of the semiconductor product at any stage of its manufacturing.

Article 88

Protection requirements

1. Topographies resulting from the creative intellectual effort of their author which are not common or familiar within the semiconductor products industry may be the subject of exclusive rights.
2. Topographies resulting from the combination of common or familiar elements may also be the subject of exclusive rights, provided that overall they satisfy the requirements referred to in paragraph 1.

Article 89

Right to protection

1. The exclusive rights on the topographies of semiconductor products that meet the protectability requirements belong to the author and his assignees.
2. If the topography is created within the framework of an employment or employment relationship, article 64 applies.
3. If the topography is created in the execution or fulfillment of a contract other than an employment contract, the right to protection belongs, unless the contract itself provides otherwise, to the person who commissioned the topography.

Article 90

Content of the rights

1. The exclusive rights to the topographies of semiconductor products consist of the right to:
 - a) reproduce in any way or form, totally or partially, the topography;
 - b) commercially exploit, or possess or distribute for the purpose of commercialization, or import a topography or a semiconductor product in which the topography is fixed.
2. Commercial exploitation consists of selling, renting, leasing or any other method of commercial distribution or offering for such purposes.

Article 91

Limitation of Exclusive Rights

1. The protection afforded to the topographies of semiconductor products does not extend to the concepts, processes, systems, techniques or codified information incorporated into the topographies themselves.
2. The exclusive rights referred to in Article 90 do not extend to reproductions made in a private context, on an experimental basis, for teaching, analysis or evaluation purposes of the topography and the concepts, procedures, systems or techniques included in the topography itself.
3. Exclusive rights cannot be exercised against topographies created by third parties on the basis of an analysis or evaluation carried out in accordance with paragraph 2, if such topographies meet the protectability requirements.

Article 92

Registration

1. The topography of semiconductor products is protectable provided that:
 - a) registration is required in Italy or, if the topography has been the subject of previous commercial exploitation anywhere in the world, registration is required within two years from the date of such first exploitation, provided that this date is specified in a specific written statement. For these purposes, commercial exploitation does not include exploitation under conditions of confidentiality in which there has been no further distribution to third parties, unless the exploitation of the topography takes place in accordance with the conditions of confidentiality imposed by the adoption of measures deemed necessary for the protection of essential national security interests and which relate to the production or trade of arms, munitions and war material;
 - b) at the time of the first commercial exploitation or registration request, the owner of the topography is an Italian citizen or legal person or, if foreign, meets the requirements indicated in Article 3 of Chapter I.
2. The right to request registration expires fifteen years from the date of the first fixation or codification of the topography, where it has not been the object of commercial exploitation in any part of the world for the same period. For these purposes, commercial exploitation means that which does not include exploitation in conditions of confidentiality according to the indications contained in paragraph 1, letter a).

Article 93

Effective date and duration of protection

1. The exclusive rights referred to in article 90 arise on the first, in chronological order, of the following dates:
 - a) on the date of the first commercial exploitation of the topography anywhere in the world;
 - b) on the date on which the application for registration was submitted in due form.
2. The exclusive rights referred to in paragraph 1 expire ten years after the first, in chronological order, of the following dates:
 - (a) the end of the calendar year in which the topography was first commercially exploited anywhere in the world;
 - b) the end of the calendar year in which the application for registration was submitted in due form.
3. For the purposes of this article, commercial exploitation means that which does not include exploitation in conditions of confidentiality in accordance with the indications contained in article 92, paragraph 1, letter a).

Article 94

Reserve mention

1. The topography, the semiconductor product and its external casing may bear a mention consisting of:
 - a) the T sign enclosed by a circle;
 - b) the date on which the topography was first commercially exploited;
 - c) the name, denomination or initials of the owner of the rights to the topography.
2. This mention proves the registration of the topography, or the claim of ownership over the topography or the intention to request registration within two years from the date of the first commercial exploitation.
3. The mention cannot be shown on products for which the registration application has not been submitted within two years from the date of first commercial exploitation anywhere in the world or has been definitively refused.

Article 95

Counterfeiting

1. The exercise, without the owner's consent, of the following activities, even through third parties, constitutes an act of counterfeiting and violation of the exclusive rights on the topographies of semiconductor products:
 - a) the reproduction in any way and by any means of the topography;
 - b) the fixation by any means of the topography in a semiconductor product;
 - c) the use, import and possession for marketing purposes, as well as the marketing or distribution of the semiconductor product in which the topography is fixed.
2. The importation, distribution, marketing or use of counterfeit semiconductor products, carried out without knowing or having a valid reason to believe the existence of the exclusive rights referred to in Article 90, do not constitute acts of counterfeiting.
3. In the case referred to in paragraph 2, the continuation of the activity undertaken is permitted, within the limits of the contracts already stipulated and existing stocks, but the owner of the exclusive rights is entitled to the payment of a fair compensation, starting from the moment in who has adequately advised the purchaser in good faith that the topography has been illegally reproduced. In the absence of an agreement between the parties, the provisions set out in section IV for the right license will apply for the determination and methods of payment of the fair consideration at the market price.

Article 96

Compensation for damages and fair compensation

1. Whoever, after the registration of the topography or after the warning from the person who submitted the application for registration, if accepted, carries out the acts referred to in article 95, is required to pay compensation for damages pursuant to the provisions of the chapter III.
2. If the acts referred to in paragraph 1 occur between the first act of commercial exploitation of the semiconductor product with mention of reserve and the registration of the topography, the person responsible is required to pay only fair compensation to the owner of the registered topography.
3. If the documents indicated in the letters
 - a) e
 - b) of paragraph 1 of article 95 occur after the first act of commercial exploitation of a semiconductor product without mention of reservation, the owner of the registered topography has the right to fair compensation and the author of the counterfeit has the right to obtain a license under fair conditions to continue to exploit the topography within the limits of the use made before it was registered.If the registration holder refuses to issue a contractual licence, the provisions relating to the granting of a compulsory license referred to in section IV shall apply, insofar as they are compatible, including those relating to the determination of the amount and methods of payment of the compensation in case of opposition.
4. Anyone who has purchased a semiconductor product without knowing or without having a valid reason to believe that the product is protected by registration has the right to continue commercial exploitation of the product. However, for actions taken after knowing or having valid reasons to believe that the semiconductor product is protected, fair compensation is due. The successor in title of the purchaser referred to in this paragraph retains the same rights and obligations.
5. For the purposes of this article, commercial exploitation means that which does not include exploitation in conditions of confidentiality, according to the indications referred to in article 92, paragraph 1 ((, **letter to**)).

Article 97

Invalidity of registration

1. The application aimed at obtaining the judicial declaration of nullity of the registration of the topography can be promoted at any time and by anyone who has an interest in it, if one of the following requirements is omitted, does not exist or is absolutely uncertain:
 - a) the protectability requirements referred to in Article 88;
 - b) the owner of the topography is not one of the subjects indicated in article 92, paragraph 1, letter b);

c) registration in Italy has not been requested within the deadline set in article 92, paragraph 1, letter a) and, if *((in question))* of topographies whose commercial exploitation began in the two years preceding 18 March 1989, registration was not requested by 18 March 1990;

d) the date of the first act of exploitation has not been specified in a specific written declaration;

e) the registration application *((and the related annexes do not allow the identification of the topography and the evaluation of the requirements referred to in letter a)))*.

Section VII
((Trade Secrets))

Article 98

Object of protection

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1. *Commercial secrets are the object of protection. Trade secrets mean company information and technical-industrial experiences, including commercial ones, subject to the legitimate control of the holder, where such information:*

a) are secret, in the sense that they are not as a whole or in the precise configuration and combination of their elements generally known or easily accessible to experts and operators in the sector;

b) have economic value as they are secret;

c) are subjected, by the persons to whose legitimate control they are subject, to measures deemed reasonably adequate to keep them secret.

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2. Data relating to tests or other secret data, the processing of which involves a considerable effort and the presentation of which is subject to the authorization for the placing on the market of chemical, pharmaceutical or agricultural products involving the use of new chemicals.

Article 99

Protection

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1. *Without prejudice to the regulation of unfair competition, the legitimate holder of the commercial secrets referred to in article 98 has the right to prohibit third parties, without their own consent, from acquiring, revealing to third parties or using, in an abusive manner, such secrets, except in the case in which they were achieved independently by the third party.*

1-bis. The acquisition, use or disclosure of the commercial secrets referred to in article 98 are considered illicit even when the person, at the time of the acquisition, use or disclosure, was aware or, depending on the circumstances, would have must have been aware that the trade secrets had been obtained directly or indirectly from a third party who used or disclosed them unlawfully pursuant to paragraph 1.

1-ter. The production, offer, marketing of goods constituting infringement, or the import, export or storage of the same goods constitute an illicit use of the trade secrets referred to in article 98, when the person carrying out such conduct was aware or, depending on the circumstances, should have been aware of the fact that the trade secrets had been used unlawfully pursuant to paragraph 1. Infringing goods means goods of which the design, characteristics, function, production or commercialization significantly benefit from the aforementioned illicitly acquired, used or disclosed trade secrets.

1-quater. The rights and actions deriving from the illicit conduct referred to in paragraphs 1, 1-bis and 1-ter are barred in five years.

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Section VIII
New plant varieties

Article 100

Object of the law

1. The object of the right on a new plant variety may be a plant group of a botanical taxon of the lowest known rank which, whether fully conforming or not to the conditions established for the **((contribution))** of the breeder's right, can be:
 - a) defined on the basis of the characters resulting from a certain genotype or a certain combination of genotypes;
 - b) distinguished from any other plant group based on the expression of at least one of the aforementioned characters;
 - c) considered as a **((entity))** with respect to its suitability for correct reproduction.

Article 101

Breeder

1. For the purposes of this code, breeder means:
 - a) the person who created or discovered and developed a variety;
 - b) the person who is the employer of the aforementioned person or who commissioned the work;
 - c) the person entitled or successor in title from the subjects indicated in letters a) and b).

Article 102

Requirements

1. The breeder's right is conferred when the variety is new, distinct, homogeneous and stable.

Article 103

Novelty'

1. The variety is considered new when, on the date of filing of the breeder's application, the reproduction or vegetative multiplication material or a harvest product of the variety has not been sold, or otherwise transferred to third parties, by the breeder or with his consent, for the purposes of exploitation of the variety:
 - a) on Italian territory for more than one year from the date of filing of the application;
 - b) in any other State for more than four years or, in the case of trees and vines, for more than six years.

Article 104

Distinction

1. The variety is considered distinct when it is clearly distinguished from any other variety whose existence is well known at the date of filing of the application.
2. In particular, another variety is considered well-known when:
 - a) an application for the granting of the breeder's right or registration in an official register has been filed for it in any country, provided that such application has the effect of conferring the breeder's right or registration in the official register of variety;
 - b) is present in public collections.

Article 105

Homogeneity'

1. The variety is considered homogeneous when it is sufficiently uniform in its pertinent and relevant characteristics for the purposes of protection, subject to foreseeable variation as a

consequence of the particularities relating to its sexual reproduction and its vegetative multiplication.

Article 106

Stability

1. The variety is considered stable when the relevant and relevant characters for protection purposes remain unchanged following subsequent reproductions or multiplications or, in the case of a particular reproduction or multiplication cycle, at the end of each cycle.

Article 107

Contents of the breeder's law

1. The breeder's authorization is required for the following acts carried out in relation to the reproduction or multiplication material of the protected variety:

- a) production or reproduction;
- b) conditioning for the purpose of reproduction or multiplication;
- c) offered for sale, sale or any other form of marketing;
- d) export or import;
- e) detention for one of the purposes listed above.

2. The breeder's authorization is required for the acts mentioned in paragraph 1 carried out in relation to the harvested product, including whole plants and parts of plants, obtained through unauthorized use of reproduction or multiplication materials of the protected variety, unless that the breeder was unable to reasonably exercise his right in relation to the aforementioned reproduction or multiplication material.

Use is presumed unauthorized unless proven otherwise.

3. The provisions of paragraphs 1 and 2 also apply:

- a) to varieties essentially derived from the protected variety, when this is not, in turn, an essentially derived variety;
- b) to varieties that are not clearly distinguishable from the protected variety in accordance with the distinction requirement;
- c) to varieties whose production requires the repeated use of the protected variety.

4. For the purposes of paragraph 3, letter a), a variety is considered to be essentially derived from another variety, defined as the initial variety, when:

- a) derives predominantly from the initial variety or from a variety which in turn is predominantly derived from the initial variety, while retaining the expressions of the essential characters resulting from the genotype or combination of genotypes of the initial variety;
- b) is clearly distinct from the initial variety and, except for the differences generated by the derivation, conforms to the initial variety in the expression of the essential characters resulting from the genotype or the combination of the genotypes of the initial variety.

5. Essentially derived varieties may be obtained, inter alia, by selection of a natural or induced mutant or from a somaclonal variant, by selection of an individual variant among plants of the initial variety, by backcrossing or by transformation through engineering genetics.

6. During the period between the publication of the application and the granting of the right, the breeder has the right to fair remuneration from the person who, in the aforementioned period, has carried out the acts which, once the right has been granted, require authorization of the breeder.

Article 108

Limitations of the breeder's right

1. The right of breeder does not extend to acts carried out in a private sphere, for non-commercial purposes; to acts carried out on an experimental basis; to acts carried out for the purpose of creating other varieties, as well as, where the provisions of article 107, paragraph 3 are not applicable, to acts referred to in the same article 107, paragraphs 1 and 2, carried out with respect to such other varieties.

2. Without prejudice to the provisions of article 107, paragraph 1, anyone who intends to proceed with the multiplication, with a view to certification, of material coming from a variety subject to

patent rights for a new plant variety, is required to give prior notification to the holder of the right.

Article 109

Duration of protection

1. The right of breeder, granted pursuant to this code, lasts twenty years from the date of its grant. For trees and vines this right lasts thirty years from the date of its grant.
2. The effects of the patent rights start from the date on which the application, accompanied by the descriptive elements, is made accessible to the public.
3. With respect to the persons to whom the application, accompanied by the descriptive elements, was notified by the breeder, the effects of the property rights start from the date of such notification.

Article 110

Moral right

1. The right to be considered the author of the new plant variety can be asserted by the author himself and, after his death, by his spouse and descendants up to the second degree; in their absence or after their death, by parents and other ascendants and in their absence, or after their death, by relatives up to and including the fourth degree.

Article 111

Property rights

1. The rights arising from the creation of new plant varieties, except the right to be recognized as the author, are alienable and transmissible.
2. If the new plant variety is created within the framework of an employee or employment relationship, article 64 applies.

Article 112

Nullity of the right

1. The breeder's right is void if it is ascertained that:
 - a) the conditions established by the rules on novelty and distinction were not actually satisfied at the time of granting the breeder's right;
 - b) the conditions established by the rules on homogeneity and stability were not actually satisfied at the time of conferring the breeder's right, where the breeder's right was conferred essentially on the basis of information or documents provided by the breeder;
 - c) the breeder's right has been conferred on someone who did not have the right and the person entitled has not made use of the faculties granted to him by article 118.

Article 113

Forfeiture of the right

1. The breeder's right lapses when it is ascertained that the conditions relating to homogeneity and stability are no longer effectively satisfied.
2. The right also lapses if the breeder, following formal notice by the competent administration:
 - a) does not present, within thirty days, the information, documents or material deemed necessary to control the maintenance of the variety;

b) has not paid the fees due for the maintenance of his right;
c) does not propose, in the event of cancellation of the denomination of the variety after the granting of the right, another suitable denomination.

3. In the cases provided for in paragraph 2, letters

a) and c), the revocation is declared by the Italian Patent and Trademark Office, upon proposal of the Ministry of Agricultural and Forestry Policies.

Article 114

Name of the variety

1. The variety must be designated with a denomination intended to be its generic designation.
2. The denomination must allow the variety to be identified.
It cannot consist solely of numbers, unless it is an established practice to designate certain varieties. It must not be liable to mislead or create confusion as to its characteristics, the value or identity of the variety or the identity of the breeder. In particular, it must be different from any other denomination which designates, in the territory of a State adhering to the Union for the Protection of New Plant Varieties (UPOV), a pre-existing variety of the same plant species or a similar species, unless this other variety no longer exists and its name has not assumed any particular importance.
3. Rights previously acquired by third parties are not affected.
4. The denomination must be the same as that already registered in one of the States adhering to the Union for the Protection of New Plant Varieties (UPOV) to designate the same variety.
5. The registered name that meets the requirements of paragraphs 1, 2, 3 and 4 is registered.
6. The registered and registered name, as well as the related variations, are communicated to the competent authorities of the States adhering to UPOV.
7. The registered name must be used for the variety even after the breeder's right has expired, to the extent that, in accordance with the provisions of paragraph 3, previously acquired rights do not oppose such use.
8. It is permitted to associate a trademark, a commercial name or a similar indication with the varietal denomination, provided that the varietal denomination is, in any case, easily recognisable.

Article 115

((*Compulsory licenses and expropriations*))

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1. *The breeder's right may be the subject of non-exclusive compulsory licenses only for reasons of public interest, referred to in paragraph 3.*
2. *The rules on compulsory licensing referred to in section IV apply to compulsory licenses, insofar as they are compatible with the provisions contained in this section, including those relating to the determination of the amount and methods of payment of compensation in the event of opposition .*
3. *By ministerial decree, special, non-exclusive compulsory licenses for the use of new protected plant varieties that can be used for human or animal consumption may be granted at any time by paying fair compensation to the holder of the breeder's right. livestock, as well as for therapeutic uses or for the production of medicines.*
4. *The licenses provided for in paragraph 3 are granted with the assent of the Ministry of Agricultural, Food and Forestry Policies which decides on the conditions prescribed for the granting of licences.*
5. *The decree granting the license may provide for the obligation for the holder of the right to make the necessary propagation or multiplication material available to the licensee.*
6. *Expropriation takes place for new plant varieties, after consulting the Ministry of Agricultural, Food and Forestry Policies.*

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Article 116

Postponement

1. The provisions of section IV are applicable to new plant varieties, insofar as they do not conflict with the provisions of this section.

Chapter III
JURISDICTIONAL PROTECTION OF INDUSTRIAL PROPERTY RIGHTS
Section I
Procedural provisions

Article 117

Validity and membership

1. Registration and patenting do not prejudice the exercise of actions regarding the validity and ownership of industrial property rights.

Article 118

Claim

1. Anyone entitled under this code may submit an application for registration or a patent application.
2. If, with a final judgment, it is ascertained that the right to the registration or patent belongs to a person other than the person who filed the application, the latter may, if the industrial property title has not yet been issued and within three months of finality of the sentence:
 - a) assume the patent application or registration application in his own name, acting in all respects as an applicant;
 - b) file a new patent or registration application whose effective date, to the extent that its content does not exceed that of the first application or refers to an object substantially identical to that of the first application, dates back to the date of filing or registration priority of the initial request, which in any case ceases to have effects; file, in the case of a trademark, a new registration application whose effective date, to the extent that the trademark contained in it is substantially identical to that of the first application, dates back to the filing or priority date of the initial application, which in any case ceases to have effects;
 - c) obtain the rejection of the application.
3. If the patent has been issued or the registration has been carried out in the name of a person other than the entitled person, the latter may alternatively:
 - a) obtain by sentence the transfer of the patent or registration certificate to his name from the moment of filing;
 - b) enforce the nullity of the patent or registration granted in the name of someone who was not entitled to it.
4. After the expiry of two years from the date of publication of the granting of the patent for an invention, for a utility model, for a new plant variety, or from the publication of the granting of the registration of the topography of semiconductor products, without the right holder has availed himself of one of the faculties referred to in paragraph 3, the nullity can be asserted by anyone who has an interest in it.
5. The rule in paragraph 4 does not apply to trademark and design registrations.
6. Without prejudice to the application of any other protection, the registration of a company domain name granted in violation of article 22 or requested in bad faith may be, upon request of the entitled person, revoked or transferred to him by the registration authority.

Article 119

Paternity'

1. The Italian Patent and Trademark Office does not verify the accuracy of the designation of the inventor or author, nor the legitimacy of the applicant, without prejudice to the checks required by law or international conventions. Before the Italian Patent and Trademark Office it is presumed that the applicant is the owner of the right to the registration or patent and is entitled to exercise it.
2. An incomplete or incorrect designation may be rectified **((only))** upon request accompanied by a declaration of consent from the previously designated person and, if the request is not presented by the applicant or owner of the patent or registration, also by a declaration of consent from the latter.
3. If a third party presents to the Italian Patent and Trademark Office an enforceable sentence according to which the applicant or owner of the patent or registration is required to designate him as inventor or author, the Office shall note it in the register and provide ' news in the Official Bulletin.

Article 120

Jurisdiction and competence

1. Actions relating to industrial property whose titles have been granted or are in the process of being granted are brought before the judicial authority of the State, regardless of the citizenship, domicile or residence of the parties. If the action for nullity or infringement is brought when the title has not yet been granted, the sentence can only be pronounced after the Italian Patent and Trademark Office has acted on the application for concession, examining it with priority over applications submitted earlier. The judge, taking into account the circumstances, orders the suspension of the trial, one or more times, setting with the same provision the hearing in which the trial must continue.
2. The actions provided for in paragraph 1 are brought before the judicial authority of the place where the defendant has his residence or domicile and, if these are unknown, of the place where the defendant has his residence, except as provided in paragraph 3. When the defendant has no residence, no domicile or abode in the territory of the State, the actions are brought before the judicial authority of the place where the plaintiff has his residence or domicile.
If neither the plaintiff nor the defendant have residence, domicile or abode in the territory of the State, the judicial authority of Rome is competent.
3. The indication of domicile made with the application for registration or patenting and noted in the register is valid as an election of exclusive domicile, for the purposes of determining jurisdiction and any notification of documents of proceedings before ordinary or administrative jurisdictional authorities. The domicile thus elected can only be changed with a specific request for substitution to be noted in the register by the Italian Patent and Trademark Office.
4. Jurisdiction regarding industrial property rights belongs to the courts expressly indicated for this purpose by [Legislative Decree no. 27 June 2003. 168](#) .
5. For Community trade mark and design courts pursuant to Article [91 of Regulation \(EC\) No. 40/94](#) and [article 80 of Regulation \(EC\) no. 2002/6](#) means those referred to in paragraph 4.
6. Actions based on facts alleged to be detrimental to the plaintiff's rights can also be brought before the judicial authority with **((Of))** specialized section in whose jurisdiction the facts were committed.

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6-bis. The rules of jurisdiction and competence referred to in this article also apply to negative assessment actions, even those proposed as a precautionary measure.

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Article 121

Sharing the burden of proof

1. **((Except in the case of forfeiture due to non-use, the burden))** proving the nullity or forfeiture of the industrial property right is in any case the responsibility of the person challenging the title. Without prejudice to the provisions of Article 67, the burden of proving infringement falls on the owner. **((In any case in which forfeiture due to non-use is requested or objected to, the owner provides proof of use of the trademark in accordance with article 24.))**

2. If a party has provided serious evidence of the validity of its claims and has identified documents, elements or information held by the opposing party which confirm such evidence, it may obtain that the judge orders its production or requests the information from the opposing party. You can also obtain that the judge orders the other party to provide the elements for the identification of the subjects involved in the production and distribution of the products or services that constitute infringement of industrial property rights.

2-bis. In the event of an infringement committed on a commercial scale through acts of piracy referred to in article 144, the judge may also order, upon request of a party, the production of the banking, financial and commercial documentation found in the possession of the other party.

3. The judge, in taking the above measures, adopts appropriate measures to guarantee the protection of confidential information, after consulting the other party.

4. The judge deduces evidence from the answers that the parties give and unjustified refusal to comply with the orders.

5. In the matters referred to in this code, the ex-officio technical consultant may receive the documents relating to the questions asked by the judge even if not yet produced in the case, making them known to all the parties. Each party may appoint more than one consultant.

Art. 121-bis

((*(Right to information)*))

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1. *The judicial authority, both in precautionary and substantive proceedings, may order, upon justified and proportionate request from the applicant, that information be provided on the origin and distribution networks of goods or provision of services that violate a right of referred to in this law by the author of the violation and by any other person who:*

a) has been found to be in possession of infringing goods on a commercial scale; has been caught using infringing services on a commercial scale;

b) has been caught providing on a commercial scale services used in infringement activities;

c) has been indicated by the subjects referred to in letters a) or b) as a person involved in the production, manufacture or distribution of such products or in the provision of such services.

2. *The information referred to in paragraph 1 may include, inter alia, the name and address of the producers, manufacturers, distributors, suppliers and other previous holders of the products or services, as well as wholesalers and retailers, as well as information on the quantities produced, manufactured, delivered, received or ordered, as well as on the price of the products or services in question.*

3. *The information is acquired through questioning of the subjects referred to in paragraph 1.*

4. *The applicant must provide a specific indication of the persons to be questioned and the facts about which each of them must be questioned.*

5. *The judge, having admitted the interrogation, requests the information indicated by the party from the subjects referred to in paragraph 1; he may also ask them, ex officio or at the request of a party, all the questions he deems useful to clarify the circumstances on which the interrogation is taking place.*

6. [Articles 249](#) , [250](#) , [252](#) , [255](#) and [257, first paragraph, of the code of civil procedure](#) apply .

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Art. 121-ter

((*(Protection of the confidentiality of trade secrets during legal proceedings.)*))

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1. *In judicial proceedings relating to the illicit acquisition, use or disclosure of commercial secrets referred to in Article 98, the judge may prohibit the subjects appointed or delegated by him, the parties and their representatives and consultants, the defenders, administrative staff, witnesses, and other subjects who for any reason have access to the provisions, deeds and documents present in the office file, the use or disclosure of the commercial secrets which are the subject of the proceedings which it deems confidential. The prohibition measure referred to in the first sentence is pronounced upon request of a party and remains effective even after the conclusion of the proceedings during which it was issued.*

2. *The provision referred to in paragraph 1 loses its effectiveness:*

a) if a final judgment establishes that the trade secrets at issue did not meet the requirements set out in article 98;

b) if the trade secrets become generally known or easily accessible to experts and operators in the sector.

3. In the judicial proceedings referred to in paragraph 1, the judge, upon request of a party, may adopt measures which, in compliance with the regulatory principles of fair trial, appear most suitable for protecting the confidentiality of the commercial secrets at issue in the case, and in particular:

a) limit access to the hearings and to the records and documents present in the official file to a limited number of subjects;

b) order, in the provisions that define the proceedings referred to in paragraph 1, also made available to subjects other than the parties, the obscuration or omission of the parts containing the trade secrets.

4. For the purposes of paragraph 3, letter b), the judge, with the provision, indicates the parts of the same that the registrar is required to obscure or omit when issuing a copy to persons other than the parties. For the same purposes, the judge orders that, when the provision is filed, the clerk's office places a note on it which prohibits the parties from disseminating the provision in its entirety.

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Article 122

Legitimation of action for nullity and forfeiture

1. Without prejudice to the provisions of article 118, paragraph 4, the action aimed at obtaining the declaration of revocation or nullity of an industrial property right may be exercised by anyone who has an interest in it and promoted ex officio by the public prosecutor. By way of derogation from [article 70 of the civil procedure code](#), the intervention of the public prosecutor is not mandatory. (8)

2 The action aimed at obtaining the declaration of invalidity of a trademark due to the existence of prior rights or because the use of the trademark would constitute an infringement of another's copyright, industrial property right or other exclusive right of third parties, or because the trademark constitutes a violation of the right to the name or portrait or because the registration of the trademark was carried out in the name of the non-rightful owner, it can only be exercised by the owner of the previous rights and by his successor in title or by the person entitled to it.

3. The action aimed at obtaining the declaration of invalidity of a design or model due to the existence of the previous rights referred to in article 43, paragraph 1, letters d) and e), or because the registration was carried out in the name of the not entitled or because the design or model constitutes improper use of one of the elements listed in article 6-ter of the Paris Union Convention for the protection of industrial property - Stockholm text of 14 July 1967, ratified by law [28 April 1976, n. 424](#), or of designs, emblems and coats of arms which are of particular public interest in the State, can respectively be exercised only by the owner of the previous rights and by his successor in title or by the person entitled or by whoever has an interest in the use.

4. The action of forfeiture or nullity of an industrial property right is exercised jointly with all those who are recorded in the register as entitled as holders of it.

**((4-bis. The action of nullity or revocation of a registered trademark cannot be proceeded if, on an application with the same object, the same constituent facts and between the same parties, a decision has been pronounced by the Italian Patent Office and trademarks pursuant to Article 184-
quater or proceedings are pending before the Italian Patent and Trademark Office, pursuant to Article 184-bis.**

4-ter. Except for the case referred to in paragraph 4-bis, if the action of nullity or revocation of a registered trademark is exercised pending an administrative proceeding, related to its object, the judge may suspend the relevant process. The party who is interested in it must request the setting of a new hearing within the peremptory deadline three months from the definition of the related administrative procedure, pursuant to [article 297, third paragraph, of the code of civil procedure](#) .))

5. Judgments declaring the nullity or forfeiture of an industrial property right are recorded in the register by the Italian Patent and Trademark Office.

6. A copy of the introductory document of every civil proceeding regarding industrial property rights must be communicated to the Italian Patent and Trademark Office by the person initiating the proceeding.

7. If the aforementioned communication has not been made, the judicial authority, at any level of the judgement, before deciding on the merits, orders that such communication be made.

8. The chancellor must send a copy of every sentence regarding industrial property rights to the Italian Patent and Trademark Office.

Law [23 July 2009, n. 99](#) provided (with art. 19, paragraph 4) that "The provisions of paragraph 3 also apply to proceedings in progress on the date of entry into force of this law".

Art. 122-bis

(((Legitimation of the licensee's infringement action.))

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- 1. Without prejudice to the clauses of the license agreement, the licensee may initiate an action for infringement of a trademark only with the consent of the owner of the same. The holder of an exclusive license may, however, initiate such an action if the trademark owner, after receiving formal notice, does not initiate an action for infringement within the appropriate time limits.*
- 2. The licensee can intervene in the action for infringement initiated by the trademark owner to obtain compensation for the damage suffered by him.*
- 3. The provisions referred to in paragraphs 1 and 2 apply to subjects authorized to use collective marks, referred to in article 11.*

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Article 123

Efficacy erga omnes

1. Forfeitures or nullities, even partial, of an industrial property right are effective towards everyone when they are declared with a final judgement.

Article 124

Corrective measures and civil sanctions

1. With the sentence that ascertains the violation of an industrial property right, an injunction on the manufacture, trade and use of the things constituting violation of the right, and the order of definitive withdrawal from the market of the same things in the towards anyone who owns it or has access to it. The injunction and the definitive withdrawal order from trade can also be issued against any intermediary who is a party to the proceedings and whose services are used to infringe an industrial property right.
2. By issuing the injunction, the judge can set a sum due for any violation or non-compliance subsequently noted and for any delay in the execution of the measure.
3. With the sentence that ascertains the violation of an industrial property right, the destruction of all the things constituting the violation may be ordered, if there are no particular reasons to do so, at the expense of the author of the violation. The destruction of the thing cannot be ordered and the person entitled can only obtain compensation for damages if the destruction of the thing is detrimental to the national economy. If the products constituting infringement of industrial property rights are susceptible, after adequate modification, to legitimate use, the judge may order, instead of their definitive withdrawal or destruction, their temporary withdrawal from the market, with the possibility of reinsertion following the adjustments imposed to guarantee compliance with the law.
4. With the sentence that ascertains the violation of industrial property rights, it may be ordered that the objects produced, imported or sold in violation of the right and the specific means that uniquely serve to produce them or to implement the protected method or process are assigned ownership to the owner of the right itself, without prejudice to the right to compensation for damages.
5. The judge also has the power, upon request of the owner of the objects or means of production referred to in paragraph 4, taking into account the residual duration of the industrial property title or the particular circumstances of the case, to order the seizure, at the expense of the author of the violation, until the title, objects and means of production are extinguished. In the latter case, the owner of the industrial property right can request that the seized objects be

awarded to him at the price which, in the absence of agreement between the parties, will be established by the enforcement judge, having heard, if necessary, an expert .

6. Things constituting a violation of industrial property rights cannot be ordered to be removed or destroyed, nor can their use be prohibited when they belong to those who use them personally or domestically. When applying sanctions, the judicial authority takes into account the necessary proportion between the seriousness of the violations and the sanctions, as well as the interests of third parties.

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6-bis. In proceedings relating to the illicit acquisition, use or disclosure of trade secrets referred to in article 98, the judge, in ordering the measures referred to in this article and in assessing their proportionality, shall consider the circumstances of the concrete case, including which:

- a) the value and other specific characteristics of the trade secrets;*
- b) the measures adopted by the legitimate holder to protect the trade secrets;*
- c) the infringer's conduct in acquiring, using or disclosing trade secrets;*
- d) the impact of the unlawful use or disclosure of trade secrets;*
- e) the legitimate interests of the parties and the impact that acceptance or rejection of the measures could have for them;*
- f) the legitimate interests of third parties;*
- g) the general public interest;*
- h) the needs for the protection of fundamental rights.*

6-ter. In proceedings relating to the illicit acquisition, use or disclosure of commercial secrets referred to in article 98, the judge may order, as an alternative to the application of the measures referred to in this article and upon request of the interested party, the payment of compensation, if the following conditions are jointly met:

- a) the applicant party, at the time of the use or disclosure, did not know nor, under the circumstances, should have known, of the fact that the trade secrets had been obtained from a third party who was using or disclosing them illicitly;*
- b) the execution of such measures may be excessively burdensome for the requesting party;*
- c) the compensation is adequate in relation to the damage suffered by the party who requested the application of the measures.*

6-quater. The compensation paid pursuant to paragraph 6-ter cannot, in any case, exceed the amount of the rights due if the requesting party had requested authorization to use the trade secrets for the period of time for which their use could have been prohibited.

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7. The judge who issued the sentence containing the aforementioned measures decides on disputes that arise in carrying out the measures mentioned in this article, with an order not subject to appeal, after having heard the parties and having gathered summary information.

Article 125

((Compensation for damages and return of the infringer's profits))).

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1. The compensation due to the injured party is paid according to the provisions of [articles 1223](#) , [1226](#) and [1227 of the civil code](#) , taking into account all relevant aspects, such as the negative economic consequences, including loss of earnings, of the owner of the injured right, the benefits made by the author of the infringement and, in appropriate cases, elements other than economic ones, such as the moral damage caused to the owner of the right by the infringement.

2. The sentence that provides for the compensation of damages may liquidate them in a global sum established on the basis of the documents of the case and the presumptions deriving from them. In this case, the loss of profit is in any case determined at an amount no less than that of the fees that the author of the infringement would have had to pay, if he had obtained a license from the owner of the infringed right.

3. In any case, the owner of the infringed right may request the restitution of the profits made by the author of the infringement, as an alternative to compensation for lost profits or to the extent that they exceed such compensation.

Article 126

Publication of the sentence

1. The judicial authority may order that the precautionary order or sentence which ascertains the violation of industrial property rights be published in full or in summary or only in the dispositive part, taking into account the seriousness of the facts, in one or more newspapers indicated by it, at the expense of the losing party. **((In any case, appropriate measures are adopted to guarantee the protection of the confidentiality of the commercial secrets referred to in Article 98.))**

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1-bis. In proceedings relating to the illicit acquisition, use or disclosure of trade secrets referred to in Article 98, the judge, in deciding whether to adopt one of the measures referred to in paragraph 1 and in assessing their proportionality, shall consider the circumstances of the case concrete and, in particular:

- a) the value of trade secrets;**
- (b) the infringer's conduct in acquiring, using or disclosing trade secrets;**
- (c) the impact of the unlawful use or disclosure of trade secrets;**
- d) the danger of further illicit use or disclosure of trade secrets by the infringer.**

1-ter. For the purposes referred to in paragraph 1-bis, the judge also considers whether the information on the author of the violation is such as to allow the identification of a natural person and, in this case, whether the publication of such information is justified also in consideration of any damage that the measure may cause to the private life and reputation of the author himself.

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Article 127

Criminal and administrative sanctions

1. Without prejudice to the application of [articles 473](#) , [474](#) and [517 of the penal code](#) , anyone who manufactures, sells, exhibits, uses industrially, introduces objects into the State in violation of an industrial property right valid in accordance with the provisions of this code, is punished , upon complaint, with a fine of up to 1,032.91 euros. (8)

1-bis. Anyone who refuses without justified reason to answer the judge's questions pursuant to article 121-bis or provides the judge with false information is punished with the penalties provided for by article [372 of the penal code](#) , reduced by half.

2. Anyone who affixes, on an object, words or indications that do not correspond to the truth, tending to make people believe that the object is protected by patent, design or model or topography or to make people believe that the trademark that distinguishes it has been registered, is punished with the administrative sanction **((from 150 euros to 1,500 euros))**.

3. Unless the fact constitutes a crime, anyone who uses a registered trademark, after the relevant registration has been declared null and void, is punished with an administrative fine of up to 2,065.83 euros, even when there is no damage to the third party, when the cause of nullity involves the illicit use of the trademark, or suppresses the trademark of the producer or trader from whom he received the products or goods for commercial purposes.

UPDATE (8)

Law [23 July 2009, n. 99](#) , has provided (with art. 15, paragraph 2) that "With effect from the date of entry into force of the provisions referred to in paragraph 1, letter e), in article 127 of the industrial property code, referred to in legislative decree 10 February 2005, n. 30, paragraph 1 is repealed."

Article 128

(((Preventive technical consultancy)))

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1. The requests for the completion of the preventive technical consultancy provided for by art . [696-bis of the civil procedure code](#) , are proposed to the President of the specialized section of the competent court for the judgment on the merits, according to the provisions of the same article, insofar as they are compatible.

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Article 129

(Description and seizure)

1. The owner of an industrial property right may request the description or seizure, and also the seizure subject to the description, of some or all of the objects constituting infringement of this right, as well as the means used for the production of the same and evidence concerning the reported violation and its extent. Suitable measures are adopted to guarantee the protection of confidential information.
2. The judge, having heard the parties and gathered, when necessary, summary information, issues an order and, if he orders the description, authorizes the possible taking of samples of the objects referred to in paragraph 1. In cases of special urgency, and in particular when any delays could cause irreparable damage to the owner of the rights or when the summoning of the counterparty could jeopardize the implementation of the description or seizure measure, it shall act on the request with a reasoned decree.
3. **((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#)))**.
4. The description and seizure proceedings are governed by the rules of the [civil procedure code](#) concerning precautionary proceedings, as they are compatible with and not derogated from this code.
For the purposes of confirming, modifying or revoking the description and the possible granting of the precautionary measures requested together with or subordinate to the description, the judge sets the hearing taking into account the description in order to evaluate the result.

Article 130

((Execution of description and seizure))

1. The description and seizure are carried out by means of a judicial officer, with the assistance, where necessary, of one or more experts and also with the use of technical means of assessment, photographic or otherwise.
2. Interested parties may be authorized to witness the operations also through their representatives and to be assisted by technicians they trust.
3. Once the deadline of [article 675 of the code of civil procedure has](#) expired, the description and seizure operations already started can be completed, but no others based on the same provision can be started. This remains without prejudice to the right to ask the judge to order further description or seizure measures during the proceedings on the merits.
4. The description and seizure may concern objects belonging to subjects even not identified in the appeal, provided that they are objects produced, offered, imported, exported or put on the market by the party against whom the aforementioned measures were issued and provided that such objects are not intended for personal use.
5. The report of the seizure and description operations, with the appeal and the provision, must be notified to the third party to whom the objects on which the description or seizure were carried out belong, within fifteen days from the date of conclusion of the operations themselves under penalty of ineffectiveness.

Article 131

Inhibitory

1. The owner of an industrial property right may request that an injunction be ordered for any imminent infringement of his right and the continuation or repetition of ongoing infringements, and in particular he may request that an injunction be ordered against the manufacture, trade and use of things constituting violation of the right, and the order of withdrawal from trade of the same things against anyone who owns them or has access to them, according to the rules of the [civil procedure code](#) concerning precautionary proceedings.
The injunction and the withdrawal order can be requested, on the same grounds, against any person whose services are used to infringe an industrial property right.
- 1-bis. ((PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#)))**.

1-ter. ((PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#))).

1-quater. ((PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#))).

2. By issuing the injunction, the judge can set a sum due for any violation or non-compliance subsequently noted and for any delay in the execution of the measure.

Article 132

(Anticipation of precautionary protection and relationships between the precautionary judgment and the judgment on the merits)

1. The provisions referred to in articles 126, 128, 129, 131 and 133 may also be granted during the patenting or registration process, provided that the application has been made accessible to the public or to the persons to whom the application has been notified. .

2. If the judge in issuing the precautionary measure does not establish the deadline within which the parties must begin the proceedings on the merits, the latter must be started within twenty working days or thirty-one calendar days if these represent a longer period long. The term starts from the pronouncement of the order if it takes place at a hearing or, otherwise, from its communication. If precautionary measures additional to the description have been requested together with or subordinate to the latter, for the purposes of calculating the term, reference is made to the order of the designated judge who also rules on such additional measures.

3. If the trial on the merits has not started within the peremptory deadline referred to in paragraph 2, or if it expires after its start, the precautionary measure loses its effectiveness.

4. The provisions referred to in paragraph 3 do not apply to emergency measures issued pursuant to article [700 of the code of civil procedure](#) and to other precautionary measures suitable for anticipating the effects of the ruling on the merits. In such cases each party can initiate proceedings on the merits.

5. In all precautionary proceedings, the judge may order technical advice for the purpose of obtaining summary technical indications.

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5-bis. In all precautionary proceedings relating to the illicit acquisition, use or disclosure of commercial secrets referred to in Article 98, the judge may, upon request of a party, as an alternative to the application of precautionary measures, authorize the interested party to continue to use the trade secrets by providing suitable security for any compensation for damages suffered by the legitimate holder. The disclosure to third parties of trade secrets whose use is authorized pursuant to the first sentence is prohibited.

5-ter. In ruling on precautionary requests regarding the illicit acquisition, use or disclosure of commercial secrets referred to in article 98, the judge considers the circumstances referred to in article 124, paragraph 6-bis. The judge takes into account the same circumstances for the purposes of assessing the proportionality of the measures.

5-quater. Without prejudice to the provisions of paragraph 4, if the precautionary measures adopted to protect the commercial secrets referred to in article 98 become ineffective, pursuant to paragraph 3, due to failure to initiate proceedings on the merits within the peremptory deadline referred to in paragraph 2 or lose effectiveness due to an action or omission of the appellant, or if it is subsequently ascertained that the illicit acquisition, use or disclosure of the aforementioned trade secrets did not exist, the appellant is required to compensate the damage caused by the measures adopted .

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Article 133

Precautionary protection of domain names

1. The judicial authority may order, as a precautionary measure, in addition to the injunction **((of the use of the domain name in economic activity))** illegitimately registered, including its temporary transfer, subjecting it, if deemed appropriate, to the provision of an appropriate deposit by the beneficiary of the provision.

Article 134

(((Rules on jurisdiction.))

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1. They are assigned to the knowledge of the specialized sections provided for by the [legislative decree of 27 June 2003, n. 168](#) :

a) judicial proceedings relating to industrial property and unfair competition, with the exclusion only of cases which do not interfere, even indirectly, with the exercise of industrial property rights, as well as in matters relating to offenses relating to the exercise of property rights industrial pursuant to [law 10 October 1990, n. 287, and articles 81 and 82](#) of the Treaty establishing the European Community, the jurisdiction of which lies with the ordinary judge, and in general in matters which present reasons for connection, even improper, with those falling within the competence of the specialized sections;

b) disputes in matters governed by articles 64, 65, 98 and 99 of this code;

c) disputes regarding compensation for expropriation of industrial property rights, which are heard by the ordinary judge;

d) disputes concerning the provisions of the Council of the Order referred to in Chapter VI of which the ordinary judge is aware

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Article 135

Appeals Commission

1. Against the provisions of the Italian Patent and Trademark Office which totally or partially reject an application or request which refuse transcription or which prevent the recognition of a right and in the other cases provided for by this code, an appeal to the Appeals Commission is permitted.

2. The Appeals Commission is made up of a president, an assistant president and eight members chosen from among magistrates with a rank no lower than that of appellate counsel, after hearing the Superior Council of the Judiciary, or from among professors of legal subjects of state universities or colleges.

3. The Commission is divided into two sections, chaired by the president and the deputy president. The president, the deputy president and the members of the Commission are appointed by decree of the Minister of Economic Development and remain in office **((four years))**. The position is renewable.

4. The Commission referred to in paragraph 2 may be joined by technicians chosen by the president from among professors of universities and colleges and from among industrial property consultants, registered with the Order with proven experience as official technical consultants, to report on individual issues submitted to it. The aggregate technicians do not have a deliberative vote.

5. The choice of members of the aforementioned Commission, as well as of technicians, can fall either on officials in service or on retired officials, without prejudice to the categories of officials within which the choice must be made.

6. The Appeals Commission is assisted by a secretariat whose members are appointed with the same decree establishing the Commission, or with a separate decree. The members of the secretariat must be chosen from among the officials of the Italian Patent and Trademark Office and the remuneration is that established by current legislative, regulatory or contractual legislation.

7. The Appeals Commission has an advisory function to the Ministry of Economic Development in matters of industrial property. This function is exercised at the request of the Ministry of Economic Development. The meetings of the Commission in a consultative capacity are not valid if the absolute majority of its members with a deliberative vote is not present.

8. The compensation for the members of the Commission, the members of the secretariat of the Commission and the technicians attached to the Commission, are determined by decree of the Minister of Economic Development, in agreement with the Minister of Economy and Finance.

Article 136

(((Lodging of appeals.))

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1. The appeal must be notified, under penalty of inadmissibility, to the Italian Patent and Trademark Office and to at least one of the other interested parties to whom the act directly refers within the peremptory deadline of sixty days from the day in which the interested party received the communication or had knowledge of the contested act or, for the acts for which individual communication is not required, from the day on which the deadline for publication expired, if this is provided for by provisions of law or regulation, without prejudice to the obligation to integrate with further notifications to other interested parties, where ordered by the Appeals Commission.
 2. The notification of the appeal is made according to the provisions of [articles 137 et seq. of the civil procedure code](#) .
 3. The certified email address of the defender or party is indicated in the appeal or in the first defense document.
 4. The indication of the certified email address valid for communications and notifications is equivalent to the communication of the elected domicile.
 5. The appeal must be addressed to the Appeals Commission and must contain:
 - a) the identifying elements of the appellant, his lawyer, if appointed, and the parties against whom the appeal is brought;
 - b) the indication of the contested provision with the date of its notification or knowledge and the subject of the request;
 - c) the summary statement of the facts;
 - d) the specific reasons on which the appeal is based;
 - e) the indication of the documents offered in communication and the other means of proof which the appellant intends to rely on;
 - f) the signature of the appellant, if he is in court personally, or of the defender, with indication, in this case, of the special power of attorney.
 6. The appeal is inadmissible if one of the indications referred to in letters a), b), c), d) and f) of paragraph 5 is missing or absolutely uncertain.
 7. The defendant who, in the administrative proceedings, has been partially unsuccessful, may propose, in compliance with the provisions of paragraphs 1, 2, 3, 4 and 5, an incidental appeal against the decisional provision within the thirty-day limitation period. days starting from the filing of the main appeal.
 8. [Article 334 of the Code of Civil Procedure](#) applies, to the extent compatible .
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Art. 136-bis

(((Filing of appeal).))

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1. The appellant, within the peremptory deadline of thirty days from the last notification of the appeal, files with the offices referred to in article 147, and according to the methods provided therein, or by sending it to the secretariat of the Appeals Commission at the Office Italian patents and trademarks, the appeal with proof of notifications, a copy of the contested provision, if in possession of the appellant, and the documents it intends to use in court.
2. Proof of payment of the unified contribution referred to in [article 9 of the Presidential Decree of 30 May 2002, n. must be presented together with the appeal. 115](#) .
3. The original of the appeal must be accompanied by as many copies as there are members of the Commission and the counterparties, without prejudice, however, to the President of the Commission's right to request a greater number of copies from interested parties.
4. Failure to produce a copy of the contested provision and the documentation supporting the appeal does not imply forfeiture.
5. In case of failure to deposit the documents indicated in the appeal, by decree of the President of the Commission the appellant is given a peremptory deadline, in any case not exceeding sixty days, for the deposit of the documentation which he intends to use.
6. The Italian Patent and Trademark Office must produce, by insertion in a specific file kept by the secretariat of the Commission, any contested measure, as well as the deeds and documents on the basis of which the act was issued, those cited in it and those he deems useful for judgment.
7. If the appeal has not been notified to one or more of the parties against whom the sentence must be pronounced, they may intervene in court by appearing at the hearing.

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Art. 136-ter

((Formation of the trial file and communications to the parties.))

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1. The secretariat of the Commission enters the appeal in the general register and prepares the official file of the trial, inserting the files of the appellant and the other parties, with the deeds and documents produced, as well as, subsequently, the originals of the hearing minutes , ordinances and decrees and copies of sentences.
2. The parties' files remain in the official file and are returned to them, upon request, at the end of the trial.
3. The secretariat submits the newly created process file to the President of the Commission.
4. Communications are carried out using certified electronic mail, pursuant to [Legislative Decree 7 March 2005, n. 82](#) .
5. In the event of failure to indicate the certified email address or failure to deliver the communication for reasons attributable to the recipient, communications are carried out exclusively by deposit with the Commission's secretariat.

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Article 136-quater

((Preliminary examination of the appeal and presidential measures.))

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1. The President of the Commission preliminarily examines the appeal and, when it is manifestly inadmissible, declares it by decree.
2. The President, where the conditions exist, also declares the suspension, interruption and termination of the trial.
3. The measures referred to in paragraphs 1 and 2 have the form of a decree and are subject to complaint before the Commission. The complaint is presented with an appeal and is notified to the other parties in the forms referred to in article 136, within the peremptory deadline of thirty days from communication of the decree by the secretariat.
4. The complainant, within the peremptory deadline of fifteen days from the last notification, files the notified appeal with the secretariat of the Appeals Commission.
5. Within fifteen days following notification of the complaint, the other parties may submit briefs.
6. Once the deadlines have expired, the Commission immediately decides on the complaint in chambers.
7. The Commission pronounces a sentence if it declares the appeal inadmissible or the termination of the trial; in other cases he pronounces a non-challengeable order in which the provisions for the continuation of the trial are given.
8. At any time the President of the Commission, ex officio or at the request of a party or on the recommendation of the members of the Commission, orders by decree the consolidation of the appeals which have the same object or are connected to each other.
9. The panel, if it finds that the joining of related processes delays or makes their treatment more burdensome, can, by order, order their separation.
10. If he does not decide to preliminarily adopt the measures referred to in paragraphs 1, 2 and 3, the President sets the hearing to deal with the dispute and appoints the rapporteur. In the event that the dispute requires the treatment of issues of a technical nature, it may appoint one or more aggregate technicians, pursuant to article 135, paragraph 4.

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Article 136-quinquies

(Preliminary phase to the hearing)

1. The secretariat will notify the parties at least of the date of the hearing (*(thirty days)*) free before the same.
2. The same notice must be given when the discussion has been postponed by the President in the event of a justified impediment of the speaker, who cannot be replaced, or of any of the parties.
3. The parties may file briefs and documents up to twenty clear days before the date of the hearing.
4. Up to ten clear days before the date referred to in paragraph 3, each party may file reply briefs.

Article 136-sexies

((*(Dealing with the dispute.)*)

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1. *The Commission judges with the intervention of the President and two members. In case of absence or impediment of the President, the Commission is chaired by the eldest member.*
2. *The rapporteur presents the facts and issues of the dispute to the panel.*
3. *If during the discussion new facts emerge that influence the decision, they must be contested by the parties.*
4. *The Commission, after the parties have left, decides in chambers.*
5. *Minutes of the hearing are drawn up by the secretary.*
6. *Without prejudice to the burden of proof on the parties, the Commission may ask the parties themselves, even ex officio, for clarifications.*
7. *The Commission has the right to arrange the investigative measures it deems appropriate and also has the right to order postponement of the decision, or even of the discussion, to another session.*
8. *The President, or the rapporteur delegated by him, may also hear the parties for any clarifications during the investigation.*

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Article 136-septies

((*(Deliberations of the judging panel).)*)

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1. *When there are just reasons, the deliberation in the Council Chamber can be postponed for no more than thirty days.*
2. *The provisions of [Articles 276 and 277 of the Code of Civil Procedure](#) apply to the deliberations of the panel . However, non-definitive sentences or sentences limited to only some questions are not permitted.*
3. *The rapporteur, or another member of the Commission, is responsible for drafting the sentence explaining the reasons for the decision.*
4. *The sentence must contain:*
 - a) *an indication of the composition of the panel, the parties and their lawyers, if any;*
 - b) *a brief explanation of the progress of the trial;*
 - c) *the requests of the parties;*
 - d) *the concise explanation of the factual and legal reasons underlying the decision;*
 - e) *the device.*
5. *The sentence must also contain the date of the resolution and is signed by the President and the writer.*
6. *The sentence, if it accepts the appeal, annuls the act in whole or in part and orders the consequent measures.*
7. *The ruling is made public, in the original full text, by filing with the Commission secretariat within sixty days from the date of the resolution. The secretary certifies the filing by placing his signature and the date on the sentence.*

8. The sentence is notified to the parties constituted, to the certified mail address referred to in article 136, paragraph 3, by the secretariat, and is published in the Official Bulletin.
 9. The deadlines for appeals referred to in article 136-terdecies start from the date of notification of the sentence referred to in paragraph 8.
 10. If the party demonstrating that it has not received, through no fault of its own, notification of the sentence, pursuant to paragraph 8, the appeal deadlines referred to in Article 327, first paragraph, of the Code of Civil Procedure shall apply .
 11. Each party may request authentic copies of the sentence from the secretariat, subject to payment of the costs.
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Article 136-octies

(((Suspending and stopping the process.))

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1. The trial is suspended when a complaint of forgery is presented or a question on the state or capacity of persons must be decided by way of a preliminary ruling, except in the case of the capacity to stand trial.
2. The Commission orders the suspension of the trial in any other case in which it or another judge must resolve a dispute on the definition of which the decision of the case depends.
3. The process is interrupted if, after the appeal has been lodged, the following occurs:
 - a) the passing away, due to death or other causes, or the loss of the capacity to appear in court of one of the parties or of his legal representative or the termination of such representation;
 - b) the death, disbarment or suspension from the register of one of the defenders appointed pursuant to article 201.
4. The interruption occurs at the time of the event in the cases referred to in paragraph 3, letter b). In any other case, the interruption occurs when the event is declared either in a public hearing or in writing with a specific communication from the lawyer of the party to which the event refers.
5. If, during the period for filing the appeal referred to in article 136, paragraph 1, one of the events provided for in paragraph 3, letter a) occurs, the deadline is extended by six months from the day of the event .
6. The suspension is ordered and the interruption is declared by the President of the Commission with a decree or by the Commission with an order.
7. A complaint is permitted against the President's decree pursuant to article 136-quater.
8. During the suspension and interruption no procedural acts can be carried out.
9. The current deadlines are interrupted and start again from the submission of the request referred to in paragraph 11.
10. After the cause which determined the suspension has ceased, the process continues if within ninety days of that date a request for treatment is presented by one of the parties to the President of the Commission, who takes action in accordance with article 136-quater.
11. If within ninety days from when the interruption of the trial was declared the party affected by the event or his successors or any other party presents a request for treatment to the President of the Commission, the latter shall act in accordance with article 136-quater .

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Art. 136-novies

(((Extinction of process).))

- (1. The process is terminated by renunciation of the appeal.
2. The appellant who renounces must reimburse the expenses to the other parties, unless otherwise agreed between them. The liquidation is made by the Commission with a non-challengeable order.
3. The renunciation does not produce effect if it is not accepted by the parties constituted who have a real interest in the continuation of the trial.
4. The waiver and acceptance, where necessary, are signed by the parties personally or by their special attorneys, as well as by their respective defenders and are deposited in the secretariat of

the Commission. The regularity of the aforementioned acts is ascertained by the Commission.

5. The process is terminated in cases in which the parties who are responsible for continuing, summarizing or integrating the proceedings have not done so within the peremptory deadline established by law or by the Commission, in cases where the law is authorized to establish it.

6. The termination of the process due to inactivity of the parties is also detected *ex officio* and renders the actions carried out ineffective.

7. The judgment is extinguished, in whole or in part, in the event of a lack of interest in taking action.

8. The extinction of the proceedings, in each of the cases provided for in this article, is declared by decree of the President or by sentence of the Commission. The presidential provision can be appealed pursuant to article 136-quater.))

Article 136-decies

(((Correction process).))

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1. Where it is necessary to correct omissions or material errors, the Commission may proceed *ex officio* or at the request of a party and shall proceed with an order in the Council Chamber.

2. The correction is made in the margin or at the bottom of the original provision, with an indication of the ordinance that ordered it.

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Article 136-undecies

(((Precautionary measures).))

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1. If the appellant, alleging serious and irreparable damage with a reasoned request, requests the issuance of precautionary measures which appear, according to the circumstances, suitable to temporarily ensure the effects of the decision on the appeal, the Commission will rule on the request with an order issued in the Council Chamber.

2. Before dealing with the precautionary application, in cases of extreme gravity and urgency, such as not even to allow postponement until the date of the Council Chamber, the appellant may, at the same time as the precautionary application or with a separate request notified to the opposing parties, request to the President of the Appeals Commission to order provisional precautionary measures. The President provides with a reasoned decree, even in the absence of cross-examination. The decree is effective until the ruling of the Panel, to which the precautionary request is submitted in the first available Council Chamber.

3. When deciding on the precautionary application, the Commission, having ascertained the completeness of the cross-examination and the investigation and, where the conditions exist, having heard the parties present on the point, can define the judgment on the merits.

4. The precautionary order is not subject to appeal. The request for revocation or modification of the precautionary measures granted and the resubmission of the rejected precautionary request are admissible only if motivated with reference to supervening facts.

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Art. 136-duodecies

(((Compliance).))

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1. In the event that the administration has not complied with the precautionary measures granted, or has only partially complied, the interested party may, with a reasoned request notified to the other parties, ask the Appeals Commission for the appropriate implementing provisions. The Appeals Commission exercises the powers inherent in the judgment of compliance with the *res judicata*, referred to in [articles 112 and following of the code of administrative proceedings](#) .

2. *The Commission orders the execution of the precautionary order, indicating the methods and, where necessary, the person who must take action.*

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Article 136-terdecies

(((Appeals).))

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1. *An appeal to the Court of Cassation may be lodged against the ruling of the Board of Appeals, within the deadline referred to in [Article 325 of the Code of Civil Procedure](#) , for the reasons referred to in [numbers 1 to 5 of Article 360, first paragraph. of the Code of Civil Procedure](#) .*

2. *[Article 373 of the Code of Civil Procedure](#) applies .*

3. *The Commission's ruling may be challenged for revocation pursuant to [article 395 et seq. of the code of civil procedure](#) .*

4. *The deadline for the appeal for revocation is thirty days from the date of notification of the sentence, in the cases referred to in [numbers 4 and 5 of article 395 of the civil procedure code](#) , and thirty days from the date of knowledge of the event , in the cases referred to in [numbers 1 , 2 , 3 and 6 of article 395 of the civil procedure code](#) .*

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Article 137

Forced execution and seizure of industrial property rights

1. Industrial property rights may be the subject of forced enforcement.

2. **The rules established by the [code of civil procedure](#)** for the execution of movable property apply to the execution .

3. The seizure of the industrial property title is carried out with a deed notified to the debtor, by means of a judicial officer.

The deed must contain:

a) the declaration of seizure of the industrial property title, after mentioning the elements capable of identifying it;

b) the date of the title and its dispatch in enforceable form;

c) the sum for which enforcement is carried out;

d) the surname, name and domicile, or residence, of the creditor and debtor;

e) the surname and name of the judicial officer.

4. The debtor, from the date of notification, assumes the obligations of the judicial sequestrator of the industrial property title, also with regard to any fruits. The fruits, accrued after the date of notification, deriving from the concession of use of the industrial property right, are cumulated with the proceeds of the sale, for the purposes of subsequent attribution.

5. With regard to the notification of the writ of seizure, the rules contained in the [code of civil procedure](#) for the notification of summons are observed. If the person to whom the writ of seizure must be notified does not have domicile or residence in the State, nor does he have an elected domicile there, the notification is carried out at the Italian Patent and Trademark Office. In the latter case, a copy of the document is posted in the Office Noticeboard and inserted in the Official Bulletin.

6. The deed of seizure of the industrial property right must be registered, under penalty of ineffectiveness, within eight days of notification. Once the deed of seizure of the industrial property right has been registered, and as long as the seizure itself has effect, the seizures subsequently transcribed are valid as an opposition to the sale price, when they are notified to the proceeding creditor.

7. The sale and adjudication of seized industrial property rights are made with the corresponding rules established by the [civil procedure code](#) as applicable, without prejudice to the particular provisions of this code.

8. The sale of the industrial property right cannot take place unless at least thirty days have passed since the seizure. A period of twenty days must run for the sale from the decree setting the day of the sale itself. The judge, for the sale and award of industrial property rights, establishes the special forms he deems appropriate in individual cases, also providing for the announcement of the sale to the public, also in derogation of the rules of the [civil procedure](#)

[code](#) . To this end, the judge may establish that the announcement is posted in the premises of the Chamber of Commerce and in those of the Italian Patent and Trademark Office and published in the Industrial Property Rights Bulletin.

9. The award report must contain the details of the industrial property right according to the results of the relevant titles.
10. The requesting creditor, in the enforcement of industrial property rights, must notify at least ten days before the sale, to the registered creditors holding the security rights, the seizure deed and the decree setting the day of the sale. The latter creditors must deposit their requests for placement with the supporting documents in the registry of the competent judicial authority within fifteen days of the sale. Anyone interested can examine these applications and documents.
11. Once the fifteen day deadline has elapsed, provided for in **((paragraph 10))**, the judge, at the request of one of the parties, sets the hearing in which he will propose the status of graduation and distribution of the price obtained from the sale and any fruits. At the hearing, the judge, having ascertained compliance with the provisions of paragraph 8, where the parties have not agreed on the distribution of the proceeds of the fruits, proceeds to the classification among the creditors and **((to the distribution of such proceeds))** of the fruits themselves, according to the relevant rules established in the [code of civil procedure](#) for the enforcement of movable property. Debts with arrears, whether possible or conditional, become payable according to the provisions of the [civil code](#) .
12. The successful tenderer of the industrial property right has the right to obtain the cancellation of the registrations of the security rights on the corresponding title by depositing, at the Italian Patent and Trademark Office, a copy of the award report and a certificate from the registrar of the award. payment of the hammer price, observing the rules for canceling transcriptions.
13. Industrial property rights, even if they are being granted or registered, may be subject to seizure.
The provisions on forced execution established by this article and also those on seizure, established by the [code of civil procedure](#) , apply to the seizure procedure .
14. Disputes relating to the enforcement and seizure of industrial property rights are brought before the judicial authority of the competent State in accordance with Article 120.

Article 138

Transcription

1. They must be made public by registration at the Italian Patent and Trademark Office:
 - a) deeds between living persons, whether for consideration or free of charge, which transfer **((or extinguish))** in whole or in part, the rights to industrial property rights;
 - b) inter vivos deeds, whether for consideration or free of charge, which constitute, modify or transfer personal or real rights of enjoyment, special privileges or security rights, established pursuant to article 140 concerning the aforementioned securities;
 - c) the deeds of division, company, transaction, waiver, relating to the rights set out in letters a) and b);
 - d) the seizure report;
 - e) the award report following a forced sale;
 - f) the report of suspension of the sale of part of the industrial property rights seized to be returned to the debtor, in accordance with the [code of civil procedure](#) ;
 - g) expropriation decrees for reasons of public utility;
 - h) sentences which declare the existence of the documents indicated in letters a), b) and c), when such documents have not been previously transcribed. Judgments pronouncing the nullity, annulment, resolution, rescission, revocation of a registered deed must be noted in the margin of the transcription of the deed to which they refer. Legal requests aimed at obtaining the sentences referred to in this article can also be transcribed. In this case the effects of the transcription of the sentence date back to the date of registration of the judicial request;
 - i) wills and deeds proving the legitimate succession and the related sentences;
 - l) judgments claiming industrial property rights and related legal claims;
 - m) sentences ordering the conversion of invalid industrial property rights and the related legal claims;
 - n) judicial requests aimed at obtaining the sentences referred to in this article. In this case the effects of the transcription of the sentence date back to the date of registration of the judicial request;**((n-bis) bankruptcy sentences of entities holding rights to industrial property rights)).**
2. Transcription is subject to the payment of the prescribed fee.
3. To obtain the transcription, the applicant must present a specific transcription note, in the form of an application, attaching a certified copy of the public deed or the original or certified copy of the authenticated private agreement or any other documentation provided for by article 196.

4. The Italian Patent and Trademark Office, having examined the formal regularity of the documents, proceeds, without delay, with the transcription with the date of submission of the application.
5. The order of transcripts is determined by the order in which applications are submitted.
6. Omissions or inaccuracies that do not induce absolute uncertainty on the document that is intended to be transcribed or on the industrial property title to which the document refers do not lead to the invalidity of the transcription.

Article 139

Effects of transcription

1. The deeds and sentences, except wills and other deeds and sentences indicated in letters d), i) and l) of article 138, until they are transcribed, have no effect on third parties who for any reason have acquired and legally retained rights to the industrial property title.
2. In the conflict between multiple buyers of the same industrial property right from the same owner, preference is given to the person who registered his purchase title first.
3. The transcription of the seizure report, as long as its effectiveness lasts, suspends the effects of further transcriptions of the aforementioned documents and sentences. The effects of these transcriptions cease after the transcription of the award report, provided that it occurs within three months from the date of the award itself.
4. The wills and deeds that prove the legitimate succession and the related sentences are transcribed only to establish the continuity of the transfers.
5. Acts which transfer, in whole or in part, or modify the rights inherent to an application or a European patent are enforceable against third parties, provided that they have been registered **((in the European Patent Register or, failing that, have been transcribed))** in the Italian Register of European Patents.

Article 140

Warranty Rights

1. Security rights on industrial property titles must be established for money credits.
2. In the case of multiple security interests, the rank is determined by the order of the transcriptions.
3. The cancellation of the transcriptions of the security rights is carried out following the production of the creditor's consent document with authenticated signature or when the cancellation is ordered by a final judgment or following the satisfaction of the rights supported by the guarantee following forced execution.
4. The same right as for transcription is due for cancellation.

Article 141

Expropriation

1. With the exclusion of trademark rights, industrial property rights, even if in the process of being registered or patented, may be expropriated by the State in the interest of the military defense of the country or for other reasons of public utility.
2. Expropriation may be limited to the right of use for the needs of the State, without prejudice to the provisions regarding compulsory licenses insofar as they are compatible.
3. With the aforementioned expropriation, when it is carried out in the interest of the military defense of the country and concerns industrial property titles of Italian owners, the right to request industrial property titles abroad is also transferred to the expropriating administration.

Article 142

Expropriation decree

1. Expropriation is ordered by decree of the President of the Republic, on the proposal of the competent Minister, in agreement with the Ministers of Productive Activities and of Economy and Finance, after consulting the Council of Ministers, if the provision concerns the military defense of the country or, in other cases, the Appeals Commission.
2. The expropriation decree in the interest of the military defense of the country, when issued before the patenting or registration certificate is printed, can contain the obligation and establish the duration of secrecy on the subject of the industrial property title .
3. Violation of secrecy is punished pursuant to [article 262 of the penal code](#) .
4. The expropriation decree establishes the compensation due to the owner of the industrial property right, determined on the basis of its market value, after consulting the Appeals Commission.

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5. Jurisdictional protection before the administrative judge is governed by the [code of administrative proceedings](#) .
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Article 143

Expropriation compensation

1. Where the owner of the expropriated right does not accept the compensation set pursuant to article 142 and in the absence of an agreement between the owner and the proceeding administration, the compensation is determined by a panel of arbitrators.
2. The inventor or author, who proves that he has lost the right of priority abroad due to the delay in the negative decision of the Ministry regarding the expropriation, is granted fair compensation, observing the rules relating to compensation of expropriation.
3. Expropriation decrees must be recorded in the Register of Industrial Property Titles managed by the Italian Patent and Trademark Office.

Section II Measures against piracy

Article 144

Acts of piracy **((and Italian Sounding practices))**

1. For the purposes of the rules contained in this section, evident counterfeits of registered trademarks, designs and models and violations of the industrial property rights of others carried out maliciously in a systematic manner are acts of piracy.

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1-bis. For the purposes of the rules contained in this section, practices aimed at falsely evoking the Italian origin of products are Italian Sounding practices.
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Art. 144-bis

(((Preservation)))

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1. When the injured party claims the existence of circumstances likely to jeopardize the satisfaction of compensation for damage, the judicial authority may order, pursuant to [article 671 of the code of civil procedure](#) , the conservative seizure of movable property and properties of the alleged perpetrator of the violation, including the freezing of his bank accounts and other assets up to the presumable amount of the damage. To this end, the judicial authority may order the

communication of banking, financial or commercial documentation or authorize access to the relevant information.

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Article 145

((National Council for the fight against counterfeiting and Italian Sounding))

1. The **((National Council for the fight against counterfeiting and Italian Sounding))**, with functions of direction, impulse and coordination of the strategic actions undertaken by each administration, in order to improve the overall action to combat counterfeiting at a national level **((and the false evocation of Italian origin))**.
2. The **((National Council for the fight against counterfeiting and Italian Sounding))** it is chaired by the Minister of Economic Development or by a representative designated by him. In order to guarantee the representation of public and private interests and ensure the necessary synergies between public administration and businesses, the Council is made up of a representative of the Ministry of Economic Development, a representative of the Ministry of Economy and Finance, a representative of the Ministry of Foreign Affairs, by a representative of the Ministry of Defence, by a representative of the Ministry of Agricultural, Food and Forestry Policies, by a representative of the Ministry of the Interior, by a representative of the Ministry of Justice, by a representative of the Ministry for cultural goods and activities, by a representative of the Ministry of Labor and Social Policies, by a representative of the Ministry of Health, and by a representative of the Department of Public Function **((, from a representative of the Ministry of Education, University and Research,))** and by a representative designated by ANCI. The Council may invite representatives of other public administrations as well as categories of businesses, workers and consumers to participate in its work, based on the topics covered.
3. The operating modes of the **((National Council for the fight against counterfeiting and Italian Sounding))** are defined by decree of the Minister of Economic Development, in agreement with the Ministers of Economy and Finance, Foreign Affairs, Defence, Agricultural, Food and Forestry Policies, Interior, Justice, Cultural Heritage and Activities, work and social and health policies. Secretarial activities are carried out by the General Directorate for the fight against counterfeiting - Italian Patent and Trademark Office.
4. Participation in the **((National Council for the fight against counterfeiting and Italian Sounding))** does not give rise to the payment of compensation, emoluments, allowances or expense reimbursements.
The implementation of paragraphs 1, 2 and 3 is carried out within the human, financial and instrumental resources available under current legislation.

Article 146

Interventions against piracy

1. If it has knowledge, the Ministry of Productive Activities reports cases of piracy to the Public Prosecutor's Office, competent for the territory, for the initiatives within its competence.
2. Without prejudice to the repression of crimes and the application of the national and community legislation in force on the matter, under the competence of the customs authority, the Ministry of Productive Activities, through the Prefect of the province concerned and the mayors, limited to the municipal territory, they may also order, ex officio, the administrative seizure of the counterfeit goods and, after three months, subject to authorization from the judicial authority referred to in paragraph 3, proceed with their destruction, at the expense of the infringer. This is without prejudice to the right to retain samples to be used for judicial purposes.
3. The president of the specialized section referred to in article 120, in whose territory the act of piracy is carried out, is competent to authorize the destruction, upon request of the state or municipal administration which ordered the seizure.
4. The opposition against the destruction measure referred to in paragraph 2 is proposed **((before the specialized section of the Court competent for the territory))** in the forms referred to in [articles 22 and 23 of law 24 November 1981, n. 689](#), and subsequent amendments. The deadline for appealing starts from the date of notification of the provision or from its publication, in extract form, in the Official Gazette of the Italian Republic.

Chapter IV

PURCHASE AND MAINTENANCE OF INDUSTRIAL PROPERTY RIGHTS AND RELATED PROCEDURES

Section I

Questions in general

Article 147

Filing of applications and requests

1. All applications, requests, deeds, documents and notified appeals mentioned in this code, with the exception of what is provided for by international conventions and agreements, are filed with the Italian Patent and Trademark Office, with the Chambers of Commerce, industry and craftsmanship and at the offices or public bodies determined by decree of the Minister of Economic Development. By decree of the same Minister, with compliance with the provisions contained in the [legislative decree of 7 March 2005, n. 82](#), the filing methods are determined, including those to be implemented through recourse to other means of communication. The aforementioned offices or bodies, upon receipt, issue certification of the deposit (***(, retain the original deeds and documents received and transmit them to the Italian Patent and Trademark Office only upon specific request from the same, with the exception of patent applications for inventions or utility models, for which automatic transmission is always carried out in the forms indicated in the decree referred to in the second period. The request for transmission of the original deeds and documents can be made by the Italian Patent and Trademark Office, for industrial design and model applications, within three years from the filing of the themselves and, for all other documents, within one year of filing)***).

2. The offices or bodies authorized to receive deposits are required to adopt the necessary measures to ensure compliance with official secrecy.

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2-bis. Access to the electronic filing system of the Italian Patent and Trademark Office and its use are permitted provided that the digital identity of the user is ascertained and this requirement allows the digital signature not to be affixed to the documents being filed.

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3. Employees assigned to the Italian Patent and Trademark Office cannot, either directly or through a third party, apply for patents for industrial inventions or become assignees, unless after two years from when they ceased to belong to their office.

3-bis. In each application the applicant must indicate or elect domicile in a member state of the European Union or the European Economic Area to receive all communications and notifications to be made pursuant to this code. If the applicant uses the services of an agent, the provisions of article 201 apply.

3-ter. Except as provided for in [article 16 of the legislative decree of 29 November 2008, n. 185](#), converted, with amendments, by [law 28 January 2009, n. 2](#), and subsequent amendments, in cases where the provisions of this code provide for the obligation to indicate or elect domicile, companies, professionals or their agents, if any, must also indicate their certified or similar email address based on technologies that certify the date and time of sending and receiving communications and the integrity of their content, guaranteeing interoperability with similar international systems. The communications costs to which the Italian Patent and Trademark Office is required pursuant to this code are borne by the interested party, even if a natural person, if the indication of the certified email address or similar method has been omitted. of communication.

3-quater. Where the indication or election of domicile is missing pursuant to paragraphs 3-bis and 3-ter, as well as in all other cases of unavailability, communications and notifications are carried out by posting a copy of the deed or notice of the contents of it in the register of the Italian Patent and Trademark Office.

3-quinquies. In the cases provided for in paragraph 3-quater, the communication is considered to have been carried out on the same day as the posting in the Noticeboard.

Article 148

Admissibility and integration of applications and filing date

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1. Patent, registration and renewal applications referred to in article 147, paragraph 1, are not admissible:

- a) if the applicant is not identifiable or cannot be reached;***
- b) if the application, in the case of first filing trademarks, does not contain the reproduction of the trademark or the list of products or services;***

c) in the absence of payment, for patent applications for invention or utility model, of the filing fees within the deadline referred to in paragraph 4-bis

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1-bis. Inadmissibility, except as established in paragraph 3, is declared by the Italian Patent and Trademark Office

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((, except as established by paragraph 4-bis for patent applications for invention or utility model,))

((4-bis. For the patent application for an invention or utility model, the payment of the filing fees is made without delay within one month from the date of submission of the application itself. In this case, for the purposes of recognizing priority, it is the submission date is considered valid))

Article 149

Filing of European patent applications

1. European patent applications can be filed with the Italian Patent and Trademark Office according to the procedures established by the implementation regulation.
2. The provisions of article 198, paragraphs 1 and 2 apply. For the purposes of applying these provisions, the application must be accompanied by **((a summary in Italian that comprehensively defines the characteristics of the invention, as well as a copy of any drawings))**, as well as any drawings.
3. The Italian Patent and Trademark Office immediately informs the European Patent Office of the filing of the application.

Article 150

Transmission of the European patent application

1. European patent applications whose object, in the opinion of the Military Patent Service of the Ministry of Defence, is manifestly not susceptible to being bound to secrecy for military defense reasons, are transmitted, by the Italian Patent and Trademark Office, to the European Patent Office as soon as possible and, in any case, within six weeks from the date of their filing.
2. In the event that European patent applications are considered withdrawn pursuant to Article 77, paragraph 5, of the European Patent Convention, the applicant, within three months from the date of receipt of the communication, has the right to request the transformation of the application in Italian patent application for industrial invention.
3. Without prejudice to the provisions protecting the secrecy of inventions affecting the military defense of the country, the Italian Patent and Trademark Office, if twenty months have not yet passed from the date of filing or priority, sends a copy of the request for transformation referred to in paragraph 2 to the central services of the other States indicated in the request itself, attaching a copy of the European patent application produced by the applicant.

Article 151

Filing of the international application

1. Italian natural and legal persons and those who have their domicile or registered office in Italy may file international applications for the protection of inventions with the Italian Patent and Trademark Office, which acts as the receiving office pursuant to the article 10 of the Patent Cooperation Treaty of 19 June 1970, ratified with [law 26 May 1978, n. 260](#) .
2. The application can be submitted to the Italian Patent and Trademark Office in accordance with the provisions of the implementing regulation; the filing date of the application is determined in accordance with Article 11 of the Patent Cooperation Treaty.

3. The international application can also be filed with the European Patent Office, in its capacity as receiving office, pursuant to article 151 of the European Patent Convention of 5 October 1973, ratified by [law no. 26 May 1978. 260](#) , and at the World Intellectual Property Organization in Geneva as receiving office, observing the provisions of article 198, paragraphs 1 and 2.

Article 152

International application requirements

1. The international application must comply with the provisions of the Patent Cooperation Treaty of 19 June 1970, ratified by [law no. 26 May 1978. 260](#) , and its implementing regulation.
2. For the sole purposes of applying article 198, paragraphs 1 and 2, the application must be accompanied by **((a summary in Italian that comprehensively defines the characteristics of the invention, as well as a copy of any drawings))**, as well as any drawings.
3. The international application and each of the attached documents, with the exception of those proving payment of fees, must be filed in one original and two copies. The missing copies are prepared by the Italian Patent and Trademark Office at the applicant's expense.

Article 153

Secrecy of the international application

1. The Italian Patent and Trademark Office, subject to the consent of the applicant, makes the application accessible to the public only after international publication has taken place or the communication referred to in Article 20 of the Cooperation Treaty has been received by the designated office. patent matter of 19 June 1970, ratified with [law 26 May 1978, n. 260](#) , or the copy referred to in article 22 of the same Treaty or, in any case, twenty months after the date of priority.
2. The Italian Patent and Trademark Office may communicate that it has been designated, revealing only the name of the applicant, the title of the invention, the filing date and the international application number.

Article 154

Transmission of the international application

1. The Italian Patent and Trademark Office transmits the international application to the International Office and to the administration in charge of the search within the deadlines set by rules 22 and 23 of the implementing regulation of the Patent Cooperation Treaty.
2. If fifteen days before the expiry date of the deadline for the transmission of the original copy of the international application, set by rule 22 of the implementing regulation of the Patent Cooperation Treaty, the imposition of the obligation of secrecy, the Office will communicate this to the applicant, warning him to observe the obligation of secrecy.
3. Within ninety days from the date of communication referred to in paragraph 2, the transformation of the international application into a national application may be requested which has the same date as the international one; if the transformation is not requested, the application is considered withdrawn.

Article 155

(((Filing of international applications for designs and models.))

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1. **Italian natural and legal persons or those who have their domicile or an actual organization in Italy may file international applications for the protection of designs or models directly with the International Office or with the Italian Patent and Trademark Office, pursuant to of Article 4,**

paragraph 1, of the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs, done at Geneva on 2 July 1999, hereinafter referred to as the "1999 Agreement".

2. The application to the Italian Patent and Trademark Office can also be sent by registered mail with acknowledgment of receipt.

3. The filing date of the application shall be that of Article 9, paragraphs 1 and 2, of the 1999 Agreement. If the international application is submitted indirectly pursuant to Article 9, paragraph 2, of the 1999 Agreement, the the date of such filing at the Italian Patent and Trademark Office is valid as the filing date at the International Office provided that the international application is received by the International Office within one month from the filing date at the Italian Patent and Trademark Office.

4. The international application must comply with the provisions of the 1999 Agreement and its implementing regulation, as well as with the administrative instructions issued by the International Bureau, and be drawn up in French or English on forms prepared by the International Bureau.

5. The international application designating Italy must contain the elements indicated in paragraph 1 of article 5 of the 1999 Agreement and may contain the elements indicated in paragraph 3 of the same article 5

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Article 156

Application for trademark registration

1. The trademark registration application must contain:

a) the identification of the applicant and also of the agent, if any;
b) any claim of priority or the date from which the effects of the application take effect following acceptance of the conversion of a previous community application or international registration pursuant to the protocol relating to the Madrid Agreement for the international registration of trademarks of 27 June 1989, ratified with [law 12 March 1996, n. 169](#) ;

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c) **the representation of the brand, which satisfies the requirements of article 7, paragraph 1, letter b);**

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d) the list of products or services that the trademark is intended to distinguish, grouped according to the classes of the classification referred to in the Nice Agreement on the international classification of goods and services for the purposes of registration of trademarks, Geneva text of 13 May 1977, ratified with [law 27 April 1982, n. 243](#) . **((The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators to determine, solely on that basis, the scope of the protection requested.))**

2. When there is an agent, the application must be accompanied by the act of appointment pursuant to article 201.

Article 157

Application for registration of a collective trademark((or certification))

1. To the application for registration of a collective trademark((or certification)) **((is attached))** in addition to the documents referred to in article 156, paragraphs 1 and 2, also a copy of the regulations referred to in article 11 **((and article 11-bis))**.

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1-bis. The regulation for the use of collective brands referred to in article 11 contains the following indications:

a) **the name of the applicant;**
b) **the purpose of the trade association or the purpose for which the legal person governed by public law was established;**
c) **the subjects entitled to represent the trade association or the legal person governed by public law;**
d) **in the case of a trade association, the conditions for admission of members;**
e) **the representation of the collective brand;**
f) **the subjects entitled to use the collective brand;**

- g) any conditions of use of the collective brand, as well as sanctions for regulatory infringements;
- h) the products or services covered by the collective brand, including, where appropriate, any limitations introduced following the application of the legislation regarding designations of origin, geographical indications, guaranteed traditional specialties, traditional terms for wines;
- i) if applicable, the authorization to become members of the association that owns the trademark referred to in article 11, paragraph 4.

1-ter. The regulation for the use of certification marks referred to in article 11-bis contains the following indications:

- a) the name of the applicant;
- b) a declaration certifying that the applicant satisfies the conditions referred to in article 11-bis;
- c) the representation of the certification mark;
- d) the products or services covered by the certification mark;
- e) the characteristics of the products or services that must be certified by the certification mark;
- f) the conditions of use of the certification mark, as well as the sanctions provided for in cases of infringement of the regulatory standards;
- g) the persons entitled to use the certification mark;
- h) the methods for verifying the characteristics and supervising the use of the certification mark by the certification body.

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Article 158

Division of the trademark registration application

1. Each application must concern only one trademark.
2. If the application concerns multiple trademarks, the Italian Patent and Trademark Office will invite the interested party, assigning him a deadline, to limit the application to a single trademark, with the right to submit, for the remaining trademarks, as many applications, which will have effective from the date of the original application.
3. Each registration application, having as its object several products or services, may be divided by the applicant into several partial applications, into which the products or services of the initial application are divided, in the following cases:
 - a) before the office's decision regarding the registration of the trademark;
 - b) during any opposition procedure against the decision of the trademark registration office;
 - c) during any appeal procedure (**against the decision on trademark registration**).
4. Partial applications retain the filing date of the initial application and, if applicable, the benefit of the right of priority.
- 5 The appeal to the Appeals Commission suspends the deadline assigned by the office.

Article 159

Application for trademark renewal

1. The application for renewal of a trademark must be made by the owner or his successor in title.
2. PARAGRAPH REPEALED BY THE [LEGISLATIVE DECREE. 13 AUGUST 2010, No. 131](#) .
3. When there is an agent, the application must be accompanied by the act of appointment pursuant to article 201.
4. For trademarks registered on the basis of an application for transformation of a trademark application (**of European Union**) or a brand (**of European Union**), presented pursuant to [Regulation \(EC\) No. 40/94 of the Council, of 20 December 1993](#) , on the trademark (**of European Union**) and subsequent amendments, or on the basis of an application for transformation of an international registration, presented pursuant to Article 9-quinquies of the Protocol relating to the Madrid Agreement on the international registration of trademarks of 27 June 1989, ratified by law [12 March 1996, n. 169](#) , the effects of the first registration, for the purposes of renewal, respectively start from the date of filing of the trademark application (**of European Union**) or from the date of international registration.
5. PARAGRAPH REPEALED BY THE [LEGISLATIVE DECREE. 13 AUGUST 2010, No. 131](#) .

6. If the application for renewal or the fees paid refer only to a part of the products or services for which the trademark has been registered, the registration shall be renewed only for the products or services in question.

Article 160

Patent application for invention and utility model

1. The application must contain:
a) the identification of the applicant and the agent, if any;
b) the indication of the invention or model, in the form of a title, which **((express))** briefly, but precisely, the characters and purpose.

2. The same application cannot contain the request for multiple patents, nor for a single patent for multiple inventions or models.

3. The following must be added to the application:

((a) the description and claims referred to in Article 51;))

b) the drawings of the invention, where possible;

c) the designation of the inventor;

d) when there is an agent, also the act of appointment pursuant to article 201;

e) in case of priority claim, the relevant documents.

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4. The description of the invention or model must begin with a summary which is for technical information purposes only and must be followed by one or more claims. The latter must be presented, if they were not included in the description at the time of filing, within two months from the date of the application.

In this case the filing date already recognized remains unchanged.

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Art. 160-bis

(((National international application procedure.))

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1. The request to open the national procedure referred to in paragraph 1 of article 55, to be submitted to the Italian Patent and Trademark Office for the granting of the Italian patent for industrial invention or utility model, must be accompanied by:

a) a complete Italian translation of the international application as published;

b) the filing fees provided for in Table A attached to the decree of 2 April 2007 of the Minister of Economic Development, in agreement with the Minister of Economy and Finance.

2. The rules of this code, of the implementing regulations and of the decrees on the payment of rights apply to the request referred to in paragraph 1, in particular in relation to the admissibility and integration of the requests, the date attributed to the request, the presentation of further documents and translations that may be requested for the purposes of examination procedures and the maintenance of qualifications.

3. For the request for an Italian patent for an industrial invention based on an international application pursuant to paragraph 1 of article 55, the prior art search carried out in the international phase replaces the corresponding search envisaged for the national application, without prejudice to the other rules on examination provided for by this code.

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Article 161

Uniqueness of the invention and division of the application

1. Each application must have as its subject only one invention.

2. If the application includes multiple inventions, the Italian Patent and Trademark Office will invite the interested party, assigning him a deadline, to limit this application to a single invention, with the right to present, for the remaining inventions, as many applications, which

will have effective from the date of the original application. *((This right can be exercised by the applicant, even in the absence of an invitation from the Italian Patent and Trademark Office, before the latter has granted the patent.))*

3. The appeal to the Appeals Commission suspends the deadline assigned by the Office.

Article 162

(((Storage, access and new storage of biological material)))

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1. If an invention concerns a biological material not accessible to the public and which cannot be described in the patent application in a way that would allow a person skilled in the art to implement the invention itself or involves the use of such material, the description is considered sufficient, pursuant to article 51, paragraph 3, only if:

a) the biological material was deposited with a recognized depository institution no later than the date of submission of the patent application. At least international depository institutions that have acquired this qualification pursuant to article 7 of the Treaty of Budapest of 28 April 1977, ratified with [law no. of 14 October 1985, are recognised. 610](#) , on the international recognition of the deposit of microorganisms for the purposes of patent proceedings, hereinafter referred to as: 'Budapest Treaty';

b) on the characteristics of the biological material deposited, the filed application provides all the relevant information available to the depositor;

c) the name of the filing institution and the filing registration number are specified in the patent application.

2. The indications referred to in paragraph 1, letter c), may be communicated within a period of 16 months starting from the date of filing of the application or earlier in the case of early accessibility to the public or notification to third parties pursuant to article 53 , paragraphs 3 and 4.

3. Without prejudice to the provisions of article 53, paragraphs 2, 3 and 4, access to the deposited biological material is guaranteed through the release of a sample. At the request of the depositor, the sample is released only to an independent expert:

a) starting from the date of accessibility to the public pursuant to article 53, paragraph 3, until the granting of the patent;

b) for a period of 20 years starting from the date of filing of the patent application, in the event of refusal or withdrawal of the latter.

4. Delivery takes place exclusively if the applicant undertakes for the duration of the effects of the patent:

a) not to make samples of the deposited biological material or materials derived from it accessible to third parties; And

b) to use samples of the deposited biological material or materials derived from it exclusively for experimental purposes, unless the applicant or patent holder explicitly renounces this commitment.

5. The designated expert is jointly and severally liable for abuses committed by the applicant.

6. If the biological material deposited pursuant to this article is no longer available at the recognized depository institution, a new deposit of the material is permitted under the same conditions provided for in the Budapest Treaty.

7. Each new deposit must be accompanied by a declaration signed by the depositor certifying that the biological material which is the subject of the new deposit is identical to that which is the subject of the initial deposit.

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Article 163

Application for a complementary certificate for medicines and plant protection products

1. The certificate application must be filed with the Italian Patent and Trademark Office with reference to the authorization to place the product on the market.

2. The Italian Patent and Trademark Office publishes at least the following data concerning the certificate application:

a) name and address of the applicant;

b) basic patent number;

- c) title of the invention;
- d) number and date of the marketing authorization as well as indication of the product whose identity results from the authorization itself;
- e) if applicable, number and date of the first marketing authorization in the Community.

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2-bis. Without prejudice to the transitional period referred to in Article 83 of the Agreement on a Unified Patent Court, ratified and enforced pursuant to [Law no. 3 November 2016. 214](#) , the rights conferred by a complementary protection certificate based on a European patent referred to in Article 56 are those provided for in Article 30 of the Agreement itself.

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Article 164

Application for plant variety rights

1. The application for plant variety rights must contain:
 - a) the identification of the applicant and also of the agent, if any;
 - b) the indication in Italian and Latin of the genus or species to which the variety belongs;
 - c) the proposed name, specifying whether it is a code or an imaginary name;
 - d) the name and nationality of the author of the plant variety;
 - e) any claim of priority;
 - f) the list of attached documents.
2. The following must be added to the application:
 - a) the description of the plant variety. In the case of a hybrid variety, upon request of the breeder, the information relating to the genealogical components is not made available to the public by the receiving office;
 - b) the photographic reproduction of the plant variety and its **((characteristics))** specifications;
 - c) any information and documentation deemed useful for the purposes of examining the application, and, in particular, the results of any cultivation tests already undertaken in Italy or abroad. The documentation drawn up in a foreign language is accompanied by a translation into Italian, declared compliant by the applicant or his agent;
 - d) the declaration referred to in article 165;
 - e) documents proving any priorities claimed;
 - f) when there is an agent, the act of appointment pursuant to article 201;
 - g) **((LETTER SUPPRESSED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#)))**.
3. The documents indicated **((in paragraph 2, letters d), and e),))** they can be filed subsequently, but no later than six months from the filing of the application. The documents indicated in **((paragraph 2, letter c),))** they can be submitted subsequently but not later than the start date of the cultivation trials of the variety.
4. The variety is described in such a way as to clearly highlight how it was obtained and what are the morphological or physiological characteristics that differentiate it from other similar known varieties.
5. The description also indicates the name proposed by the breeder.
6. If it concerns an essentially derived variety pursuant to paragraph 4 of article 107, the initial variety is indicated. If it is a genetically modified variety, the origin and nature of the genetic modification are indicated.

Article 165

Declaration of the breeder

1. The breeder declares that:
 - a) the variety for which he requests protection constitutes, to his knowledge, a new plant variety pursuant to article 103 and meets the requirements of the aforementioned rule;
 - b) has obtained the authorization of the owners of other new plant varieties that may be necessary for the production of the one requested;
 - c) undertakes to provide, upon request of the competent bodies of the Ministry of Agricultural and Forestry Policies, hereinafter indicated with the acronym MIPAF, and within the terms established by them, the vegetative reproduction or multiplication material of the variety intended to allow the examination thereof;
 - d) has an application for protection been filed for the same variety in other States and what was the outcome;

e) renounces any trademark used, if it is identical to the denomination proposed for the variety.

Article 166

Application for variety denomination

1. The proposed name for the new variety:

to) **((must comply with the provisions of [art. 63 of Regulation \(EC\) No. 2100/94](#) , [Regulation \(EC\) No. 637/2009](#) and, if necessary, the guidelines of the Administrative Board of the Community Plant Variety Office ;))**

- b) must not be contrary to law, public order and morality;
- c) must not contain geographical names.

Article 167

Application for registration of designs and models

1. The application must contain:

- a) the identification of the applicant and also of the agent, if any;
- b) the indication of the design or model, in the form of a title and possibly the indication of the characteristics of the products that are intended to be claimed.

2. The following must be added to the application:

- a) the graphic reproduction of the design or model, or the graphic reproduction of the industrial products whose manufacture must be the subject of the exclusive right, or a sample of the products themselves when it concerns industrial products having basically only two dimensions;
- b) the description of the design or model, if necessary for the understanding of the design or model itself;
- c) when there is an agent, the act of appointment pursuant to article 201;
- d) in case of priority claim, the relevant documents.

Article 168

Application for registration of topographies

1. Each application must have as its object a single topography of a semiconductor product and, if it indicates a date of first commercial exploitation, correspond to the topography existing on that date.

2. The following must be attached to the registration application:

- a) documentation that allows identification of the topography, in compliance with the requirements of the regulation;
- b) a declaration certifying the date of the first act of commercial exploitation of the topography if this date is prior to that of the registration application. If the applicant is a different person from the person who carried out the first act of commercial exploitation, he must declare the legal relationship with the latter;
- c) when there is an agent, the act of appointment pursuant to article 201;
- d) any designation of the author or authors of the topography.

3. The use of foreign technical terms that have become commonly used in the specific sector is permitted.

Article 169

Claiming priority

1. When claiming the priority of a filing pursuant to Article 4, a copy of the priority application must be attached, from which the name of the applicant, the entity and extension of the industrial property right and the date on which the deposit has taken place(**(, or alternatively indicate a unique code, identifying the same application, provided by the body that holds the file, which allows the Italian Patent and Trademark Office to acquire the file itself)**)).

2. If the deposit was made by others, the applicant must also provide proof of being the successor or assignee of the first depositor. The document for the assignment of the priority right may consist of a declaration of assignment or assignment pursuant to article 196, paragraph 1, letter a).

3. When separate applications have been filed abroad, on different dates, for the various parts of the same trademark and the right of priority is to be claimed for these parts, for each of them, even if they constitute a single whole, it must be filed separately request. Where multiple registrations or multiple filings of the said different parts of the same trademark are claimed with a single application, Article 158, paragraphs 1 and 2, applies to the new separate applications.

4. When separate applications have been filed, on different dates, for the various parts of the same invention, the right of priority can be claimed with a single application if there is unity of invention. In the event that multiple deposits are claimed with a single application and inventive unity is not found, article 161 is applicable to the new separate applications.

5. When the ministerial decree has been issued for the temporary protection of new trademarks affixed to products or materials relating to the provision of the service, which have appeared in an exhibition and the priority rights for such temporary protection are claimed, the applicant must attach to the registration application a certificate from the executive or management committee or the presidency of the exhibition, having the content prescribed in the relevant regulation.

5-bis. The priority claim that was not presented at the time of filing the patent or utility model application can also be presented subsequently within 16 months from the date of the first priority claimed.

Within the same deadline, the applicant may correct the data of a previous declaration of priority, without prejudice to the fact that, where this correction modifies the date of the first priority claimed, and this date is earlier than the one originally indicated, the deadline starts from the effective date of this priority, rather than the one originally indicated. The priority claim that was not presented at the time of submission of the design and model or trademark application can be submitted within the subsequent deadline of one month for designs and models and two months for trademarks from the date of submission. of that question.

5-ter. The request for correction referred to in paragraph 5-bis relating to a previous declaration of priority must in any case be filed within four months from the filing date of the patent application for an industrial invention or utility model.

6. Patenting or registration is carried out without mentioning priority if the documents referred to in paragraph 1 are not produced in the required form within six months from the filing date of the application. For inventions and utility models, the deadline for filing of such documents is sixteen months from the date of the previous application, of which priority is claimed, if this deadline is more favorable to the applicant.

7. If the priority of a deposit made pursuant to the international conventions in force is nevertheless refused, a similar annotation of the refusal must be made in the industrial property title.

8. The claim of priority in the application for patent rights for a new plant variety is rejected if it is made after the deadline of twelve months from the filing date of the first application and if the applicant is not entitled to it. If priority is refused, no mention is made in the patent.

Article 170

Review of applications

1. The examination of applications, whose formal regularity has been recognized, is aimed at ascertaining:

a) for brands: whether Article 11 can be applied when it comes to collective brands or Article 11-bis when it comes to certification brands; if the word, figure or sign can be registered as a trademark pursuant to articles 7, 8, 9, 10, 13, paragraph 1, and 14, paragraph 1, a), b), c-bis), c-ter) , c-quater) and c-quinquies); if the conditions referred to in article 3 apply;

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b) for inventions and utility models, that the object of the application complies with the provisions of articles 45, 50, 51 and 82, including the validity requirements referred to in articles 46, 48 and 49 whose existence, for inventions in any case and for utility models only in cases of alternative patenting, is verified following the outcome of the prior art search. In any case, the Office verifies that the absence of these requirements is not absolutely evident on the basis of the applicant's own declarations and allegations or is certain based on the well-known
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c) for designs and models that the subject of the application complies with the provisions of article 31 and article 33-bis;

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d) for plant varieties, the validity requirements provided for in section VIII of Chapter II as well as compliance with the provisions of article 114. The examination of these requirements is carried out by the Ministry of Agriculture, Food Sovereignty and forests, which formulates a binding opinion; in order to ascertain the continuation of the requirements, the Ministry of Agriculture, Food Sovereignty and Forestry may ask the owner or his successor in title for the reproduction or multiplication material necessary to carry out the control

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e) for the topographies of semiconductor products, that the object of the application complies with that provided for in article 87, excluding the validity requirements until the examination has been regulated by ministerial decree.

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2. For brands relating to agricultural products and first-process agri-food products, which contain or consist of geographical denominations, the Office transmits the copy of the brand and any other documentation to the Ministry of Agriculture, Food Sovereignty and Forestry, which expresses its binding opinion no later than twenty days from the date of receipt of the relevant request. The Ministry of Agriculture, Food Sovereignty and Forestry, in the same way, expresses a binding opinion in order to ascertain whether the word, figure or sign for which registration as a trademark is requested constitutes usurpation, imitation or evocation of indications geographical or indications of origin, pursuant to article 14, paragraph 1, letter b)

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2-bis. The examination of the changes to the regulations for the use of collective marks or certification marks is aimed at ascertaining whether the provisions provided for in Article 11 and Article 11-bis respectively can be applied. Changes to the regulations of use become effective only from the date of registration of such changes in the register.

2-ter. The Italian Patent and Trademark Office examines the trademark application with priority where this appears to be the reason on which it was proposed:

- a) an opposition to an application for registration of a European Union trade mark;
- b) an action to withdraw a European Union registration;
- c) an application for revocation or invalidity of a European Union trade mark application;
- d) an action for revocation of a European Union registration.

3. If the conditions indicated above are not met, the Italian Patent and Trademark Office takes action pursuant to article 173, paragraph 7.

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3-bis. The binding opinion on the validity requirements provided for in section VIII of chapter II as well as on compliance with the provisions of article 114 is expressed by the Ministry of Agriculture, Food Sovereignty and Forestry, which sends it to the Italian Patent and trademarks for the purposes of granting or rejecting the right. The opinion is accompanied by an indication of the experiments, methodologies and inspections carried out as well as the results acquired and any findings and observations of the applicant

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3-ter. ((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

3-quater. ((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

3-quinquies. ((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

3-sexies. ((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

3-septies. ((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

3-g. ((PARAGRAPH REPEALED BY [LAW 24 JULY 2023, N. 102](#))).

3-nonies. By decree of the Minister of Economic Development, in agreement with the Minister of Agricultural, Food and Forestry Policies, the implementing provisions of the Industrial Property Code regarding new plant varieties are defined((...)).

Art. 170-bis

(((Duties regarding biotechnological inventions)))

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1. The Italian Patent and Trademark Office, when evaluating the patentability of biotechnological inventions, in order to guarantee the provisions of article 81-quinquies, paragraph 1, letter b), may request the opinion of the National Committee for biosafety and biotechnology.

2. The origin of the biological material of animal or plant origin, which is the basis of the invention, is declared at the time of the patent application both in reference to the country of

origin, allowing compliance with the legislation on import and of export, and in relation to the biological organism from which it was isolated.

3. The patent application relating to an invention which has as its object or uses biological material of human origin must be accompanied by the express, free and informed consent to such sampling and use of the person from whom such material was taken, in based on current legislation.

4. The patent application relating to an invention, which has as its object or uses biological material containing microorganisms or genetically modified organisms, must be accompanied by a declaration which guarantees compliance with the obligations regarding such modifications, deriving from national or community regulations , and in particular by the provisions referred to in [paragraph 6 and referred to in the legislative decrees of 12 April 2001, n. 206, and 8 July 2003, n. 224](#) .

5. With regard to biotechnological inventions, the use by the farmer, for the reproduction or multiplication on his own in his company, of patented material of plant origin, takes place in compliance with the provisions of Article [14 of Regulation \(EC\) n. 2100/94 of the Council, of 27 July 1994](#) .

6. The scope and methods for exercising the derogation referred to in paragraph 2 of article [11 of the directive are regulated by decree of the Minister of Agricultural, Food and Forestry Policies, in agreement with the Ministers of Health and Economic Development. 98/44/EC of the European Parliament and of the Council, of 6 July 1998](#) , concerning the sale or other form of marketing of farmed livestock or other reproductive material of animal origin, by the patent holder or with his consent . In particular, the decree provides for a ban on the further sale of livestock for the purpose of a commercial production activity, unless the animals with the same properties have been obtained through exclusively organic means and without prejudice to the possibility of direct sale by the 'breeder for life subjects included in normal agricultural activity.

7. If it detects the absence of the conditions for patentability of the biotechnological invention or the failure to file the declarations referred to in paragraphs 2, 3 and 4, the Italian Patent and Trademark Office takes action pursuant to article 173, paragraph 7, and , in the case of the absence of the patentability conditions referred to in articles 81-quater, 81-quinquies and article 162, rejects the application.

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Art. 170-ter

(((Sanctions)))

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1. Unless the fact constitutes a crime, anyone who, for the purpose of patenting an invention, uses biological material of human origin, being aware of the fact that it has been taken or used for such purposes without the express consent of those who have access to it , is punished with an administrative fine ranging from 100,000 to 1,000,000 euros.

2. Unless the fact constitutes a crime, anyone who, in the declaration referred to in article 170-bis, paragraph 2, falsely certifies the origin of the biological material of animal or plant origin, is punished with a pecuniary administrative sanction ranging from 10,000 to 100,000 EUR.

3. Whoever, in the patent application for an invention that uses biological material containing microorganisms or genetically modified organisms, certifies, contrary to the truth, compliance with the legal obligations regarding such modifications, is punished with a pecuniary administrative sanction ranging from 10,000 to 100,000 EUR.

4. Within the minimum and maximum limits established by this article, the administrative pecuniary sanctions are determined in their entity, taking into account, in addition to the criteria referred to in article [11 of law 24 November 1981, n. 689](#) , of the different potential damage to the protected interest that each infringement presents in the abstract, of the specific personal qualities as well as of the financial advantage that the infringement can bring to the culprit or to the person or entity in whose interest he acts.

5. The reduced payment referred to in article [16 of law no. 24 November 1981 does not apply to the administrative pecuniary sanctions provided for in this article. 689](#) .

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Article 171

1. The Italian Patent and Trademark Office carries out the examination of international trademarks designating Italy in accordance with the rules relating to national trademarks, pursuant to article 170, paragraph 1, letter a).
2. The Italian Patent and Trademark Office, if it considers that the trademark cannot be registered in whole or in part, or if opposition has been lodged by third parties pursuant to article 176:, shall, pursuant to article 5 of the Madrid Agreement for the international registration of trademarks, Stockholm text of 14 July 1967, ratified by [law 28 April 1976, n. 424](#) or the related protocol of 27 June 1989, ratified with [law 12 March 1996, n. 169](#) , to issue a provisional refusal of international registration and notify the World Intellectual Property Organisation.
3. The provisional refusal pursuant to paragraph 2 is issued within one year for international registrations based on the Madrid Agreement for the International Registration of Trademarks and eighteen months for those based on the relevant Protocol. The terms start from the dates respectively indicated in the aforementioned International Conventions.
4. In case of provisional refusal, the protection of the trademark is the same as that of a trademark application filed with the Italian Patent and Trademark Office.
5. Within the peremptory deadline set for this purpose by the Italian Patent and Trademark Office, the owner of an international registration, for which a provisional refusal has been communicated to the World Intellectual Property Organization, through an agent appointed pursuant to article 201, can present his/her own deductions, or request a copy of the opposition document on the basis of which the provisional refusal was issued. In the latter case, if the holder of the international registration requests the copy within the prescribed period, the Office communicates to the parties the notice referred to in article 178, paragraph 1, and applies the other rules on the opposition procedure referred to in articles 178 and following.
6. If within the deadline referred to in paragraph 5, the owner of the international registration does not present his deductions, or does not request a copy of the opposition document in the prescribed manner, the Italian Patent and Trademark Office issues the definitive refusal.
7. The Italian Patent and Trademark Office communicates to the World Intellectual Property Organization the definitive decisions relating to international trademarks designating Italy.
8. In the event that the trademark designating Italy on the basis of the Madrid Protocol is subsequently canceled in whole or in part at the request of the industrial property office of origin, its owner may file an application for registration for the same sign at the Italian Patent and Trademark Office. This application takes effect from the date of international registration, with any recognized priority, or from that of registration of the territorial extension concerning Italy.
9. The application is filed within the peremptory deadline of three months starting from the date of cancellation of the international registration and can only concern the products and services included in it for Italy.
10. The provisions in force for national applications apply to the application.

Article 172

Withdrawal, corrections, additions to the application

1. The applicant can always withdraw the application during the examination procedure and in the case of trademarks, even during the opposition procedure, before the Italian Patent and Trademark Office has granted the title.
2. The applicant, before the Italian Patent and Trademark Office has granted the title or decided on an application or opposition, or in any case before the Appeals Commission, in cases where an appeal has been lodged, has having done so, has the right to correct, in non-substantial aspects, the originally filed application or any other application relating to it, as well as, in the case of a patent application for an invention or utility model, to integrate with new examples or limit the description, the claims or designs originally filed and, in the case of a trademark application, to limit or specify the goods and services originally listed.
3. The applicant, upon invitation of the Italian Patent and Trademark Office, must complete or correct the documentation where necessary for the understanding of the industrial property right or to better determine the scope of the protection requested.
4. If the checks referred to in article 170, paragraph 1, letter d) are necessary, the Ministry of Agricultural and Forestry Policies invites the applicant to present the reproduction or multiplication material of the variety and, in the case of hybrid varieties, can also request, where necessary, the delivery of the material of the genealogical components. The institutes and bodies designated for the checks issue receipts for the material delivered to them. If the material is delivered in an insufficient quantity or is qualitatively unsuitable, the aforementioned

institutes and bodies draw up a specific report to be sent to the Ministry of Agricultural and Forestry Policies.

5. The Ministry of Agricultural and Forestry Policies, in agreement with the bodies and bodies responsible for the tests, may, also at the request of the holder of the application or third parties, arrange for visits to the fields to be carried out to examine the tests. to interested parties. The bodies and organizations responsible for the tests, where they deem it necessary, invite the holder of the application to visit the test fields. At the end of the tests, the designated body or body sends a report on the results obtained to the Ministry of Agricultural and Forestry Policies, which, in case of doubts about the results, can order the repetition of the tests. The Ministry of Agricultural and Forestry Policies, on the basis of the examination report, draws up the official description of the variety. The Office, having received the official description from the Ministry of Agricultural and Forestry Policies, transmits it to the breeder, assigning him a deadline for observations.

6. The Italian Patent and Trademark Office must keep the documentation relating to the initial application, indicate the date of receipt of the modifications or additions and adopt any other appropriate precautionary measures.

Article 173

Surveys

1. The findings resulting from the examination of the questions and requests must be communicated to the interested party with the assignment of a deadline for the response of no less than two months from the date of receipt of the communication.

2. The observations of third parties and the findings resulting from the examination of the application for patent rights for a new plant variety are communicated to the interested party with the assignment of a deadline, not exceeding six months, for the response. In the event that the concern concerns the denomination, the new proposal is accompanied by a supplementary declaration also including the declaration referred to in letter e), of paragraph 1, of article 165. The office and the Ministry of Agricultural and Forestry Policies the observations and findings sent to the applicant and the responses received are communicated to each other.

3. When, due to irregularities in the granting of the mandate, referred to in article 201, failure to comply with the findings leads to the rejection of the applications and related requests, the findings must be communicated to the applicant.

4. When the deadline has elapsed without a response to the findings having been received, the application or request is rejected with a provision, to be notified to the holder of the application itself or of the request by registered mail with acknowledgment of receipt. However, if the complaint concerns the claim of a priority right, failure to respond will only result in the loss of that right.

5. The application for patent rights for a new plant variety is rejected:

- a) in case of failure to respond to the findings of the office and the Ministry of Agricultural and Forestry Policies within the established deadlines;
- b) in case of failure to deliver the materials for variety trials pursuant to article 165, paragraph 1, letter c), unless the failure to deliver was due to force majeure;
- c) in case of absence of one of the requirements provided for by article 170, paragraph 1, letter d).

6. If the application for patent rights for a new plant variety is not accepted or if it is withdrawn, the compensation due for the technical checks is refunded only when the aforementioned technical checks have not already been started.

7. Before rejecting in whole or in part an application or a request connected to it, for reasons that have not been the subject of findings pursuant to paragraph 1, the Italian Patent and Trademark Office assigns the applicant a period of two months to make observations. Once this deadline has expired, if no observations have been submitted or the Office deems that it cannot accept those submitted, the application or request is rejected in whole or in part.

8. For international patent applications, the Italian Patent and Trademark Office, having completed the assessment referred to in article 14 of the Patent Cooperation Treaty of 19 June 1970, ratified with [law no. of 26 May 1978. 260](#) , invites the applicant to make any corrections (...), setting for this purpose a deadline not exceeding three months, without prejudice to compliance with the deadline for the transmission of the original copy of the international application, provided for by rule 22 of the implementing regulation of the Patent Cooperation Treaty.

The Italian Patent and Trademark Office declares that the application is considered withdrawn in the cases provided for by Article 14 of the Patent Cooperation Treaty.

9. If the application is accepted, the Italian Patent and Trademark Office will grant the title.

10. The files of deeds and documents relating to patenting or registration applications (*(, as well as the collections of industrial property rights and the collections of applications)*) they are retained by the Italian Patent and Trademark Office for up to ten years after the corresponding rights have expired. After the expiry of this deadline, the Office may destroy the files even without the opinion of the Central State Archives, following computer acquisition of the originals on non-alterable devices, (*(of the documents and documents contained therein)*).

Section II

Observations on trademarks and oppositions to trademark registration

Article 174

Observations and oppositions to trademark registration

1. Trademark applications deemed registrable pursuant to Article 170, paragraph 1, letter a), trademark registrations carried out according to the procedure referred to in Article 179, paragraph 2, and international trademarks designating Italy, may be the subject of observations and oppositions in accordance with the rules set out in the following articles.

Article 175

Filing of third party observations

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1. Any interested party may, without thereby assuming the role of party in the registration procedure, address written observations to the Italian Patent and Trademark Office, specifying the reasons why a trademark must be automatically excluded from registration.

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2. The observations, if deemed pertinent and relevant, are communicated by the Italian Patent and Trademark Office to the applicant who can present his deductions within thirty days from the date of communication.

3. In the case of an international trademark, the observations are considered by the Italian Patent and Trademark Office only for the purpose of the examination referred to in article 170, paragraph 1, letter a).

Article 176

Opposition filing

1. The subjects authorized pursuant to article 177 may submit to the Italian Patent and Trademark Office an opposition against the acts referred to in letters a), b) and c), which, under penalty of inadmissibility, must be written, motivated and documented within the peremptory deadline of three months:

a) from the date of publication of an application for registration, deemed registrable pursuant to article 170, paragraph 1, letter a), or deemed registrable on the basis of a final acceptance ruling;

b) from the date of publication of the registration of a trademark, the application for which has not been published pursuant to article 179, paragraph 2;

c) from the first day of the month following the one in which the international trademark was published in the Gazette de l'Organisation Mondiale de la Propriété Intellectuelle des Marques Internationales.

2. The opposition, which can concern a single trademark application or registration, is admissible only if written in Italian and must contain, under penalty of inadmissibility:

a) in relation to the trademark object of opposition, the identification of the applicant, the number and date of the application (*(or)*) of the registration and the products and services against which the opposition is lodged;

b) in relation to the opponent's trademark or right, the identification of the earlier trademark or trademarks referred to in Article 12, paragraph 1, letters (*(c),*) d) and e), as well as the products and services on which the opposition is based or the right referred to in Article 8;

c) the reasons on which the opposition is based.

((c-bis) if an agent has been appointed, the deed of appointment, pursuant to article 201, or the

declaration of deposit reserve relating to it. If a reserve is formulated, the deed of appointment is filed within the peremptory deadline of two months from the date of filing of the opposition.))

3. The opposition is considered withdrawn if it is not proven that the opposition fees have been paid within the terms and in the manner established by the decree referred to in article 226.

4. The person presenting the opposition must file within the peremptory deadline of two months from the expiry date of the deadline for reaching a conciliation agreement referred to in Article 178, paragraph 1:

a) copy of the application or certificate of trademark registration(*(, of the denomination of origin or of the geographical indication)*) on which the opposition is based, if it does not concern applications or national certificates and, if applicable, the documentation relating to the right of priority or seniority from which it benefits, as well as their translation into Italian; in the case of seniority, this must have already been claimed in relation to a trademark application or registration(*(of European Union)*);

b) any other documentation proving the facts alleged;

c) the documentation necessary to demonstrate the legitimacy to file an opposition, if the earlier trademark does not appear in your name in the Register kept by the Italian Patent and Trademark Office(*(, or in the cases referred to in article 177, paragraph 1, letters d-bis) and d-ter)*);

d) (*LETTER REPEALED BY [LEGISLATIVE DECREE 20 FEBRUARY 2019, N. 15](#)*)).

5. With the opposition, the impediments to the registration of the trademark provided for in Article 12, paragraph 1, letters can be asserted. *((c), d), e) and f), and article 14, paragraph 1, letter c)-bis)),* for all or part of the products or services for which registration has been requested, and the lack of consent to registration by the entitled parties referred to in article 8.

Article 177

Legitimation of the opposition

1. The following are entitled to object:

a) the owner of a trademark already registered in the State or effective in the State from an earlier date;

b) the person who has filed in the State an application for registration of a trademark on an earlier date or having effect in the State from an earlier date by virtue of a right of priority or a valid claim of seniority;

c) the licensee of the exclusive use of the trademark;

d) the persons, bodies and associations referred to in article 8; *((d-bis) the subjects entitled to protect the rights conferred by a denomination of origin or a geographical indication as well as, in the absence of a protection consortium recognized pursuant to law [21 December 1999, n. 526](#) , or the [law 12 December 2016, no. 238](#) , the Ministry of Agriculture, Food Sovereignty and Forestry as the competent national authority for protected designations of origin and protected geographical indications for agriculture, food, wines, aromatized wines and spirit drinks));*

d-ter) the person who has filed the application for protection of a designation of origin or a geographical indication, not yet granted at the time of submission of the opposition.

Article 178

Examination of the opposition and decisions

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1. *Within two months of the expiry of the deadline referred to in Article 176, paragraph 1, the admissibility and admissibility of the opposition pursuant to Articles 148, paragraph 1, and 176, paragraph 2 shall be verified by the Italian Patent Office and trademarks, unless one of the cases of suspension provided for in article 180, paragraph 1, letters b) to e-ter) occurs, or an application for limitation of the trademark application has been filed for which it is necessary to request the opinion of the opponent for the continuation of the procedure, communicates said opposition to the parties with the notice of the possibility of reaching a conciliation agreement within two months from the date of the communication, extendable upon common request of the parties up to the maximum term provided for by the regulation of implementation of this code*

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2. In the absence of an agreement pursuant to paragraph 1, the applicant who has received the documentation referred to in article 176, paragraphs 2 and 4, letters a), b) and c), may present his deductions in writing by deadline set for this purpose by the Office and at the same time submit the request referred to in paragraph 4.

3. During the opposition proceedings, the Italian Patent and Trademark Office may, at any time, invite the parties to submit within the deadline set by it, in any case not exceeding thirty days and non-extendable, further documents, deductions or observations based on the allegations, deductions and observations of the other parties.

4. Upon request of the applicant, the opponent who bases the opposition on an earlier trademark registered for at least five years from the date of filing or priority of the trademark object of the opposition, provides the documents suitable to prove that said trademark has been objected of actual use, by you or with your consent, for the products and services for which it was registered and on which the opposition is based during the five-year period preceding the date of filing or priority of the opposed trademark, or which there are legitimate reasons for non-use. In the absence of such proof, to be provided within sixty days from the date of communication of the request by the Italian Patent and Trademark Office, the opposition is rejected. If actual use is proven only for part of the goods or services for which the earlier trademark was registered, it, for the sole purpose of examining the opposition, is considered registered only for that part of the goods or services.

4-bis. Paragraph 4 also applies if the earlier trade mark is a European Union trade mark. In that case, the genuine use of the European Union trade mark is determined in accordance with Article [18 of Regulation \(EU\) 2017/1001](#) of the Parliament and of the Council of 14 June 2017 on the European Union trade mark.

5. PARAGRAPH REPEALED BY THE [LEGISLATIVE DECREE. 20 FEBRUARY 2019, No. 15](#) .

6. In the event of oppositions relating to the same trademark, the oppositions subsequent to the first are merged with this one.

7. At the end of the opposition proceedings, the Italian Patent and Trademark Office accepts the opposition, rejecting the application for registration in whole or in part if it appears that the trademark cannot be registered for all or only part of the products and services indicated in the application; otherwise it rejects the opposition. In the case of international registration, the Italian Patent and Trademark Office issues a partial or total definitive refusal or rejects the opposition, notifying the World Intellectual Property Organization (WIPO).

7-bis. The Italian Patent and Trademark Office, with the provision referred to in paragraph 7, requires the applicant to reimburse the opposition fees if unsuccessful. The costs of professional representation in the proceedings are paid by the losing party, upon request, to the maximum extent identified by decree of the Ministry of Economic Development.

Article 179

Extension of protection

1. If the applicant intends to extend the protection of the trademark abroad pursuant to the Madrid Agreement for the international registration of trademarks, Stockholm text of 14 July 1967, ratified by [law 28 April 1976, n. 424](#) (***or in a foreign country that requires prior registration of the Italian trademark***), the Italian Patent and Trademark Office, even if an opposition has already been filed, proceeds with the registration and makes the relevant annotations.

2. If the trademark application referred to in paragraph 1 has not already been published, the publication of the registration is accompanied, in this case, by the notice that such publication is the initial deadline for opposition. The acceptance of the opposition determines the total or partial cancellation of the trademark.

Article 180

Suspension of the opposition procedure

1. The opposition proceedings are suspended:

a) during the period granted to the parties, in order to reach a conciliation agreement, pursuant to article 178, paragraph 1;

b) if the opposition is based on a trade mark application, until the registration of that trade mark;

c) if the opposition is based on an international trademark, until the deadlines for refusal or submission of an opposition against the registration of such trademark have expired, or the relevant examination or opposition proceedings have been concluded;

d) if the opposition is lodged against a national trademark subject to review following observations referred to in Article 175, paragraph 2, until the relevant review procedure has been concluded;

((d-bis) if the opposition is based on an application for protection of a designation of origin or a geographical indication, up to protection;))

e) if a judgment of nullity or revocation of the trademark on which the opposition is based or relating to the right to registration pursuant to article 118 is pending, until the judgment becomes final, where the applicant for registration deposits specific request.
e-bis) in the other cases provided for by the regulation implementing this Code.

((e-ter) if a procedure for cancellation of the protected designation of origin or protected geographical indication is pending, until the deadline in which the European Commission's decision becomes final;))

2. Upon request of the applicant for registration, the suspension referred to in paragraph 1, letter e), may subsequently be revoked.

3. If the opposition is suspended pursuant to paragraph 1, letters b), c), d) and *((e-bis)))*, the Italian Patent and Trademark Office examines the trademark application or international trademark registration first.

3-bis. *((PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 20 FEBRUARY 2019, N. 15](#)))*.

Article 181

Termination of the opposition procedure

1. The opposition procedure ends if:

a) the trademark on which the opposition is based has been declared null or revoked by a final judgment;

((a-bis) the application for protection of the designation of origin or geographical indication on which the opposition is based is withdrawn or rejected;

a-ter) the protected designation of origin or protected geographical indication on which the opposition is based the opposition is cancelled;))

b) the parties have reached the agreement referred to in article 178, paragraph 1;

c) the opposition is withdrawn;

d) the application or registration, object of opposition, is withdrawn or rejected by final decision;

e) the person who lodged an opposition ceases to be legitimized pursuant to article 177.

((e-bis) the application or registration, object of opposition, has been limited by canceling the products or services against which opposition was raised;

e-ter) the interest in taking action has ceased.))

Article 182

(((Appeal)))

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1. The provision with which the Italian Patent and Trademark Office declares the opposition procedure inadmissible, inadmissible or extinguished or accepts, even partially, or rejects the opposition, is communicated to the parties, who, within the deadline set out in Article 135, paragraph 1, have the right to appeal to the Appeals Commission, referred to in Article 135.

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Article 183

Appointment of examiners

1. Oppositions are decided by officials appointed for a period of two years by decree of the director general from among those belonging to the managerial or managerial career of the Italian Patent and Trademark Office and having a degree in law. *((Examiners who participated in the examination of trademark applications or registrations subject to opposition cannot decide on the aforementioned oppositions.))*

2. The appointment to the position of judging examiner, referred to in paragraph 1, renewable and remunerated with compensation to be established by decree of the Minister of Productive Activities, in agreement with the Minister of Economy and Finance, is reserved for those who, in possession of

the requirements referred to in paragraph 1, have successfully attended a specific training course to be organized by the Italian Patent and Trademark Office.

3. If the number of officials appointed pursuant to paragraphs 1 and 2 is inadequate in relation to the objections filed, officials chosen from among the staff of the Ministry of Productive Activities, with equal qualifications and training, or experts with well-known knowledge may also be appointed. of the matter.

4. The total number of officials designated for examining oppositions cannot exceed thirty.

Article 184

Entry into force of the opposition procedure

1. The rules on the opposition procedure come into force with the subsequent decree of the Minister of Productive Activities which establishes the methods of application.

((Section II-Bis))

((Forfeiture and invalidity of registered trademarks))

Art. 184-bis

(Filing of the request for revocation or nullity)

1. Without prejudice to the possibility of bringing the action before the judicial authority pursuant to article 120, the parties entitled pursuant to article 184-ter may submit a written and reasoned request to the Italian Patent and Trademark Office for the verification of the revocation or declaration of nullity of a registered trademark.

2. In the cases referred to in paragraph 1, the forfeiture can be asserted for the reasons referred to in articles 13, paragraph 4, 14, paragraph 2, letter a) and 24.

3. In the cases referred to in paragraph 1, the invalidity of the trademark may be requested for the following reasons:

a) the trade mark should not have been registered as it does not satisfy the requirements of Articles 7, 9, **((10, paragraphs 1 and 1-bis))**, 13, paragraphs 1, 2 and 3, 14, paragraph 1, letters a), b), c-bis), c-ter), c-quater), c-quinquies) and d);

b) the trademark should not have been registered due to the existence of an earlier right pursuant to Article 12, paragraph 1, letters c), d), e) and f);

c) the application for registration of the trademark was presented by the agent or representative without the consent of the owner or a justified reason.

4. The request for revocation or nullity, which can concern only one trademark registration, is admissible if drawn up in Italian and contains, under penalty of inadmissibility:

a) in relation to the trademark for which declaration of revocation or nullity is requested, the identification of the owner, the number and date of registration;

b) in relation to the right of the applicant, when this right is a requirement of active legitimation pursuant to article 184-ter, the identification of the brand, the denomination of origin, the geographical indication, the traditional mention for wine, the specialty guaranteed traditional right, of the denomination of plant variety or of another previous exclusive right;

c) the reasons on which the application is based and, in the case referred to in paragraph 3, letter c), any request for transfer of the trademark registration certificate to one's name from the moment of filing.

5. The request for revocation or nullity also contains, in relation to the trademark for which declaration of revocation or nullity is requested, the indication of the products and services against which the request for revocation or nullity is proposed; in the absence of this indication the application is considered to be directed against all the products or services covered by the contested trademark.

6. The request for forfeiture or nullity is considered withdrawn if it is not proven that the fees for filing the requests for forfeiture or nullity have been paid within the terms and in the manner established by the decree referred to in article 226.

7. The following are attached to the request for revocation or nullity:

a) the documents proving the facts alleged;

b) the documentation aimed at demonstrating the legitimacy to present the request for revocation or nullity, where necessary;

c) the act of appointment pursuant to article 201, if an agent has been appointed.

8. The request for revocation or nullity can be presented on the basis of one or more previous rights, provided that they all belong to the same owner.

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8-bis. The owner of one or more previous rights who has preliminarily requested the nullity or revocation of the trademark cannot submit, under penalty of inadmissibility, another request for nullity or revocation based on another of the rights that he could have asserted previously. support of the first question

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9. The request for revocation or nullity cannot be proceeded with if, on an application with the same object, the same constituent facts and between the same parties, a decision has been given or proceedings are pending before the Italian Patent and Trademark Office or to the judicial authority requested pursuant to article 122.

10. Except for the case referred to in paragraph 9, if a request for revocation or nullity is presented to the Italian Patent and Trademark Office pending administrative or judicial proceedings related to the object, the treatment of the request it can be suspended until the pending proceedings are defined with an unassailable administrative measure or with a final sentence. In this case the applicant may request the continuation of the suspended proceeding, with a request to be presented to the Italian Patent and Trademark Office within the peremptory deadline of three months from the incontestability of the provision adopted in the related administrative proceeding or from the becoming final of the sentence which defines the connected process. Otherwise, the proceedings on the request for revocation or nullity are extinguished.

11. The request for revocation or nullity is also inadmissible if it has been presented at the same time as a request, with the same object, the same constituent facts and between the same parties, proposed before the judicial authority seized pursuant to article 122 .

Art. 184-ter

(((Legitimation to request for revocation or nullity).))

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1. The following are entitled to present a request for revocation or nullity:

a) in the cases referred to in paragraphs 2 and 3, letter a), of article 184-bis, any interested party;

b) in the case referred to in paragraph 3, letter b), of article 184-bis, the owner of an earlier trademark or the person authorized by law to exercise the rights conferred by a designation of origin or an indication protected geographic;

c) in the case referred to in paragraph 3, letter c), of article 184-bis, the trademark owner concerned

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Article 184-quater

(Examination of the application for revocation or nullity and decisions)

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1. The Italian Patent and Trademark Office, having verified the admissibility and admissibility of the request for revocation or nullity, communicates said request to the parties with notice of the right to reach a conciliation agreement within two months from the date of communication, extendable, upon joint request of the parties, up to a maximum of one year.

2. A copy of the request for revocation or nullity is attached to the communication provided for in paragraph 1.

3. In the absence of an agreement pursuant to paragraph 1, the owner of the trademark whose revocation or nullity is requested may present his deductions in writing within the period of sixty days from the date of receipt of the communication

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4. In the event of multiple applications for revocation or nullity relating to the same trademark, the applications subsequent to the first are combined with this one.

5. At the end of the revocation or nullity procedure, the Italian Patent and Trademark Office, if it accepts the application, ascertains the revocation or declares the nullity of the trademark

registration in whole or in part or arranges for the transfer of ownership of the registration in the case to whom the request referred to in article 184-bis, paragraph 4, letter c) has been submitted. In the case of international registration, the Italian Patent and Trademark Office communicates the decision to the World Intellectual Property Organization (WIPO).

6. The Italian Patent and Trademark Office, with the provision referred to in paragraph 5, charges the losing party with reimbursement of expenses in favor of the other party and liquidates the amount together with the costs of professional representation in the proceedings, to the maximum extent identified by decree of the Ministry of Economic Development.

7. The provisions that ascertain the revocation or declare the nullity of the registration or transfer the ownership of the registration of a trademark are noted in the register.

Article 184-quinquies

(((Test of use).))

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1. In proceedings for the declaration of invalidity based on a registered trademark with an earlier filing or priority date pursuant to article 184-bis, paragraph 3, letter b), upon request of the trademark owner later business, the owner of the earlier trade mark shall provide evidence that, during the five years preceding the date of submission of the application for a declaration of invalidity, the earlier trade mark has been subject to genuine use in accordance with Article 24 for the products or services for which it has been registered and on which the application is based, or that there are legitimate reasons for its non-use, provided that the registration procedure of the earlier trademark, on the date of submission of the application for declaration of nullity, had been concluded for at least five years.

2. If, on the date of filing or priority of the later trademark, the five-year period during which the earlier trademark had to be put to effective use has expired, the owner of the earlier trademark, in addition to the proof pursuant to paragraph 1, provides proof that the trademark was subject to effective use during the five years preceding the filing or priority date, or that there were legitimate reasons for its non-use.

3. In the absence of the evidence referred to in paragraphs 1 and 2, to be provided within sixty days from the date of communication of the request by the Italian Patent and Trademark Office, the request for invalidity on the basis of an earlier trademark is rejected.

4. If the earlier trade mark has been used in accordance with Article 24 for only part of the goods or services for which it was registered, for the purposes of examining the application for invalidity it is considered registered only for that part of the products or services.

5. Paragraphs 1 to 4 of this article also apply if the earlier trademark is an EU trademark. In such a case, the genuine use of the EU trade mark is determined in accordance with [Article 18 of Regulation \(EU\) 2017/1001 of the European Parliament and of the Council of 14 June 2017](#).

6. The request of the owner of the later trademark to obtain proof of actual use of the earlier trademark, referred to in paragraph 1, must be presented within the deadline assigned by the Italian Patent and Trademark Office pursuant to the article 184-quater, paragraph 1

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Art. 184-sexies

(((Effectiveness erga omnes and effective date of the effects of forfeiture and nullity).))

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1. The forfeiture or nullity, even partial, of a trademark registration is effective towards everyone when it is declared by a provision of the Italian Patent and Trademark Office which has become incontestable.

2. The revocation of the registration of a trademark, for all or part of the products or services, produces effects starting from the date of filing of the revocation application or, upon request of the applicant, from the earlier date in which it accrued one of the causes of decline.

3. The invalidity of the registration of a trademark, for all or part of the products or services, produces effects from the date of registration

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Article 184-septies

(((Suspension of the nullity or forfeiture procedure.))

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1. In addition to the case referred to in article 184-bis, paragraph 10, the forfeiture or nullity procedure is suspended:

a) if the request for invalidity is based on a previous application for registration of a trademark, on an application for registration of a designation of origin or on an application for registration of a geographical indication, until such applications are adopted an incontrovertible provision;

b) if the request for invalidity is based on an international trademark, until the deadlines for refusal or filing of an opposition against the registration of that trademark have expired;

c) if the request for invalidity is based on an international trademark and the relevant examination or opposition proceedings have been concluded;

d) at the request of the owner of the later trademark, if a judgment of nullity or revocation of the earlier trademark on which the request for nullity is based or relating to the right to registration is pending, until the decision becomes final;

e) at the request of the owner of the later trademark, if a proceeding for nullity or revocation of the earlier trademark on which the request is based or relating to the entitlement to the right of registration is pending before the Italian Patent and Trademark Office, until that the relevant provision is incontrovertible;

f) at the request of the owner of the subsequent trademark, if a procedure for cancellation of the designation of origin or the protected geographical indication on which the request for invalidity is based is pending, until the deadline in which the decision of the European Commission becomes final;

g) in the other cases provided for by the regulation implementing this code.

2. The applicant may request the continuation of the suspended proceedings, with a request to be submitted to the Italian Patent and Trademark Office within the peremptory deadline of three months from the incontestability of the measure adopted in the cases referred to in paragraph 1, letters a), c), e) and f), from the expiry of the terms referred to in letter b) of the same paragraph, or from the becoming final of the sentence that defines the trial in the case referred to in letter d) of the same paragraph. Otherwise, the proceedings on the request for revocation or nullity are extinguished.

3. If the proceedings are suspended pursuant to paragraph 1, letters a), b) and c), the Italian Patent and Trademark Office shall give priority to examining the trademark application or the registration of the international trademark on which the application for nullity

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Article 184-octies

(Extinction of the forfeiture or nullity procedure)

1. The forfeiture or nullity procedure ends:

a) if the trademark on which the request is based has been declared null or void with a final judgment or with an unassailable provision;

b) if the waiver of the request for revocation or nullity is accepted, without reservations or conditions, by the parties established who may have an interest in its continuation;

c) if the application or registration, the subject of the request for revocation or nullity, is withdrawn((, given up))or rejected with an incontestable provision for the controversial products and services;

d) if a request for continuation is not submitted in the cases referred to in article 184-bis, paragraph 10, last sentence, and referred to in article 184-septies, paragraph 2, second sentence;

e) if the application for protection of the designation of origin or geographical indication on which the request for nullity is based is withdrawn or rejected;

f) if the protected designation of origin or protected geographical indication or guaranteed traditional specialty, on which the application for invalidity is based, is cancelled;

g) if the interest in taking action has ceased.

Art. 184-novies

(((Implementation and entry into force of the forfeiture or nullity procedure).))

((1. The rules on the forfeiture or nullity procedure come into force thirty days after the date of publication of the decree of the Minister of Economic Development which establishes the methods of application)).

Article 184-decies

(((Appeal).))

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1. The provision with which the Italian Patent and Trademark Office declares the revocation or nullity procedure inadmissible, inadmissible or extinguished or accepts, even partially, or rejects the request, is communicated to the parties.

2. Against the measures referred to in paragraph 1, appeal is permitted before the Appeals Commission, pursuant to article 135

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Section III
Advertising

Article 185

Collection of industrial property titles

1. The original industrial property titles must be signed by the manager of the competent office or by an official delegated by him.

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2. Industrial property rights are marked, depending on the type, by a progressive number, according to the grant date, and contain:

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((of the inventor o))

3. The originals of the industrial property titles are((gathered in specific collections)).((All references to the register of trademarks or patents contained in the Code must be understood as made to the originals, in paper or electronic form, of the corresponding titles gathered in the collections.))

4. A certified copy of the industrial property title is sent to the owner. In the case of plant variety rights, the office informs MIPAF of the concession.

Art. 185-bis

(((Special register of historic brands of national interest.))

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1. The special register of historical trademarks as defined by article 11-ter is established at the Italian Patent and Trademark Office.

2. Registration in the special register of historic trademarks is carried out at the request of the owner or exclusive licensee of the trademark

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Art. 185-ter

((ARTICLE REPEALED BY [DL 19 MAY 2020, N. 34](#)))

Article 186

Visions and publications

1. The collection of industrial property titles and the collection of applications may be consulted by the public, upon authorization from the Italian Patent and Trademark Office, following an application.

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2. The Italian Patent and Trademark Office, without prejudice to the terms established for the accessibility of applications to the public, keeps the files relating to an application, a patent, a registration or an application available free of charge to the public for consultation. , without prejudice to the limitations provided for by the implementing regulation.

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3. The Italian Patent and Trademark Office may allow a copy of the applications and descriptions to be made **((, of the claims))** and drawings, as well as other documents which may be viewed by the public, to anyone who requests them subject to those precautions deemed necessary to avoid any failure or deterioration of the documents available to the public.

4. The copies for which authentication of conformity with the copy made available to the public is requested must be in compliance with the stamp duty. The Ministry of Productive Activities may, however, establish that the copying or in any case reproduction, including photographic, of the aforementioned acts and documents is to be carried out exclusively by the Office, subject to payment of secretarial fees.

5. Copies of extracts of industrial property titles and certificates relating to information to be extracted from the relevant documentation, as well as duplicates of the originals, are made exclusively by the Italian Patent and Trademark Office following a request in which the number of the order of the title of which a copy or extract is requested.

6. The certification of authenticity of the copies is subject to stamp duty and the payment of secretarial fees to be paid to the Italian Patent and Trademark Office for each sheet and for each drawing plate.

7. The extent of the rights provided for by this code is established by decree of the Minister of Productive Activities, in agreement with the Minister of Economy and Finance. The rates for copying and photographic reproduction work, which is provided by the Italian Patent and Trademark Office, are determined in the same way.

8. Industrial property rights, distinguished by class, **((the transcriptions that have taken place and the sentences referred to in article 197, paragraph 6,))** are published, at least monthly, in the Official Bulletin provided for each type of qualification by articles 187, 188, 189 and 190. The publication will contain the fundamental information included in each title and, respectively, in the transcription requests.

Furthermore, the Bulletin may contain both the analytical indices of industrial property rights and the alphabetical indices of the owners and summaries of the descriptions may also be published in it.

9. The Bulletin **((is made available electronically and))** it can be distributed free of charge to the Chambers of Commerce, as well as to the bodies indicated in a list to be compiled by the Minister of Productive Activities.

Article 187

Official Trademark Bulletin

1. The Official Trademark Bulletin, to be published at least monthly by the Italian Patent and Trademark Office, contains at least the following information relating to:

a) applications deemed registrable pursuant to article 170, paragraph 1, letter a), with an indication of any priority;

b) applications resulting from the request for transformation of a Community trademark with the indication of the filing date of the relevant application;

c) registrations;

d) registrations accompanied by the notice referred to in article 179, paragraph 2;

e) renovations;

f) requests for transcription of the documents indicated by this code and transcriptions that have taken place.

f-bis) applications subject to opposition and applications rejected following opposition;

f-ter) sentences referred to in article 197, paragraph 5.

((f-quater) the requests for modifications to the regulations for the use of collective marks or certification marks and the changes that have occurred.))

2. The identifying data of the applications and registrations, in addition to the specific ones indicated in paragraph 1, letters a), b), and d), and the related numbers and dates, are those referred to in article 156.
3. The Official Bulletin is accompanied by analytical indices, at least alphabetical by owner, numerical and by class.

Article 188

Official bulletin of new plant varieties

1. Communication to the public provided for by article 30 of the International Convention for the Protection of New Plants (UPOV) - Geneva text of 19 March 1991, ratified by [law 23 March 1998, n. 110](#), is carried out through the publication of an "Official Bulletin of new plant varieties" edited by the Office.
2. The Bulletin is published at least every six months and contains:
 - a) the list of applications for property rights, broken down by type, indicating, in addition to the number and filing date of the application, the name and address of the applicant and the name of the author if a person other than the applicant, the proposed denomination and a succinct description of the plant variety for which protection is requested;
 - b) the list of rights granted, by genus and species, indicating the number and filing date of the corresponding application, the name and address of the owner and the variety denomination definitively attributed;
((b-bis) sentences referred to in article 197, paragraph 6;))
 - c) any other information of public interest.
3. The Bulletin is sent free of charge, in exchange, to the competent offices of the other member states of the Union pour la protection des obtentions végétales (UPOV)

Article 189

Official bulletin of invention patents and utility models, registrations of designs and models, topographies of semiconductor products.

1. The official bulletin of invention patents and utility models, registrations of designs and models, topographies of semiconductor products, to be published at least monthly by the Italian Patent and Trademark Office, contains at least the following relevant information to:
 - a) patent or registration applications with indication of any priority or request for deferral of accessibility to the public;
 - b) granted patents and registrations;
 - c) patents and registrations lapsed due to failure to pay the fees required for annual maintenance;
 - d) patents and registrations offered under license to the public;
 - e) patents and registrations subject to expropriation decree or compulsory license;
 - f) patents and registrations subject to conversion;
 - g) requests for transcription of the documents referred to in article 138 and transcriptions which have taken place.
((g-bis) sentences referred to in art. 197, paragraph 6.))
2. The identifying data of applications, patents and registrations, in addition to the specific ones indicated in paragraph 1, letters a), d), and e), and the related numbers and dates, are those referred to in articles 160, paragraph 1, 167, paragraph 1, 168, paragraphs 1 and 2, letters b) and d).
3. The Official Bulletin is accompanied by analytical indices, at least alphabetical by owner, numerical and by class.

Article 190

Official bulletin of complementary certificates for medicines and plant protection products

1. The official bulletin of applications and complementary certificates for medicinal products and plant protection products, to be published at least monthly by the Italian Patent and Trademark Office, contains at least the information required by article [11 of EEC regulations no. 1768/92 of the Council of 18 June 1992](#) and (EC) n. 1610/96 of the European Parliament and of the Council, of 23 July 1996.

Section IV
Terms

Article 191

Deadline

1. The terms provided for in this code can be extended upon request presented before their expiry to the Italian Patent and Trademark Office, unless the term is indicated as non-extendable.

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2. Unless otherwise provided for in the regulation implementing this code, upon reasoned request, the extension may be granted for up to a maximum of six months starting from the expiry date of the term for which the extension is requested.

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Article 192

(((Continuation of procedure)))

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1. When the applicant for an industrial property right has not observed a deadline relating to a procedure before the Italian Patent and Trademark Office, the procedure is resumed at the request of the applicant without non-observance of the deadline leading to the loss of the right of industrial property or other consequence.

2. The request for continuation of the procedure must be presented within two months from the expiry of the deadline not observed or from the extension deadline provided for in article 191, paragraph 2, where the extension has been requested, and must be accompanied by proof of having completed within the same deadline what was omitted within the previously expired deadline. The request must demonstrate the payment of the fee foreseen for the continuation of the procedure in table A attached to the [decree of the Minister of Economic Development dated 2 April 2007, published in the Official Gazette no. 81 of 6 April 2007](#) .

3. The provision referred to in this article is not applicable to the deadline for claiming the right of priority, to the deadlines relating to the opposition procedure, to the deadline for submitting an appeal to the Board of Appeal, to the period for submitting the document of priority, to the period for the integration of the application or the production of the translation pursuant to article 148, to the deadline for the payment of the maintenance rights of industrial property rights with default, to the terms established for the reinstatement of the right referred to article 193 and the deadline for submitting the translation into English of the claims of the patent application referred to in article 8 of the decree of the Minister of Economic Development dated 27 June 2008 on the search for prior art, [published in the Official Gazette no. 153 of 2 July 2008](#) .

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Article 193

Reinstatement

1. The applicant or holder of an industrial property right who, despite having used the diligence required by the circumstances, has not been able to observe a deadline vis-à-vis the Italian Patent and Trademark Office or the Board of Appeals, shall have his rights reinstated. if the non-compliance has the direct consequence of the rejection of the application or of a request relating to it, or the forfeiture of the industrial property title or the loss of any other right or right of appeal.

2. ((Within one year from the expiry date of the deadline not observed referred to in paragraph 1, the omitted act must be completed and the request for reinstatement must be presented, within the same deadline under penalty of inadmissibility, with the indication of the facts and justifications and with appropriate documentation attached)). ((PERIOD SUPPRESSED BY [LAW 24 JULY 2023, N. 102](#))). In the event of non-payment of a maintenance or renewal right, said one-year period starts from the day of expiry of the useful term established for the payment of the right. In this case, the certificate proving the payment of the fee due, including the default fee, must also be attached.
3. Before rejecting the request, the applicant or owner of the industrial property right may, within the deadline set by the Office, present his own arguments or deductions.
4. The provisions of this article are not applicable to the deadlines referred to in paragraph 2, to the deadline assigned for the division of patenting and registration applications, as well as for the presentation of the divisional application and for the presentation of opposition documents to the registration of brand names.
5. If the applicant for the registration or patent, despite having used the diligence required by the circumstances, was unable to observe the priority deadline, he shall be reinstated in his right if the priority is claimed within two months from the expiry date of this deadline. This provision also applies in the event of failure to comply with the deadline for producing the priority document.
6. Anyone in good faith who has made serious and effective preparations or has begun to use the object of another's industrial property right in the period between the loss of the exclusivity or the right to acquire it and the reinstatement pursuant to paragraph 1, can':
- a) if it concerns an invention, utility model, design or model, new plant variety or topography of semiconductor products, implement them free of charge within the limits of the pre-use or as they result from the preparations;
 - b) if it concerns a trademark, ask to be reimbursed for the expenses incurred.

Chapter V
SPECIAL PROCEDURES

Article 194

Expropriation procedure

1. The expropriation decree is sent in copy to the Italian Patent and Trademark Office and notified, in the forms provided for the notification of civil procedural documents, to the interested parties.
- Once the notification has been made, the rights that were the subject of the expropriation are acquired by the expropriating administration, which certainly has the right to make use of them. The possible burden of paying the fees required to maintain the industrial property right in force is also transferred to the administration itself. Except in the case that the publication could cause prejudice, of expropriation decrees and those that modify or revoke previous decrees, the Italian Patent and Trademark Office publishes information in the Official Bulletin and makes a note in the title or in the application.
2. In the expropriation decree of the sole use of the industrial property right, the duration of the expropriated use must be indicated. In the event that the sole use of the industrial property right has been expropriated, the patenting and registration, as well as the publication of the relevant titles, are carried out according to the ordinary procedure.
3. For the sole purpose of determining the compensation to be paid for the expropriation, if agreement is not reached regarding the amount thereof, a Board of Arbitrations composed of three members, one appointed by each of the parties and the third appointed by the first two, or, in case of disagreement, by the president of the specialized section of the Court of Rome. The arbitrators must be chosen from among those who have acquired professionalism and experience in the industrial property sector. [The provisions of article 806 et seq. of the code of civil procedure](#) apply to the extent compatible .
4. The Board of Arbitration must proceed with fair assessment taking into account the loss of the competitive advantage that would have resulted from the expropriated patent.
5. The costs of the arbitration, the fees due to the arbitrators and the defense costs and fees are settled in the award, which also establishes who and to what extent the related burden should be borne.
- In any case, this burden falls on the expropriated person when the compensation is paid in a lower amount than that initially offered by the administration.
6. The decision of the arbitrators can be challenged before the specialized section of the Court of Rome which provides for the quantification of the compensation. The appeal deadline is sixty days from the moment the determination of the compensation is communicated to the parties.

Article 195

Transcription questions

1. Transcription requests must be drafted((...))according to the provisions of the decree of the Minister of Productive Activities.
2. The application must contain:
 - a) the surname, name and domicile of the beneficiary of the requested transcription and of the agent, if any;
 - b) the surname and name of the owner of the industrial property right;
 - c) the nature of the document or the reason justifying the requested transcription;
 - d) the list of industrial property rights subject to the requested transcription;
 - e) in the case of a change of ownership, the name of the State of which the new applicant or new holder has citizenship, the name of the State of which the new applicant or new holder has domicile, or the name of the State in which the new applicant or the new owner has an effective and serious industrial or commercial establishment.

Article 196

Transcription procedure

1. To the request for transcription, referred to in paragraph 2(*of Article 195*)), they must be united:
((a) copy of the deed from which the change of ownership results or of the deed that constitutes or modifies or extinguishes the personal or real rights of enjoyment or guarantee referred to in paragraph 1 letters a), b), c) and i) of article 138, or a copy of the reports and sentences referred to in paragraph 1, letters d), e), f), g) and h) of article 138, observing the provisions of the law on the register where necessary, or an extract of the deed itself or, in the case of a merger, a certification issued by the Companies Registry or other competent authority, or, in the case of a transfer or granting of a licence, a declaration of transfer, of successful transfer or of successful granting of a license signed by the transferor and the transferee with the list of the rights subject to the transfer or concession. The Italian Patent and Trademark Office may request that the copy of the document or extract be certified as conforming to the original by a public official or any other competent public authority;))
 - b) the document proving the payment of the prescribed fees.
2. A single request is sufficient when the transcription concerns multiple industrial property rights both at the request stage and granted to the same person, provided that the beneficiary of the change of ownership or of the rights of enjoyment or guarantee or of the deed to be transcribed is the same for all qualifications and that the numbers of all applications and all qualifications in question are indicated in the request itself.
3. When there is an agent, the act of appointment must also be added pursuant to article 201.
4. For each transcription, the following must be indicated in the register:
 - a) the date of submission of the application, which is the date of transcription;
 - b) the surname, name and domicile of the assignee, or the name and headquarters, in the case of a company or non-profit organisation, as well as the surname, name and domicile of the agent, when there is one;
 - c) the nature of the rights to which the transcription refers.
5. The documents and sentences presented for transcription are kept by the Italian Patent and Trademark Office.
6. Requests for cancellation of transcriptions must be made in the same forms and with the same methods established for requests for transcription. Deletions must be made by annotation in the margin.
7. If, for the transcription of the guarantee rights, it is necessary to convert the amount of the credit into national currency, this conversion will be made based on the exchange rate on the day on which the guarantee was granted.

Article 197

1. (~~(PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#))~~).
 2. Changes in the name or domicile of the owner of the industrial property right or of his agent, if any, must be brought to the attention of the Office for annotation in the register referred to in article 185.
 3. The request for a change of name or address must be drawn up in a single copy in accordance with the provisions of the implementing regulation.
 4. A single request is sufficient when the modification concerns multiple industrial property rights both in the application and granted state.
 5. The provisions referred to in paragraphs 1, 2 and 3 apply to the change of name or address of the agent referred to in article 201.
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- 6. Declarations of renunciation, even partial, of an industrial property right signed by the owner and sentences pronouncing the nullity or forfeiture of industrial property rights received by the Italian Patent and Trademark Office must be noted in the collection of originals and they must be reported in the Official Bulletin.**
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Article 198

Military secrecy procedures

1. Those residing in the territory of the State cannot, without authorization from the Ministry of Productive Activities, file exclusively with the offices of foreign States or the European Patent Office or the International Office of the World Intellectual Property Organization as receiving office, their applications for the granting of patents for inventions, utility models or topography, if said applications concern objects that could be useful for the defense of the country, nor file them with these offices before they have passed **((sixty))** days from the date of filing in Italy, or from the date of submission of the authorization request. The aforementioned Ministry takes action on authorization requests, subject to authorization from the Ministry of Defence. Once the deadline has passed **((sixty))** days without a refusal being issued, the authorization must be considered granted. The provisions of this paragraph do not apply to inventions created following international agreements ratified by national law.
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- 1-bis. The provisions of paragraph 1 also apply when:**
- a) the inventor works for Italian branches of multinational companies whose parent company has its registered office abroad;**
 - b) the inventor has assigned the invention which is the subject of the patent prior to the filing of the patent application**
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2. Unless the act constitutes a more serious crime, violation of the provisions of paragraph 1 is punished with a fine of no less than 77.47 euros or with arrest. If the violation is committed when the authorization has been denied, imprisonment of no less than one year is applied.
 3. The Italian Patent and Trademark Office immediately makes available to the Patent and Intellectual Property Service of the Ministry of Defense the patent applications for industrial inventions, utility models and topographies of semiconductor products received by it.
 4. If the aforementioned Service deems that the applications concern inventions, models or topographies useful for the defense of the country, even officers or officials external to the Service itself expressly delegated by the Minister of Defense may examine, at the headquarters of the Office, the descriptions, claims and drawings attached to the applications.
 5. All those who have seen applications and documents relating to patents or who have learned of them for official reasons are bound by the obligation of secrecy.
 6. I enter **((sixty))** days following the date of filing of the applications, the Ministry of Defense may ask the Italian Patent and Trademark Office to defer the granting of the industrial property title and any related publication. The Office communicates the request to the interested party, warning him to observe the obligation of secrecy.
 7. If, within eight months from the date of filing the application, the competent Ministry has not sent the Office and the applicant, insofar as the latter has indicated his domicile in the State, the news of its intention to proceed with the expropriation, it is following the ordinary procedure for granting the industrial property title. Within the aforementioned term, the Ministry of Defense

may request that the granting of the industrial property title and any related publication be further deferred for a period not exceeding three years from the date of filing of the application. In this case the inventor or his successor in title is entitled to an indemnity for the determination of which the provisions on expropriation apply.

8. For utility models, the further deferral provided for in paragraph 7 may be requested for a period not exceeding one year from the date of filing of the application.

9. At the request of foreign states that grant reciprocity treatment, the Ministry of Defense may request, for a period exceeding three years, the deferral of the granting of the patent and of any publication relating to the invention for patent applications already deposited abroad and subject to secrecy therein.

10. Any compensation is paid by the requesting foreign state.

11. The invention must be kept secret after the communication of the request for deferral and for the entire duration of the deferral itself, as well as during the execution of the expropriation and after the relevant decree if this entails the obligation of secrecy.

12. The invention must also be kept secret in the case provided for in paragraph 6, after the decision to promote the expropriation with the imposition of secrecy has been communicated to the interested party.

13. The obligation of secrecy ceases if the Ministry of Defense allows it.

14. Violation of secrecy is punished in accordance with [article 262 of the penal code](#) .

15. The Ministry of Defense may request that patent applications for industrial inventions of dependent or supervised organizations be kept secret.

16. If, for an invention involving the military defense of the country, the Ministry of Defense requests or, in the case of deferral referred to in paragraph 6, allows the granting of the patent, the relevant procedure takes place, upon request from the same Ministry, in secret form. In this case no publication will be made and viewing in this code will not be permitted.

17. In the case of exhibitions to be held in the territory of the State, the Ministry of Defense has the right, through its officials, to proceed with a detailed examination of the objects and findings delivered for the exhibition which may be considered useful for the military defense of the country and also has the right to obtain information and request clarifications on the objects and findings themselves.

18. Exhibition organizers must deliver to the aforementioned officials the complete lists of objects to be exhibited relating to industrial inventions not protected under this code.

19. The officials and officials referred to in paragraph 17 may impose on the organization itself a ban on the display of objects useful for the military defense of the country.

20. The Ministry of Defence, by registered mail with acknowledgment of receipt, must inform the exhibition presidency and interested parties of the exhibition ban, warning them about the obligation of secrecy. The exhibition presidency must preserve the objects subject to the exhibition ban with the obligation of secrecy regarding their nature.

21. In the event that the exhibition ban is imposed after the objects have been exhibited, the objects themselves must be immediately withdrawn without, however, imposing the obligation of secrecy.

22. In any case, the right of the Ministry of Defence, for objects that refer to inventions recognized as useful for the military defense of the country, to proceed with the expropriation of the rights deriving from the invention, model or topography from the pursuant to the rules relating to expropriation contained in this code.

23. If the ban on display is not respected, those responsible for the illegal display are punished with an administrative fine ranging from 25.00 euros to 13,000.00 euros.

Article 199

Compulsory licensing procedure

1. Anyone wishing to obtain the compulsory license referred to in Articles 70 and 71 of Chapter II, Section IV, for the non-exclusive use of an industrial invention or utility model must submit a reasoned request to the Italian Patent and Trademark Office, indicating the extent and methods of payment of the compensation offered. The Office gives prompt notice of the request, by registered letter with acknowledgment of receipt, to the owner of the patent and to those who have acquired rights on the patent on the basis of transcribed or annotated documents.

2. Within sixty days from the date of receipt of the registered letter, the owner of the patent and all those who are entitled to it based on transcribed or annotated documents may oppose the

acceptance of the request or declare that they do not accept the measure and the payment methods of the compensation. The opposition must be justified.

3. In the event of oppositions, within forty-five days from the expiry date of the deadline for the presentation of the same, the Italian Patent and Trademark Office will summon the applicant, the patent holder and all those who have rights in based on transcribed or annotated documents. The notice of call is sent to the aforementioned subjects by registered mail with acknowledgment of receipt or by other means, including electronic means, provided that such methods guarantee sufficient certainty of receipt of the communication.

4. In the notice of convocation, the Italian Patent and Trademark Office must communicate and transmit to the applicant a copy of the oppositions presented.

5. The applicant may submit written counterarguments to the Italian Patent and Trademark Office within the fifth day prior to the date of the meeting.

6. In the forty-five days following the date of the meeting for the conciliation attempt, the Ministry of Productive Activities grants the license or rejects the request.

7. The deadline for completing the procedure is one hundred and eighty days, starting from the date of submission of the application.

Article 200

Voluntary licensing procedure on active ingredients

1. The application for a voluntary license on active ingredients, accompanied by the certificate proving the payment of the fees in the amount established by the decree of the Minister of Productive Activities referred to in article 226, must contain the following information:

- a) name or company name and domicile or registered office of the applicant for the voluntary license;
- b) name of the active ingredient;
- c) protection details, patent number and complementary protection certificate;
- d) indication of the Italian pharmaceutical factory, duly authorized by the Ministry of Health in accordance with the law, where the active ingredient is intended to be produced.

2. The applicant must forward, by registered mail with return receipt or by other means that guarantee receipt of the communication, the application to the Italian Patent and Trademark Office (UIBM), with an attached English translation, accompanied by the required elements from the **((paragraph 1))**.

3. The UIBM promptly informs the interested parties and those who have acquired rights on the patent or on the complementary protection certificate in based on transcribed or annotated documents.

4. If within ninety days from the date of receipt of the application, which can be extended by agreement between the parties, they reach an agreement on the basis of a limited royalty, a copy of the same must be sent, in a similar manner, to the Ministry of Productive Activities - UIBM. If the Office does not communicate any findings to the parties within the following thirty days, the voluntary licensing agreement is considered finalized.

5. In the event that the parties communicate to UIBM that it has not been possible to reach an agreement, the Office starts the conciliation procedure referred to **((in paragraphs 6 and following))**.

6. The Ministry of Productive Activities appoints, by decree, a commission with the task of evaluating requests for voluntary licensing for which it has not been possible to reach an agreement between the parties.

7. The commission is made up of six members and as many alternates of which:

- a) two representatives of the Ministry of Productive Activities;
- b) a representative of the Ministry of Health;
- c) a representative of the Italian Medicines Agency;
- d) a representative of CCP holders, upon proposal of the most representative trade associations;
- e) a representative of the producers of active pharmaceutical ingredients, upon proposal of the most representative trade associations.

8. The commission referred to **((in paragraphs 6 and 7))**, within thirty days from the date of communication received from UIBM of the failure to reach an agreement between the parties, proceeds to convene them, in order to identify a hypothesis of agreement aimed at balancing the needs of the parties themselves, guaranteeing, in any case, a fair remuneration of the person who issues the voluntary license, by indicating a limited royalty, established with criteria that take into account the needs of international competition of the producers of active ingredients.

9. If, despite ministerial mediation, the licensing agreement is not concluded, the Ministry of Productive Activities, if it deems the legal prerequisites for this, orders the transmission of the

procedural documents to the Competition and Market Guarantor Authority.

Chapter VI
PROFESSIONAL SYSTEM

Article 201

Representation

1. No one is required to be represented by a qualified representative in procedures before the Italian Patent and Trademark Office; natural and legal persons may act through one of their employees even if not authorized or through an employee of another associated company pursuant to article 205, paragraph 3.
2. The appointment of one or more agents, if not made in the application, or with a separate document, authentic or authenticated, can be done with a specific letter of appointment, subject to the payment of the prescribed fee.
3. The deed of appointment or letter of appointment may concern one or more applications or in general professional representation for each procedure before the Italian Patent and Trademark Office and the Appeals Commission. In this case, in every subsequent application, request and appeal, the agent must refer to the power of attorney or letter of appointment.
4. The mandate can only be granted to agents registered in a register established for this purpose at the Council of the order of industrial property consultants.

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4-bis. European Union citizens authorized to practice the same profession in another Member State can be registered according to the procedures set out in [Legislative Decree 9 November 2007, n. 206](#) .

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5. PARAGRAPH REPEALED BY THE [LEGISLATIVE DECREE. 9 NOVEMBER 2007, No. 206](#) .
6. The mandate can also be given to a lawyer registered in his professional register.

Article 202

Register of consultants

1. Without prejudice to the provisions of article 201, the representation of natural or legal persons in procedures before the Italian Patent and Trademark Office and the Appeals Commission can be assumed only by qualified consultants registered in a register established at the Council of The order is called the Register of qualified industrial property consultants as well as those who are registered in the registers of lawyers.
2. The Register is made up of two sections respectively called patent section and trademark section, the first reserved for consultants acting in the field of patents for inventions, utility models, designs and models, new plant varieties, topographies of semiconductor products and the second to consultants authorized to act in the field of designs and models, trademarks and other distinctive signs and geographical indications.
3. Those registered in the Register constitute the association of industrial property consultants.
4. Supervision of the practice of the profession is exercised by the Ministry of Productive Activities, through the Italian Patent and Trademark Office.

Article 203

Registration requirements

1. Any natural person who:
 - a) has the enjoyment of civil rights under national law and is a person of good civil and moral conduct;
 - b) is an Italian citizen or a citizen of the Member States of the European Union or a citizen of foreign states for which a reciprocity regime is in force;

c) has a professional domicile in Italy or in the European Union if he is a citizen of a member state of it, the requirement of professional domicile in Italy is not required if he is a citizen of non-EU states that allow Italian citizens registration in corresponding registers without this requirement;

d) has passed the qualification exam referred to in Article 207 or has passed the aptitude test required for industrial property consultants in [paragraph 2 of Article 6 of Legislative Decree no. 27 January 1992. 115](#) .

2. Registration is carried out by the Council of the Order upon presentation of an application accompanied by documents proving possession of the requirements referred to in paragraph 1 or including the self-certifications required by law. Registration is promptly communicated by the Council to the Italian Patent and Trademark Office.

3. The subjects referred to in article 201, paragraph 4-bis, who intend to carry out the activity of representation in Italy on an occasional and temporary basis are considered automatically registered in the register of industrial property consultants, following transmission by the competent authority of the prior declaration referred to in [article 10 of legislative decree 9 November 2007, n. 206](#) . Registration is relevant solely for the purposes of applying professional rules, of a professional, legal or administrative nature, directly connected to the professional qualification.

4. (***(PARAGRAPH REPEALED BY [LAW 6 AUGUST 2013, N. 97](#))***).

Article 204

Professional title covered by the activity

1. The title of industrial property consultant is reserved for persons registered in the register of qualified consultants. Persons registered only in the patent section must use the title in the form of patent attorney and persons registered only in the trademark section must use the title in the form of trademark attorney. Persons registered in both sections can use the title of industrial property consultant without further specifications.

2. The persons indicated in article 202 carry out on behalf of any natural or legal person all the obligations required by the rules regulating the services relating respectively to the subject of patents for inventions, for utility models, for designs and models for new plant varieties , for topographies of semiconductor products or the subject of trademarks, designs and models and geographical indications, depending on the section in which they are registered. (***They can certify the conformity of translations into Italian and of every deed and document coming from abroad to be produced at the Italian Patent and Trademark Office.***)

3. Furthermore, upon mandate and on behalf of the interested parties, they may carry out any other function that is similar, connected and consequent to the provisions of paragraph 2.

4. If the task is given to more than one qualified consultant, they, unless otherwise provided, may also act separately. If the task is given to more than one qualified consultant, established as an association or company, the task is considered to be given to each of them as they act within said association or company.

Article 205

Incompatibility

1. Registration in the register of qualified industrial property consultants and the exercise of the profession of industrial property consultant are incompatible with any public or private employment or office with the exception of employment relationships or positions held in companies, offices or specialized services in the field, both autonomous and organized within organizations or companies, and teaching activities in any form exercised; with the exercise of commerce, with the profession of notary, professional journalist, broker, stockbroker or tax collector.

2. Registration in the Register of qualified industrial property consultants and the exercise of the profession of industrial property consultant is compatible, unless otherwise provided for and without prejudice to the provisions of paragraph 1, with registration in other professional registers and with the exercise of the relevant profession.

3. Qualified industrial property consultants who carry out their activity in offices or services organized within entities or companies, or within consortia or groups of companies, may operate exclusively in the name and on behalf of:

a) of the organization or company on which they depend;

b) of the companies belonging to the consortium, or group in whose organization they are permanently included;

c) of companies or people who are involved in systematic collaborative relationships with entities or companies or groups or consortia, in which the qualified consultant is included, including those of research, production or technological exchanges.

Article 206

Obligation of professional secrecy

1. **The industrial property consultant has the obligation of professional secrecy and [article 200 of the criminal procedure code](#) applies to him .**

Article 207

Abilitation exam

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1. The qualification is granted upon passing an exam taken before a commission appointed, for each of the sections indicated by article 202, paragraph 2, for a period of three years, by decree of the Ministry of Business and Made in Italy , and composed for each session:

a) by the director of the Italian Patent and Trademark Office or by his delegate acting as president;

b) by two university professors, respectively, of legal and technical subjects, and respective substitutes, designated by the Ministry of Business and Made in Italy;

c) by four qualified industrial property consultants, and respective alternates, designated by the Council referred to in article 215, of which at least one chosen from among the employees of entities or companies

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2. Any person who:

a) has obtained:

1) a degree or equivalent university qualification in any foreign country;

2) a diploma or qualification issued by a member country of the European Union including certification that the candidate has successfully completed a post-secondary study cycle of a minimum duration of three years or of equivalent duration on a part-time basis, in a university or in a higher education institute or in another institute of the same level of training, provided that the cycle of studies has a technical-professional focus relating to the activity of industrial property consultant in the field of invention patents and models or in the field of trademarks and designs and models depending on the qualification required;

b) has completed at least two years of effective professional training in companies, offices or services specialized in industrial property, appropriately documented.

3. Any person who has passed the qualification exam as a qualified consultant at the European Patent Office is admitted to the qualifying exam for registration in the patent section.

4. The internship period is limited to **((*twelve months*))** if the candidate for the qualification exam demonstrates that he has successfully attended a qualified training course for qualified patent or trademark consultants, depending on the qualification requested.

5. The qualifying exam for registration in the patent section and respectively in the trademark section consists of tests **((...))** tending to ascertain the theoretical-practical preparation of the candidate in the specific field of industrial property rights, as well as at the level of technical, legal and linguistic culture, in accordance with the section concerned, according to the methods established in the regulation to be issued by decree.

6. The qualifying exam for registration in the patent section or for registration in the trademark section is announced every two years by decree of the Ministry of Productive Activities.

Article 208

Exemption from the qualifying exam

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1. Those who, already employed by the Ministry of Economic Development or the Ministry of Defence, have served for at least five years in managerial roles at the Italian Patent and Trademark Office or the Patent Service are exempt from the qualification exam. and intellectual property.

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2. Italian citizens who have served for at least five years as examiners at the European Patent Office are also exempt from registration in the patent section.

Article 209

Register of qualified industrial property consultants

1. The register established pursuant to article 202 must contain for each member the surname, name, place and date of birth, educational qualification, date of registration, professional domicile (***(in Italy which can also consist of the headquarters)***) of the organization or company on which it depends.

2. The date of registration determines seniority. Those who are once again registered in the register after cancellation have the seniority deriving from the first registration minus the duration of the interruption.

Article 210

Cancellation from the register and suspension by right

1. The qualified consultant is removed from the register:

- a) when one of the registration requirements referred to in article 203 has ceased to exist;
- b) when one of the cases of incompatibility provided for in article 205 occurs;
- c) when requested by the interested party.

2. The qualified consultant can request re-registration in the register when the causes for cancellation have ceased without the need for a new examination.

3. The qualified consultant is declared suspended by right from the professional practice from the moment of being subjected to the coercive or interdictory measures provided for in chapters II and III of chapter IV, title I, of the [code of criminal procedure](#) until the revocation of the measures themselves, as well as in the event of failure to pay the annual contribution within the set deadline, up to the date of ascertained fulfillment.

Article 211

Disciplinary sanctions

1. Qualified consultants are subject to censure in the case of minor abuses and shortcomings, and to suspension for no more than two years in the case of serious abuses; to expulsion in the event of conduct that has seriously compromised one's reputation and professional dignity.

Article 212

Assembly of members of the Register

1. The assembly is convened by the president, upon resolution of the Council of the order. It is regularly constituted on first call with the presence of at least half of the members and on second call, which cannot take place on the same day as the first, with the presence of at least one sixth of the members if the members present and represented reach the presence of at least a fifth of the members. It decides by absolute majority of votes.

2. Each qualified consultant registered in the register may be represented by another qualified consultant registered in the register with written delegation. The same participant cannot represent more than five members.

3. The methods of convening and carrying out the meeting are determined by decree of the Minister of Productive Activities.

Article 213

Duties of the assembly

1. The assembly meets at least once a year within the month of March, for the approval of the budget and final accounts, for the determination of the amount of the annual contribution which must be the same for all members and, if necessary, for the election of the Council of the order, in which case the convocation must take place at least one month before the date of its expiry.
2. The assembly also meets every time the Council of the order deems it necessary, as well as when a request is made in writing with an indication of the topics to be discussed by at least one tenth of the members of the register.

Article 214

Assembly for the election of the Council of the order

1. The members of the Council of the Order referred to in article 215 are elected by a simple majority of secret votes validly expressed by means of ballots containing a number of names not exceeding half plus one of the members to be elected. The ten candidates receiving the highest number of votes are elected. In the event of a tie, preference will be given to the oldest candidate in terms of registration and, among those with equal seniority in registration, the oldest in age.
2. Each category of consultants who practice the profession independently, both individually and within companies, offices or independent services, on the one hand, and consultants who practice in specialized offices and services within entities or companies of referred to in article 205, paragraph 3, on the other hand, cannot be represented within the Council of the Order with more than eight members. Likewise, each section of the register cannot be represented within the Council of the order with more than seven members, registered with it exclusively.
3. Participation and voting by proxy are not permitted. Voting by letter is permitted.
4. The methods for carrying out the voting, the counting operations and the proclamation of those elected are established by decree of the Minister of Productive Activities.

Article 215

Council of the Order of Industrial Property Consultants

1. The association of industrial property consultants is governed by a Council which holds office for three years and is made up of ten members with no less than three years' seniority elected by the assembly. The candidates included in the ranking who, after those elected, have obtained the highest number of votes, without prejudice to the provisions of paragraph 2 of article 214, are called to replace the members who leave office for any reason before the expiry date.
2. In case of failure to timely renew, the Council of the Order continues to function until the appointment of the new Council.
3. The Council of the Order meets validly with the presence of the majority of its members and decides by absolute majority.
In the event of a tie, the president's vote prevails. In disciplinary matters the Council of the Order decides with the presence of at least three quarters of the members.

Article 216

Duties of the President of the Council of the Order

1. The Council of the Order appoints a president from among its members, who represents it: adopts the necessary measures in urgent cases, subject to ratification by the Council in the first

subsequent session, and exercises the remaining powers conferred on him by this code .

2. The president can delegate secretarial or treasury duties to members of the Council.

3. The Council also appoints a vice president from among its members, who replaces the president in his absence or impediment or upon delegation of the same for individual acts.

Article 217

Duties of the Council of the Order

1. The Council of the Order:

a) promptly carries out the obligations relating to registrations, suspensions and cancellations to be carried out in the register, immediately communicating this to the Italian Patent and Trademark Office;

b) ensures the protection of the professional title of industrial property consultant and proposes to the assembly the necessary initiatives for this purpose;

c) intervenes, upon mutual request of the parties, to settle disputes that arise between those registered in the register due to the exercise of the profession;

d) proposes changes and updates to the professional tariff;

e) upon request of the client or of the qualified consultant himself, expresses an opinion on the extent of the fees due to industrial property consultants for services inherent to the exercise of the profession;

f) adopts disciplinary measures;

g) designates the four qualified industrial property consultants who contribute to forming the examination commission referred to in article 207;

h) adopts the most appropriate initiatives to achieve the improvement and further training of members in carrying out their professional activities;

i) establishes its headquarters and provides the means necessary for its operation;

l) collects and administers the annual contribution of members;

m) prepares the budget and draws up the final management account;

n) receives applications for admission to the qualification exam referred to in article 207 and verifies their compliance with the conditions for admission;

o) maintains relationships and collaborates with bodies and institutions that operate in the industrial property sector or that carry out activities relating to it, formulating proposals or opinions where appropriate;

p) carries out the other tasks defined by decree of the Minister of Productive Activities which are of a necessary instrumental nature with respect to those provided for by this code.

((p-bis) provides for registrations in the register of trainees and related updates.))

Article 218

Loss of office as a member of the Order's Council, dissolution and failure to establish the Order's Council

1. The members who, without justified reasons, do not attend the sessions of the Council of the Order for three consecutive times are declared by the latter to have lost their office.

2. The Council may be dissolved by the Minister of Productive Activities if it is unable to function and in any case if more than four of the original members have ceased or expired or if serious irregularities are ascertained.

3. In the event of dissolution of the Council, its functions are assumed by a commissioner appointed by the Minister of Productive Activities. The commissioner shall, within sixty days, call new elections, for which the assembly must meet no earlier than thirty days and no later than sixty days from the date of the convocation.

Article 219

Sessions of the Order's Council

1. The Council of the Order is convened by the president at least once every six months or when he deems it appropriate, or when requested by the majority of the members. The Council's resolutions are minuted by a member appointed as secretary at the beginning of each meeting.

Article 220

Disciplinary proceedings

1. When news of facts that may lead to the application of one of the disciplinary sanctions referred to in article 211 is received, the president appoints a rapporteur from among the members of the Council.
2. The Council, after contesting the facts at least 10 days before the hearing of the interested party, having examined any pleadings and documents, decides by an absolute majority of those present; in the event of an equal vote, the decision most favorable to the accused prevails.
3. If the interested party does not present himself or does not send any defense, proceedings will be carried out in his absence unless a legitimate impediment is demonstrated.
4. The resolution must contain an indication of the facts, the reasons and a summary statement of the decision.
5. The members of the Council must abstain when the reasons indicated in article [51, first paragraph, of the code of civil procedure apply](#) insofar as they are applicable, and can be recused for the same reasons with a request filed with the secretariat of the Council before the discussion.
6. In any other case in which there are serious reasons of convenience, members may request authorization to abstain from the president of the Council of the Order.
7. The appeal commission decides on the challenge.

Article 221

Appeal against the provisions of the Bar Council

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1. All measures taken by the Council of the Order can be appealed to the Appeals Commission within the limitation period of one year from communication of the measure to the interested party.

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2. The director of the Italian Patent and Trademark Office ensures the regularity of the work and functionality of the Council and can appeal, for any irregularity found, to the appeals commission within thirty days from the date of communication of the resolution. The appeal does not have suspensive effect.

Article 222

Professional rate

1. The Minister of Productive Activities approves, by decree, the changes and updates to the professional tariff proposed by the Council of the Order, pursuant to article 217, paragraph 1, letter d).
2. The performance of activities relating to the professional system does not entail additional costs to be borne by the state budget.

Chapter VII MANAGEMENT OF SERVICES AND RIGHTS

Article 223

Assignments

1. The Italian Patent and Trademark Office provides services relating to the matters regulated by this code.

2. Without prejudice to the institutional powers of the Ministry of Foreign Affairs in matters of industrial property and the coordination activity of the President of the Council of Ministers, the Italian Patent and Trademark Office of the Ministry of Productive Activities promotes and maintains relations with the institutions and the community and international bodies competent in the matter, as well as with the national industrial property offices of the other States, and deals with the relevant issues, ensuring participation in the bodies and working groups.

3. The Italian Patent and Trademark Office also carries out the following additional tasks:

a) creation and management of databases and dissemination of patent information with particular reference to updating the state of the art;

b) promotion of the technical-legal preparation of public administration personnel operating in the field of industrial property and technological innovation and of those who carry out or intend to carry out the profession of industrial property consultant;

c) promotion of the culture and use of industrial property among potential users, in particular among small and medium-sized enterprises and areas lagging behind in development;

d) carrying out studies, research, investigations and publications related to the subject of industrial property and development of patent indicators for the competitive analysis of Italy, on its own or in collaboration with public administrations, research institutes, associations, international bodies;

e) provision of non-institutional services for consideration at the request of private individuals, provided that they are compatible with the institutional function and role attributed to it.

4. The Italian Patent and Trademark Office may stipulate agreements with regions, chambers of commerce, industry, crafts and agriculture, public and private bodies aimed at carrying out its tasks.

Article 224

Financial resources

1. The Italian Patent and Trademark Office carries out its tasks and finances the prior art search with the budgetary resources entered in the expenditure estimate of the Ministry of Productive Activities, with the fees directly collected for the services rendered in matters of industrial property.

2. The Ministry of Productive Activities shall annually pay fifty percent of the amount of the fees referred to in paragraph 1 to the European Patent Office, as provided **((from Article 39))** of the Munich Convention of 5 October 1973, ratified by [law 25 May 1978, n. 260](#) .

3. The Italian Patent and Trademark Office also carries out its tasks with payments and reimbursements possibly made by international industrial property bodies in which Italy participates and with any other income deriving from its activity.

Article 225

Concession and maintenance rights

1. For applications submitted to the Ministry **((of economic development))** for the purpose of obtaining industrial property rights, for concessions, oppositions, **((forfeitures and nullities,))** the transcriptions, the renewal is due to the payment of the stamp duty, as well as the government concession fees and the rights whose determination, in relation to each title or application and the time interval to which they refer, is carried out with a specific decree by the Minister **((of economic development))**, in agreement with the Minister of Economy and Finance.

2. The individual designation fee of Italy in the application for international trademark registration, in the subsequent designation or in the request for renewal applicable to foreign international trademarks requesting protection on Italian territory through the World Intellectual Property Organization in Geneva, pursuant to the Protocol relating to the Madrid Agreement for the international registration of trademarks of 27 June 1989, ratified with [law 12 March 1996, n. 169](#) , is set at ninety percent of the fees required for filing the concession of a national trademark or its renewal.

Article 226

Payment terms and methods

1. The payment of government concession rights and taxes referred to in this code is made within the terms and methods established by the Minister of Productive Activities, with his own decree.

Article 227

(Rights for the maintenance of industrial property rights)

1. All fees foreseen for the maintenance of industrial property rights must be paid in advance, within the month corresponding to the month in which the application was filed, after the period covered by the previous payment. **((PERIOD SUPPRESSED BY LEGISLATIVE DECREE 20 FEBRUARY 2019, N. 15))**.

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1-bis. The application for trademark renewal must be filed within the twelve months preceding the last day of the month of expiry of the current decade

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2. The maintenance rights for invention patents, utility models and designs and models, if already accrued at the end of the month in which the concession certificate is issued or accrued by the end of the third following month, are payable within four months of the end of the month of said issue.

3. The maintenance rights for plant variety rights are due, for the duration of the right referred to in Article 109, paragraph 1, starting from the granting of the right itself and must be paid in advance within the month corresponding to that of the concession.

4. Once the deadline referred to in paragraphs 1 and 2 has passed, payment is permitted in the following six months with the application of a late payment fee, the amount of which is determined for each industrial property right by the Ministry of Economic Development, in agreement with the Ministry of Economy and Finance.

5. Delay in payment exceeding six months entails the forfeiture of the industrial property right.

6. Multiple annual fees can be paid in advance.

7. In the case referred to in Article 6, paragraph 1, all subjects are jointly and severally liable to pay maintenance rights.

8. The same payment terms provided for national patents apply to the payment of maintenance fees for European patents valid in Italy starting from the year following the year in which the granting of the European patent is published in the European Patent Bulletin. and the rules referred to in Article 230 on regularization.

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8-bis. If the application for renewal of the trademark or the related fees paid refer only to a part of the products or services for which the trademark is registered, it is renewed only for the products or services in question, without prejudice to what is provided for in article 230. If the fees paid are not sufficient for all the classes of products and services for which renewal is requested, the registration is renewed if it is clear which classes the amount paid refers to. In the absence of other criteria, the Office takes the classes into consideration in the order of classification

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Article 228

Exemption and suspension of payment of duties

1. The Minister of Productive Activities may grant exemption from concession rights and suspension from the payment of annual fees for the first five years to an inventor who demonstrates that he is in a state of poverty. At the end of the fifth year, the inventor who intends to keep the patent in force must pay, in addition to the annual fee for the sixth year, also the arrears. Otherwise the patent lapses and the inventor is not required to pay the royalties from the previous years.

Article 229

(((Taxes and fees refundable.))

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1. In the event of rejection of the trademark application or renunciation of the same before registration has been carried out, the government concession fees are refunded, with the exception of the fees for the first filing application and, where presented, the fees due for the letter of appointment. The fee for filing the opposition is refunded only in the event of its extinction pursuant to article 181, paragraph 1, letter b).
2. Refunds are authorized by the Ministry of Business and Made in Italy.
3. Authorization is issued ex officio when the fees to be refunded relate to a rejected trademark registration application. In any other case, the reimbursement is arranged upon request of the person entitled, with a direct request sent to the Italian Patent and Trademark Office within the three-year deadline from the date of renunciation of the trademark application or the extinction of the opposition. .
4. Refunds are recorded in the database of the Italian Patent and Trademark Office

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Article 230

Incomplete or irregular payment

1. If due to obvious error, or for other excusable reasons, a right is paid incompletely or in any case irregularly, the Italian Patent and Trademark Office may admit the integration or regularization of the payment, even late, as useful.
2. If it is an annual right, the Italian Patent and Trademark Office provides only upon request of the interested party. **((The regularization is subject to the payment of the late payment fee, provided for by article 227, paragraph 4, for each incomplete or irregular annuity))**. If the request is rejected, the interested party may appeal to the appeal commission referred to in article 135, paragraph 1.
3. PARAGRAPH REPEALED BY [LEGISLATIVE DECREE 13 AUGUST 2010, N. 131](#) .

Chapter VIII

TRANSITIONAL AND FINAL PROVISIONS

Section I

Trademarks

Article 231

Previous questions

1. Trademark registration applications and transcription applications filed before the date of entry into force of [Legislative Decree 4 December 1992, n. 480](#) , are treated according to the provisions contained therein. However, as regards formal regularity, they are subject to pre-existing rules.

Article 232

Limits on the exclusive right to the renowned trademark

1. The right to make exclusive use of a trademark registered before the date of entry into force of [Legislative Decree 4 December 1992, n. 480](#) , and which enjoys renown, does not allow the owner to oppose the further use in trade of a sign identical or similar to the trademark for products or services not similar to those for which it was registered.

Article 233

Nullity

1. Trademarks registered before the date of entry into force of [Legislative Decree 4 December 1992, n. 480](#) , are subject, as regards the causes of nullity, to the previous provisions of law.
2. The invalidity of the trademark cannot be declared if, prior to the filing of the main or counterclaim for invalidity, the sign, following the use that has been made of it, has acquired distinctive character.
3. The trademark cannot be declared invalid if the earlier trademark has expired for more than two years or three if it is a collective trademark or can be considered lapsed due to non-use prior to the filing of the main or counterclaim for nullity.
4. For the purposes of applying [article 48 of the royal decree of 29 June 1942, n. 929](#) , as replaced by [legislative decree 4 December 1992, n. 480](#) , the five-year term starts from the date of entry into force of the same.

Article 234

Brand transfer and licensing

1. The provisions of the [legislative decree of 4 December 1992, n. 480](#) , which regulate the transfer and licensing of the trademark, also apply to trademarks already granted, but not to contracts concluded before the date of entry into force of the [legislative decree of 4 December 1992, n. 480](#) .

Article 235

Forfeiture due to non-use

1. The provisions of the [legislative decree of 4 December 1992, n. 480](#) , which regulate revocation due to non-use, apply to trademarks already granted on the date of entry into force of the same legislative decree, provided they have not yet expired on that date.

Article 236

Forfeiture for misleading use

1. The provisions of the [legislative decree of 4 December 1992, n. 480](#) , which regulate the revocation of the trademark for misleading use of the same, apply to trademarks already granted on the date of entry into force of the same legislative decree, in relation to misleading use carried out after its entry into force.

Section II Designs and models

Article 237

Previous questions

1. Patent applications for ornamental designs or models and transcription applications filed before the date of entry into force of [Legislative Decree 2 February 2001, n. 95](#) , are treated according to the provisions contained therein. The same applications are subject to the previous rules regarding formal regularity.

Article 238

Extension of the patent

1. Patents for ornamental designs or models granted before the date of entry into force of [Legislative Decree 2 February 2001, n. 95](#) , provided that they have not expired or lapsed on the date of entry into force of the aforementioned legislative decree, they can be extended up to a maximum of twenty-five years from the date of filing of the patent application. Licensees and those who, in view of the next deadline, had made serious and effective investments to use the design or model have the right to obtain a free and non-exclusive compulsory license for the longest period of time. This option does not apply to infringers of patents that have not yet expired.

2. The concession fees paid in a single payment are valid for the first two extensions. The taxes on government concessions relating to the fourth and fifth five-year periods, starting from 19 April 2001, are of an amount corresponding to the installment for the third five-year period envisaged by article 10, title IV, number 2, letters c) and f), of the tariff indicated in the table attached to the [decree of the President of the Republic of 26 October 1972, n. 641](#) .

Article 239

(Limitations to the protection afforded by copyright)

1. The protection granted to designs and models pursuant to [article 2, n. 10\), of law 22 April 1941, n. 633](#) , also includes industrial design works which, before 19 April 2001, were, or had become, in the public domain. However, third parties who had manufactured or marketed, in the twelve months prior to 19 April 2001, products created in accordance with industrial design works then in the public domain are not liable for the infringement of copyright committed by continuing this activity even after that date, limited to products manufactured or purchased by them before April 19, 2001 **((and those manufactured by them in the thirteen years following that date))** and provided that said activity has remained within the quantitative limits of the pre-use.

Article 240

Nullity

1. Patents for ornamental designs and models granted before the date of entry into force of [Legislative Decree 2 February 2001, n. 95](#) , are subject, as regards the causes of nullity, to the previous laws and, as to the effects of the declaration of nullity, to the rule referred to in article 77 of this code.

Article 241

Exclusive rights to the components of a complex product

1. Until [Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998](#) on the legal protection of designs is amended on a proposal from the Commission pursuant to Article 18 of the same Directive, the exclusive rights on the components of a complex product cannot be asserted to prevent the manufacture and sale of the components themselves for the repair of the complex product, in order to restore its original appearance.

Section III

New Plant Varieties

Article 242

Duration of the right

1. The provisions of article 109 of this code apply to patents for new plant varieties granted in accordance with the [decree of the President of the Republic of 12 August 1975, n. 974](#) , not expired or lapsed on the date of entry into force of the [legislative decree of 3 November 1998, n. 455](#) .

2. Licensees and those who, on the date of entry into force of [Legislative Decree 3 November 1998, n. 455](#) , have made serious and effective investments for the use of new plant varieties covered by the breeder's right and have the right to obtain a free and non-exclusive compulsory license for the longest period. This option does not apply to infringers of rights that have not yet expired.

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2-bis. The annual fees paid from the filing date for the maintenance of applications and plant novelty rights already filed or granted on 29 March 1999 are considered valid payment of the corresponding annual fees due from the granting of the plant rights in accordance with article [25 of the legislative decree 3 November 1998, n. 455](#) .

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Section IV
Inventions

Article 243

((*(Inventions by researchers at universities and public research bodies)*))

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1. The inventions of employees whose employment relationship exists with a university or with a public administration having research purposes among its institutional tasks are subject to the regulations dictated respectively by article [24-bis of the royal decree of 29 June 1939, n. 1127](#) , introduced by [law 18 October 2001, n. 383](#) , from the original text of article 65 of this Code and from the current text of the same article, in force at the time in which the inventions were achieved, even if dependent on research begun previously.

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Art. 243-bis

((*(Report to Parliament on the legal protection of biotechnological inventions)*))

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1. The Minister of Economic Development, in concert with the Ministers of Health, Agricultural, Food and Forestry Policies, the Environment and the Protection of Land and Sea, Education, University and Research and Work and social policies presents to Parliament every year a report on the application of the rules set out in Chapter II, section IV-bis, of this Code.

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Section V
Previous questions

Article 244

Processing of applications

1. Patent or registration applications and transcription and annotation applications, even if already filed at the time of entry into force of this code, are treated according to the provisions contained therein. The applications referred to in Chapter IV, Section I, are subject to the pre-existing rules relating to the conditions of admissibility.

Section VI
Rules of Procedure

Article 245

Procedural provisions

1. The provisions of chapters I and IV of title II, those of title III and the provisions of articles 35 and 36 of title V of [legislative decree 17 January 2003, n. 5](#) , apply to judicial

proceedings and arbitrations which are started with a notified document or with the filing of the appeal six months after the entry into force of the code.

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2. Disputes at appeal level in the matters referred to in article 134, begun after the date of entry into force of this code, remain under the jurisdiction of the specialized sections referred to in [Legislative Decree 27 June 2003, n. 168](#) , even if the first instance proceedings or the arbitral proceedings have begun or have taken place according to the rules previously in force, unless a ruling on jurisdiction has already been made within them.

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3. Complaint procedures and substantive cases in the matters referred to in article 134, started after the date of entry into force of this code, remain under the jurisdiction of the specialized sections referred to in [Legislative Decree 27 June 2003, n. 168](#) , even if they concern precautionary measures granted according to the regulations previously in force

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4. The procedural rules referred to in article 136 concerning the jurisdictional function of the appeal commission apply starting from one year after the entry into force of the code.

5. The procedural rules referred to in articles 137,146, 194, 195, 196, 198, 199 and 200 apply with the entry into force of the code.

UPDATE (6)

The Constitutional Court, with sentence 14-24 April 2008, n. 112 (in Official Journal 1st ss 30/04/2008, n. 19) declared the constitutional illegitimacy of paragraph 2 of this article 245, "in the part in which it establishes that disputes at the level of appeal started after the entry into force of the code, even if the first instance proceedings began and were carried out according to the rules previously in force".

UPDATE (7)

The Constitutional Court, with sentence 22-30 April 2009, n. 123 (in Official Gazette 1st ss 6/5/2009, n. 18) declared the constitutional illegitimacy of paragraph 3 of this article 245, "in the part in which it establishes that complaint procedures initiated after the entry into force of the code, even if they concern precautionary measures granted according to the regulations previously in force".

**((Section VI-bis
European Patent))**

Art. 245-bis

(((Transitional regime).))

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1. The cases concerning the European patent issued for Italy, pending until the date of entry into force of the Agreement on a Unified Patent Court, ratified and made enforceable pursuant to law [no. 3 November 2016. 214](#) , and those promoted after the entry into force of the Agreement before the Italian judicial authority as a result of the transitional regime referred to in Article 83, paragraph 3, of the Agreement itself, are decided in accordance with the Italian legislation on the matter.

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Section VII
Repeals

Article 246

Repealing provisions

1. The following provisions are repealed:

- a) the [royal decree of 29 June 1939, n. 1127](#) ;
- b) the [royal decree of 5 February 1940, n. 244](#) ;

- c) the [royal decree of 25 August 1940, n. 1411](#) ;
- d) the [royal decree of 31 October 1941, n. 1354](#) ;
- e) the [royal decree of 21 June 1942, n. 929](#) ;
- f) the [decree of the President of the Republic of 8 May 1948, n. 795](#) ;
- g) [article 34 of the decree of the President of the Republic of 10 January 1957, n. 3](#) ;
- h) the [decree of the President of the Republic of 30 June 1972, n. 540](#) ;
- i) the decree of the Minister of Industry, Commerce and Crafts of 22 February 1973, published in the Official Gazette of the Italian Republic no. 69 of 15 March 1973;
- l) the [decree of the President of the Republic of 12 August 1975, n. 974](#) , without prejudice to article 18;
- m) the decree of the Minister of Industry, Commerce and Crafts of 22 October 1976, published in the Official Gazette of the Italian Republic no. 15 of 18 February 1977;
- n) the [decree of the President of the Republic of 8 January 1979, n. 32](#) ;
- o) the [decree of the President of the Republic of 22 June 1979, n. 338](#) ;
- p) [law 3 May 1985, n. 194](#) ;
- q) [law 14 October 1985, n. 620](#) ;
- r) the decree of the Minister of Industry, Commerce and Crafts of 26 February 1986, published in the Official Gazette of the Italian Republic no. 104 of 7 May 1986;
- s) [law 14 February 1987, n. 60](#) ;
- t) [law 21 February 1989, n. 70](#) ;
- u) the [decree of the Minister of Industry, Commerce and Crafts 19 July 1989, n. 320](#) , published in the Official Gazette of the Italian Republic n. 220 of 20 September 1989;
- v) the [decree of the Minister of Industry, Commerce and Crafts of 11 January 1991, n. 122](#) , published in the Official Journal of the Italian Republic n. 85 of 11 April 1991;
- z) [law 19 October 1991, n. 349](#) ; Legislative Decree [4 December 1992, n. 480](#) ; law [26 July 1993, n. 302](#) ;
- aa) the decree of the President of the Republic of 1 December 1993, n. 595;
- bb) the [decree of the President of the Republic of 18 April 1994, n. 360](#) ;
- cc) the [decree of the President of the Republic of 18 April 1994, n. 391](#) ;
- dd) [law 21 December 1984, n. 890](#) ;
- ee) the [decree of the Minister of Industry, Commerce and Crafts of 30 May 1995, n. 342](#) , published in the Official Gazette of the Italian Republic n. 192 of 18 August 1995;
- ff) the [legislative decree of 19 March 1996, n. 198](#) ; Legislative Decree [3 November 1998, n. 455](#) ; Legislative Decree [8 October 1999, n. 447](#) ;
- gg) the [legislative decree of 2 February 2001, n. 95](#) ;
- hh) the [legislative decree of 12 April 2001, n. 164](#) ;
- ii) article [7 of law 18 October 2001, n. 383](#) ;
- ll) the [legislative decree of 2 February 2002, n. 26](#) ;
- mm) [paragraphs 8 , 8-bis , 8-ter and 8-quater of article 3 of law no. 15 June 2002. 112](#) , conversion, with amendments, of the [legislative decree of 15 April 2002, n. 63](#) ;
- nn) the decree of the Minister of Productive Activities of 17 October 2002, [published in the Official Journal no. 253 of 28 October 2002](#) ;
- oo) article [17 of law 12 December 2002, n. 273](#) ;
- pp) [paragraphs 72 , 73 , 79 , 80 and 81 of article 4 of law 24 December 2003, n. 350](#) .

This decree, bearing the State seal, will be included in the official collection of regulatory acts of the Italian Republic. Whoever is responsible for observing it and having it observed is obliged.

Given in Rome, 10 February 2005

CIAMPI

Berlusconi, President of the Council of Ministers

Marzano, Minister of Productive Activities

Castelli, Minister of Justice

Siniscalco, Minister of Economy and Finance

Fini, Minister of Foreign Affairs

Baccini, Minister for the Public Service

Seen, the Keeper of the Seals: Castelli