# Law on Industrial Design Protection* (of May 4, 1993)

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* *Entry into force*: May 4, 1993.
*Source*: English translation by the International Bureau of WIPO on the basis of an English translation furnished by the Latvian authorities.
** Added by WIPO.

# Chapter 1
# General Provisions

## Industrial Design and Patentability

*Art. 1.*—(1) In this Law, "industrial design" means the external appearance of an article created as a result of artistic design. Industrial designs may be three-dimensional (models), two-dimensional (drawings) or a combination of both.

(2) An industrial design patent shall be issued for an industrial design which is new, visually appealing and which may be utilized in industrial articles or articles of handicraft.

(3) An industrial design shall be deemed new if, up to the day the patent application has been filed with the Republic of Latvia Patent Office (hereinafter—the Patent Office) or up to the priority date, the industrial design is not known from publications available to the public both in Latvia and abroad or from public use in Latvia. In determining the novelty of an industrial design, the patent applications previously submitted (with an earlier priority date) to the Patent Office by other persons and which are to be published in the official bulletin of the Patent Office shall also be taken into account.

(4) The distinctive features of an industrial design may be expressed in the particularities of its form, its configuration, the structure of its surface, its ornamentation, the composition of lines or the combination of colors. However, the novelty of an industrial design shall be determined by visually evaluating the product's external appearance as a whole.

(5) An industrial design shall not be deemed new if, in comparison with an already known industrial design (in accordance with the provisions of paragraphs (3) and (4) of this Article):

1. it is identical;
2. its distinctive features do not necessarily alter the complete visual impression of the external appearance of the article;
3. it is recognized that its distinctive features are an insignificant variant or modification of an already known industrial design; or
4. the external appearance of the industrial design is essentially similar but is merely applicable to a different type of article.

(6) The novelty of an industrial design shall not be affected by a previous disclosure of its essence, if such disclosure has occurred no earlier than six months prior to the filing date of the application, and the disclosure is associated with:

1. an obviously malicious intent towards the applicant or his legal predecessor; or
2. the display of an exhibit, in which the industrial design was used, at an official or officially recognized international exhibition which corresponds with the requirements of the Convention on International Exhibitions of November 22, 1928.

(7) An industrial design shall be regarded as visually appealing if it has a unity of aesthetic features such that the external appearance of the relevant article is attractive to the buyer or user.

(8) An industrial design shall be recognized as applicable in manufacturing of industrial articles or articles of handicraft if its external appearance can be reproduced industrially or through craftsmanship in relevant articles in order to be introduced into economic circulation.

## Objects Excluded from Protection

*Art. 2.*—(1) This Law shall not grant legal protection for the external appearance of an article if:

1. it is simply predetermined by the technical functions of the article;
2. it is contrary to principles of ethics, humanity and morality;
3. the article is an object of architecture (including industrial, hydrotechnical or other stationary structures), except small forms of architecture and buildings (structures) which are industrially manufactured (off the building site) and their component parts; and
4. the article is an object of an indeterminate nature, which is formed from liquid, gaseous, powdery or similar substances.

(2) An industrial design or its elements shall likewise not be granted legal protection in cases where the external appearance of an article includes the following, without the owner's permission:

1. objects which do not essentially differ from industrial designs of other persons that are protected in Latvia;
2. objects protected by copyright;
3. surnames, pseudonyms and portraits of well-known public figures, unless such persons have died 50 or more years ago; and

4. names of firms, indications of the place of production, names of products, as well as trademarks and service marks protected in Latvia or, if unprotected, well known in Latvia.

(3) The legal protection of a patented industrial design shall not apply to its elements which are:

1. predetermined simply by the functional task of the article or which are necessary in order to obtain a technical effect; or

2. composed of the coat of arms, flags, names and abbreviations of countries, other official symbols of countries, names of international organizations, their abbreviations and emblems, religious symbols, insignia and national decorations, official units of measure, marks of control and guarantee, as well as other official signs used in Latvia.

## Holders of Patent Rights, Patent Owner

*Art. 3*.—(1) The right to an industrial design patent shall belong to the author of the industrial design (hereinafter—the designer) or his successor in title.

(2) If several persons have jointly created an industrial design, the right to the patent shall belong to all of them jointly. The mutual relations which result if several persons are granted a joint patent shall be determined by an agreement concluded by those persons.

(3) If several persons have created an industrial design independent of one another, the right to the patent shall belong to the person who is the first to file a patent application with the Patent Office and, in the event of a dispute, the right to the patent shall be determined by the court.

(4) If an industrial design has been created in the course of performing employment duties, the right to the patent shall belong to the employer, provided that a relevant contract has been concluded between the employer and the designer. The contract shall determine the employer's and the designer's mutual relations associated with the patent, as well as the employer's right to use the patent and the designer's right to proper compensation for the creation and use of the industrial design. Disputes between them concerning the fulfillment of the terms of the contact shall be settled by the court.

(5) If, in the case mentioned in paragraph (4) of this Article, a contract has not been concluded between the employer and the designer or if the employer who has a right to the patent refuses to file a patent application for the respective industrial design or if, four months after the proposal of the designer, the employer has not filed a patent application for the created industrial design, then the right to the patent shall pass to the designer.

# Chapter 2
# Patent Application for an Industrial Design and Examination, Industrial Design Patent

## Patent Application

*Art. 4*.—(1) A designer, or his successor in title, who wishes to obtain legal protection for an industrial design shall file a patent application (hereinafter—application) with the Patent Office.

(2) The application shall include:

1. a request for grant of patent;

2. a complete reproduction of the industrial design which provides a full and detailed idea of the external appearance of the article;

3. a description of the industrial design;

4. if it is necessary, in order to clarify the essence of the industrial design, drawings giving a general view of the article, an ergonomic scheme, a fabrication scheme or a sample of the article; and

5. a document which proves payment of the application fee.

(3) An application shall pertain to one industrial design. The application may include variants or different samples of the industrial design if the respective articles form a united whole, a combined unit or a series and are to be manufactured or utilized as one entity; however, there may not be more than 20 variants (samples) in one application.

(4) The request contained in the application shall be in the Latvian language; other materials and documents may be submitted in English, French, Russian or German. If the application documents are submitted in English, French, Russian or German, the applicant shall be required to submit a translation of these materials into the Latvian language within two months of a request by the Patent Office or, in the case of a dispute, of a request by the Patent Office Board of Appeal (hereinafter—Board of Appeal) or the court. These translations shall be considered an integral part of the application. All further processing of the application (correspondence) shall be in Latvian.

(5) If the application is filed through a representative, a document certifying the representative's authorization shall be attached. A foreign applicant, whether natural or legal person, who does not have a permanent place of residence or who does not own an enterprise in the territory of the Republic of Latvia may only file an application and maintain correspondence with the Patent Office through a patent attorney registered with the Patent Office.

(6) If necessary, the application shall include other materials and documents as determined by the Patent Office. Formal requirements concerning application materials and documents shall be determined by the Patent Office.

(7) The request contained in the application shall be signed by the applicant or his representative.

## Priority of an Industrial Design

*Art. 5.*—(1) The filing date of an industrial design (the priority of an industrial design) shall be determined by the date on which the Patent Office receives an application that satisfies the requirements of Article 4(2) of this Law.

(2) A priority right (Convention priority) may also be claimed if the application for the same industrial design has been filed previously in another country party to the Paris Convention for the Protection of Industrial Property or in any other country with which the Republic of Latvia has concluded an agreement on the recognition of priority rights, provided that the application is filed with the Patent Office within six months of the filing date of the first application.

(3) An applicant may claim priority (exhibition priority) based on the display of the industrial design in an official or officially recognized international exhibition in a country party to the Paris Convention for the Protection of Industrial Property, provided that the application is filed with the Patent Office within six months of the first day of exhibition of the industrial design.

(4) An applicant who wishes to take advantage of the right to Convention priority or exhibition priority shall state the fact in the application. Documents attesting to the priority right

shall be submitted simultaneously with the application or shall be attached thereto no later than three months from the filing date of the application.

## Preliminary Examination of an Application

*Art. 6.*—(1) The Patent Office shall examine whether a filed application complies with the requirements of Article 4 (excluding paragraph (3)) of this Law. The preliminary examination of an application shall be accomplished within three months of its date of filing with the Patent Office.

(2) If the application does not comply or only partially complies with the requirements, the Patent Office shall notify the applicant, specifying the discrepancies and setting a term for giving a reply. The time limit for preliminary examination shall be extended accordingly.

(3) Prior to completion of the preliminary examination, the applicant shall have the right, on his own initiative and on payment of the appropriate fee, to make amendments to the application which do not alter the essence of the industrial design. Such amendments may also be made at the request of the Patent Office. In both cases, the time limit for preliminary examination shall be extended accordingly.

(4) Supplementary materials which alter the essence of the design may be filed by the applicant as an independent application, the priority of which shall be determined by the date on which the additional materials are received by the Patent Office.

(5) If the application complies with the requirements, the Patent Office shall notify the applicant of the completion of the preliminary examination (the acceptance of the application).

(6) If the applicant does not, within the set time limits, remove any basic defects in the application that have been notified to him, the application shall be considered to have been withdrawn and the applicant shall be notified thereof in writing.

(7) Within three months of the receipt date of such notification, the applicant shall have the right, on payment of the set fee, to submit a substantiated appeal to the Board of Appeal. The Board of Appeal shall review the appeal within three months and its decision shall be final.

(8) The applicant may withdraw the entire application or a part thereof relating to industrial designs or variants included in the application at any time during the processing of the application; however, the fees already paid shall not be returned.

## Application Examination and Grant of Patent

*Art. 7.*—(1) The Patent Office shall examine whether the accepted application complies with the requirements of Article 2(1) of this Law and whether the provision of Article 4(3) has been observed. The Patent Office shall not examine the application in relation to the patentability of the industrial design in conformity with other provisions of this Law. A patent shall be granted without a guarantee of its validity or value.

(2) If the results of the application examination are positive, the Patent Office shall take a decision on the grant of patent within four months of the acceptance date of the application, and shall register the corresponding industrial design in the State Industrial Design Register. The Patent Office shall simultaneously prepare a notice on the grant of patent for the industrial design for publication in the official bulletin, including the bibliographical data of the patent and a reproduction of the industrial design.

(3) The applicant shall have the right, on payment of a set fee, to request deferment of publication on the grant of patent for up to 18 months from the filing date of the application.

(4) The Patent Office shall issue the patent to the applicant on payment of the patent fee. At the applicant's request, the payment of the fee and the issuance of the patent may be postponed.

(5) If the application does not comply with the requirements of Article 2(1) of this Law, the Patent Office shall notify the applicant accordingly, specifying the discrepancies and setting a three-month period for giving a reply. The Patent Office shall be entitled to request additional materials and documents necessary for the examination of the application, thereby stating the time limit for their submittal. The time limit for examination of the application shall be extended accordingly. The application shall be rejected if the applicant fails to remove the defects in the application or to reply to the requests from the Patent Office.

(6) If the materials of the application do not comply with the requirements of Article 4(3) of this Law, the Patent Office shall provide the applicant with an opportunity, within three months, to divide the application into several independent applications in accordance with the above requirements. If the applicant does not take advantage of such opportunity, the Patent Office shall examine only those industrial designs (variants) which comply with the requirements of Article 4(3). The Patent Office shall commence with the examination of the first industrial design (variant) mentioned in the documents of the application.

(7) On payment of a fee, a decision to reject an application (restrict the examination) may be appealed against to the Board of Appeal within three months. If the applicant is not satisfied with the decision of the Board of Appeal, within six months and under the procedure prescribed by law, the applicant may appeal to the court.

## Opposition to Grant of Patent

*Art. 8.*—(1) Within six months of the date on which the notice of grant of patent is published in the official bulletin, any person may, on payment of the corresponding fee, submit to the Board of Appeal substantiated opposition against the grant of patent.

(2) Opposition may be submitted to the Board of Appeal if the requirements of Article 2(1) and (2) or Article 4 of this Law have not been satisfied.

(3) Opposition against the grant of patent based on other requirements of this Law shall be reviewed by the court.

(4) The Board of Appeal shall notify the applicant of any opposition submitted by sending him a copy of the opposition. The applicant must submit a reply (explanations) to the Board of Appeal within three months.

(5) The Board of Appeal shall examine the opposition within three months of the receipt of the applicant's reply. The applicant and the opponent shall be notified of the opposition procedure 30 days before the date fixed therefor. Both parties shall be entitled to participate in the opposition procedure, to submit essential materials and to provide oral explanations.

(6) Depending on the outcome of the opposition examination, the Board of Appeal shall take a decision either to uphold the opposition in whole or in part or to reject it.

(7) Rejection of the opposition shall not prevent the opponent from contesting the granted patent in accordance with general provisions. A decision to uphold the opposition may be appealed in court, within six months, under the procedure prescribed by this Law.

## State Industrial Design Register

*Art. 9.*—(1) The Patent Office shall maintain the State Industrial Design Register (hereinafter—the Register) containing the essential information on patents granted for industrial designs, on amendments associated with patent owners, on industrial design licenses, and other information determined by the Patent Office.

(2) The Register shall be accessible for inspection by any person. For a set fee, the Patent Office shall issue copies of entries in the Register.

## Extension and Renewal of Time Limits

*Art. 10.*—(1) The Patent Office may extend the time limits set in Article 6(2), (3), (6) and (7), Article 7(5), (6) and (7) and Article 8(4) of this Law, but by no more than three months if this Law does not provide otherwise, if the request for extension of the time limit has been received by the Patent Office before the expiry of the corresponding term and if the additional fee for extension of the time limit has been paid.

(2) The time limits mentioned in paragraph (1) of this Article may be renewed if there is a substantial reason for their non-observance, provided that such request is received by the Patent Office no later than two months after the expiry of the corresponding time limit (if this Law does not provide otherwise) and the additional fee has been paid for the renewal of the time limit.

## Term of Patent

*Art. 11.*—(1) An industrial design patent shall be issued for five years calculated from the date the application is filed with the Patent Office.

(2) At the request of the patent owner, the term of the patent may be extended for a further two five-year periods. Each such period shall begin with the end of the preceding period.

(3) A request for extending the term of the patent, on payment of the corresponding fee, shall be submitted within the last year of the period of patent validity. On payment of an additional fee, the patent owner shall also have the right to submit a request for extension of the term within the six months following expiration of the period of validity.

## Lapse of Patent

*Art. 12.* A patent shall lapse:

1. before the end of the period of validity, if the patent owner so requests of the Patent Office;
2. six months after the end of the first or second terms of the patent, if the fee for extension of the term has not been paid within the period prescribed by Article 11 of this Law; and
3. if the patent is declared null and void in accordance with Article 13 of this Law.

## Invalidation of Patent

*Art. 13.* An industrial design patent, during its term of validity, may be declared null and void, in whole or in part, in court proceedings if:

1. the patent has been issued in violation of the requirements for patentability of the industrial design;

2. the application's initial materials did not fully disclose the external appearance of the industrial design (article); or

3. the patent was granted to a person not entitled thereto.

## Fees

*Art. 14*. Fees shall be paid for filing an industrial design application and for other legally significant actions associated with the examination of applications and the legal protection of industrial designs. The types and amounts of fees shall be determined by the Council of Ministers and the payment procedure shall be determined by the Director of the Patent Office.

# Chapter 3
# Rights Derived from Industrial Design Patents

## Content and Scope of Legal Protection of Patented Industrial Designs

*Art. 15*.—(1) An industrial design patent attests to the authorship of an industrial design, its priority and the exclusive rights in it.

(2) The scope of protection derived from the patent shall be determined by the external appearance of the industrial design as a whole, which shall be reflected in the reproductions included in the application and, if necessary, in the sample of the article. The description of the industrial design shall serve only as an explanation of its characteristics and distinctive features.

## Exclusive Rights in an Industrial Design

*Art. 16*.—(1) The exclusive rights in an industrial design shall belong to the patent owner.

(2) The exclusive rights in an industrial design shall permit the patent owner to use his industrial design according to his own discretion, as far as such use does not infringe the rights of other patent owners, and also to forbid the use of his industrial design by other persons where such is contrary to this Law. No person shall be permitted to use a patented industrial design without the consent of the patent owner.

(3) Exclusive rights shall take effect on the date the patent is granted.

(4) If several persons have been issued a joint patent and a mutual agreement has not been concluded among them on the use of the industrial design, each of such persons shall have the right to use the industrial design according to his own discretion, except as regards the grant of licenses and the transfer of patent rights to other persons. A license for the use of an industrial design may be granted to a third party only with the agreement of all patent owners or pursuant to a court decision.

(5) The manufacture, use or offering for sale of articles in which the patented industrial design is used or their storage, import or export from Latvia for the above-mentioned purposes, as well as other actions by which such articles are introduced into economic circulation without the consent of the patent owner shall be considered an infringement of the rights of the patent owner.

(6) Industrial design patent owners and owners of the right to use an industrial design shall be entitled to mark articles in which the patented industrial design is used with a warning sign consisting of the encircled letter D or a specific wording intended to draw attention to the industrial design protection. Persons deceiving the public by using this type of warning sign in relation to

articles which are not protected by industrial design patents shall be liable in accordance with the law.

## Acts Not Considered an Infringement of Exclusive Rights

*Art. 17*. The following shall not be considered an infringement of exclusive rights in industrial designs:

1. the use of a patented industrial design in the construction or course of operation of any foreign means of transport which temporarily or accidentally enters the territory, waters or airspace of the Republic of Latvia, provided the industrial design is only used if it is necessary for the means of transport;
2. conducting scientific research or experiments with the aid of articles which use patented industrial designs and the testing of such articles;
3. the use of articles in which patented industrial designs are used for personal needs without a commercial purpose; or
4. the use of articles which use patented industrial designs if these articles are introduced into economic circulation with the permission of the patent owner or by any other legal channels.

## Rights of Prior Use

*Art. 18*.—(1) Natural and legal persons who, before the priority date of a patented industrial design and independently of the creator of the patented industrial design (designer), have created and used in good faith on the territory of Latvia the design of an article essentially similar to the patented industrial design or have completed all the preparatory work necessary for such use shall retain the right to continue to use the design of such article (right of prior use) without compensating the patent owner and without expanding the scope of use.

(2) Rights of prior use may be transferred to another person only together with the facilities in which the design has been applied or in which all the preparatory work necessary for its use has been completed.

## Transfer of Patent Rights and Rights Derived from Patents to Other Persons

*Art. 19*.—(1) The right to a patent and the right to use an industrial design derived from a patent may be transferred to another natural or legal person by contract. On payment of a fee, the Patent Office shall register the contract. The contract shall not be valid if it has not registered.

(2) The right to file an application and be granted a patent, the exclusive right to use an industrial design, as also the rights to compensation and income from the use of an industrial design may be inherited under the procedure prescribed by civil legislation.

## Personal Rights of the Designer

*Art. 20*.—(1) The person whose creative work has led to an industrial design shall be recognized as the designer. If the industrial design has been created by the joint creative work of several persons, all such persons shall be recognized as the designers.

(2) Persons who have rendered assistance in creating an industrial design or in acquiring rights in an industrial design, but have not contributed to the creation of the design with their personal creative work, shall not be recognized as designers.

(3) Whoever the patent owner may be, the designer shall have personal rights which may not be transferred to any other person and may not be inherited. Those rights are the following:

1. the right of creatorship;
2. the right to be mentioned as the designer in the industrial design patent and in any other official publication concerning the industrial design and its patent; and,
3. if the designer so wishes, the right not to be mentioned as the designer in the patent or in any other publication concerning the patent.

(4) If the rights afforded in paragraph (3) of this Article are infringed, they may be asserted in court under the same procedure as copyrights.

(5) A designer, who is the creator of an employee design, shall have the right to ascertain that his industrial design is used by the patent owner, his licensee or a patent infringer. The designer shall also retain this right if the employer has intentionally omitted to file an application for the industrial design which the employee has created.

# Chapter 4
# Use of Industrial Design

## Use of Industrial Design

*Art. 21.*—(1) Use of an industrial design means the introduction into economic circulation of an article which has been manufactured in accordance with a patented industrial design.

(2) An article is deemed to have been manufactured according to a patented industrial design if, on the whole, it reproduces the external appearance of the patented industrial design. The fact that individual elements of the article differ from the patented industrial design shall not free the industrial design user, the patent owner, from payment of compensation to the designer or the licensee from obligations contained in the license contract and shall not free other persons from liability for possible infringement of exclusive rights if the article, on the whole, is essentially similar to the industrial design.

## License and Licensing Contract

*Art. 22.*—(1) A patent owner (licensor) may transfer his right to use an industrial design to another person (licensee) on the basis of a licensing contract. In accordance with the type of license (exclusive or non-exclusive license) and with the contract, the licensor and licensee shall assume the prescribed rights and obligations.

(2) In the case of an exclusive license, the licensee acquires exclusive rights to use the industrial design in accordance with the stipulations set out in the contract and the licensor retains his right to utilize the industrial design unless such right has been assigned to the licensee.

(3) In the case of a non-exclusive license, the licensor, in granting the right to use the industrial design to another person, retains his right to use the industrial design personally, as also his right to grant a license concerning the same industrial design to a third party.

(4) For the purposes of official publication by the Patent Office, the patent owner may inform the Patent Office of his readiness to grant a right to use an industrial design to any interested party (license of right). Such notification may also be submitted by the industrial design applicant at the time of filing the application or during its examination. As from the time the notification is submitted to the Patent Office, the prescribed fees for the corresponding actions shall be reduced by 50 percent. If the license of right is revoked, the relevant fees shall be paid in full. If the interested parties do not come to an agreement on the terms of the license of right, those terms shall be determined by the court.

(5) The licensing contract shall take effect once it has been registered with the Patent Office. A fee shall be paid for the registration of a license.

# Chapter 5
# Protection of the Rights of Designers and Patent Owners

## Review of Disputes Associated With Industrial Designs

*Art. 23*.—(1) Disputes associated with industrial designs shall be reviewed by the court under the procedure prescribed by civil legislation. Labor disputes between the designer and the employer shall be reviewed in accordance with the procedure prescribed by labor legislation.

(2) The courts of the Republic of Latvia shall have jurisdiction for the following disputes:

1. industrial design authorship and other personal rights of designers;
2. right to a patent;
3. infringement of the exclusive property rights of patent owners;
4. conclusion and execution of contracts for industrial design use; including contracts for the use of industrial designs by employers in cases where the patent owner is the employee;
5. compensation associated with the creation and use of an industrial design;
6. the distribution of compensation among designers;
7. rights of prior use; and
8. invalidation of patents.

(3) The following disputes mentioned in paragraph (2) of this Article shall be heard by the Regional Court exclusively:

1. right to a patent (restoration of patent rights);
2. invalidation of a patent.

(4) The following disputes shall be heard exclusively by the Regional Court acting as the court of first instance:

1. authorship of industrial designs;
2. ascertainment of patent infringements, liability associated with patent infringements, protective measures against patent infringements;
3. rights of prior use; and
4. the fulfillment of licensing contracts.

(5) Jurisdiction for other disputes shall be determined by the general rules on the jurisdiction of courts in reviewing disputes, if not otherwise prescribed by law.

## Liability for Infringement of the Rights of Designers

*Art. 24*. The misappropriation of authorship, non-voluntary renunciation of authorship, coercion to joint authorship and the disclosure of the essence of an industrial design without the designer's consent before the designer or his successor in title, or the Patent Office, has published the application materials shall imply criminal liability in accordance with the law.

## Liability for Infringement of the Rights of Patent Owners

*Art. 25*.—(1) Any use of an industrial design contrary to this Law shall be considered a patent infringement.

(2) At the patent owner's request, a patent infringement shall be discontinued and the owner compensated for any losses he has incurred.

(3) Depending on the nature and effects of the infringement, the court may impose a fine on the infringer, at the same time as ordering the infringer to compensate for any losses, and may also order the confiscation, destruction or detainment of the unlawful articles and the equipment used in their manufacture and require that they be sold at cost to the patent owner or that they be transferred for use for charitable purposes.

## Liability of Officials for the Violation of Provisions of Industrial Design Legislation

*Art. 26*. Officials, as also Patent Office employees, in accordance with the procedure prescribed in the Code of Minor Administrative Offenses shall be held administratively responsible for unfair or careless performance of their duties during the processing of an industrial design application, its examination and the term of validity of the patent.

# Chapter 6
# International Agreements

## International Agreements

*Art. 27*. Where international agreements to which the Republic of Latvia is party contain provisions which differ from those of this Law, the provisions of the international agreements shall prevail.