REPUBLIC OF LATVIA PATENT LAW

Chapter I
General Provisions

Article 1. Definitions of terms

The following terms are used in this law:

1) *national patent application*—a patent application filed under this Law with the Patent Office of the Republic of Latvia;

2) *national patent*—a patent granted on a national patent application;

3) *European patent application*—an application for a European patent filed with the European Patent Office (hereinafter—EPO) under the European Patent Convention, as well as an international application filed under the Patent Cooperation Treaty for which the EPO acts as designated or elected Office and in which Latvia is designated;

4) *extended European patent*—a European patent granted by the EPO on a European patent application in respect of which extension to Latvia has been requested;

5) *registered European patent*—a European patent granted by the EPO and then registered by the Patent Office of the Republic of Latvia subject to the special provisions of the legislative acts of the Republic of Latvia on the registration of European patents during the transitional period;

6) *international application*—an application which is filed subject to the Patent Cooperation Treaty in any state party to this treaty;

7) *Convention priority*—a priority date which is accorded to a patent application subject to the provisions of the Paris Convention for the protection of Intellectual Property (hereinafter—Paris Convention).

Article 2. Patentability of invention

(1) A patent shall be granted for an invention which is new, possesses an invention level (inventive step) and is industrially applicable.

(2) An invention shall be considered new if it is not comprised in any professional knowledge the entire sum of which forms the technical level (‘state of the art’). In regard to an invention, the technical level includes any professional knowledge which, prior to the filing or priority date of the patent application (hereinafter—application), either by means of open use or in any other way (in writing or verbally) has been disclosed to the general public.

(3) An invention is not new, if, despite being in compliance with the requirements of Paragraph 2 of this Article, it has already been described in the application of another patent applicant (hereinafter—applicant) which has been filed with the Patent Office of the Republic of Latvia (hereinafter—Patent Office) with an earlier priority date and published in the official publication of the Patent Office.

(4) Paragraphs 2 and 3 of this Article do not apply to inventions which have a new use, if the use itself is not comprised in the technical level.

(5) The disclosure of information which otherwise would affect the patentability of an invention applied for, shall not affect it, if the information has been disclosed no earlier than twelve months before the filing date or the priority date of the application and if the information has been disclosed by:

1) the inventor or another person who, on the filing date of the application, had rights to the patent;

2) the Patent Office, in cases when this information is disclosed;

   a) in another application filed by the same inventor, and the Patent Office was not permitted to disclose this information;

   b) in an application which, without the inventor's knowledge or permission, has been filed by a third party who has directly or indirectly obtained this information from the inventor; or

3) a third party who has directly or indirectly obtained this information from the inventor. A request to apply the provisions of this Paragraph may be invoked at any time. If the possibility to implement the provisions of this Paragraph is disputed, the party who has made a request for the implementation of these provisions must prove that the corresponding conditions are fulfilled.

(6) An invention shall be considered to possess an invention level (inventive step), if a specialist in the corresponding field establishes that the invention has not obviously arisen from a prior technical level. The provisions of Paragraph 3 of this Article shall not be taken into account when evaluating the invention level.

(7) An invention shall be considered as industrially applicable if the object of the invention may be manufactured or used in any field of the national economy.

(8) Methods for the surgical or therapeutic treatment of human or animal organisms as such shall not be considered as industrially applicable and therefore are not patentable. This requirement shall not apply to devices and substances which are used in the abovementioned medical methods.

Article 3. Object of invention and non-patentable objects

(1) An object of invention may, in particular, be a device, a process, a substance, a micro-organism, or plant and animal cell cultures, as well as a new use of known devices, processes, substances and microorganisms for meeting other public needs for which they were not intended.

(2) In accordance with this Law, the following shall not be recognized as inventions:

1) discoveries, scientific theories, and mathematical methods;

2) designs;

3) schemes, methods for performing mental acts, rules and methods for playing games and conducting business, as well as computer programs; and

4) methods of presenting information.

(3) This provision shall exclude the patentability of the abovementioned objects only if patent protection is claimed for these objects as such.

(4) A patent shall not be granted for:

1) inventions, the publication or use of which are contrary to public order or the morality predominant in society. However, such a conclusion cannot be made on the basis of the

fact that the exploitation of the invention is prohibited by law or by administrative instructions; or

2) plant or animal varieties or essentially biological processes for the production of plants or animals; this provision shall not apply to microbiological processes or to products which are obtained through such processes.

Chapter II
Subject of Patent Rights

Article 4. Right to a patent

(1) The right to a patent shall belong to the inventor or his successor in title. If the invention has been jointly created by several persons, the right to the patent shall belong to all of them, jointly.

(2) If several persons have created an invention independent of one another, the right to the patent shall belong to the person who is the first to file an application with the Patent Office.

(3) These rights shall also be retained by a person who has filed the first application in a state party to the Paris Convention for the Protection of Industrial Property, and who has then, in accordance with the provisions of the Paris Convention, filed an application for the same invention with the Patent Office within twelve months.

Article 5. Employee inventions

(1) The employer shall have the right to an employee invention, if the invention has been created by the employee in the course of performing the following work-related duties:

1) fulfilling an employment contract which involves inventive activity; or

2) performing research, design or technological works within the framework of the assigned tasks.

(2) The legal relations between the employer and employee with regard to inventions created during employment, as well as regulation of additional remuneration for the creation and utilization of an invention created during employment, shall be determined by the collective agreement or employment contract. All other employee inventions shall belong to the employee himself.

(3) The inventor of an employee invention must immediately notify the employer thereof.

(4) If the employer renounces his right to an invention or has not within six months informed the employee of his intention to use this right, the right to the invention shall pass to the employee.

(5) The employee and employer shall refrain from any disclosure of the essence of the invention before a patent application has been filed.

(6) The rights and responsibilities of the employee and employer referred to in this Article, shall not be affected by a termination of their employment relations. Both parties may only raise mutual claims within three years unless the employment contract stipulates a different term.

(7) If an invention has been made in an enterprise which performs scientific research, design or other creative activities on the basis of a contract with a contract funding party financing the abovementioned activities, the right to a patent shall be determined by the provisions of the contract.

Article 6. The state as the subject of patent rights

If the State commissions particular scientific research or design relating to its sovereignty or security, the right to inventions, which may result while the contractor fulfills this work, shall belong both to the State institution and the contractor and the provisions of use for such inventions shall be determined by a specific contract.

Chapter III
Grant of Patent

Article 7. Application

(1) A person, who wishes to obtain a patent for an invention shall file an application with the Patent Office. The applicant shall have the right to claim a grant of patent unless it is proved that he is not entitled to this right. The applicant must, however, designate the inventor in the application, but if the invention has been jointly created by several persons, all inventors must be designated in the application.

(2) The inventor has the right to demand in a special request not to be mentioned as the inventor of the invention in the patent or in any official publication of the Patent Office.

(3) The patent application shall be filed in Latvian, English, French, German or Russian. If the application has been filed in English, French, German or Russian, the applicant shall, within three months, submit the translation of the invention formula (claims), abstract of the invention and textual matter on drawings into the Latvian language. These translations shall be considered as an essential part of the application. The applicant may, subject to provisions of Article 10, Paragraph 3, and upon payment of the prescribed fee, submit the corrected translations of the above mentioned materials at any time of the application examination.

(4) The patent application shall include:

1) a request for grant of patent;
2) a description of the invention;
3) the invention formula (claims);
4) drawings, if necessary, in order to elucidate the essence of the invention and its formula (claims);
5) an abstract of the invention;
6) a document of the payment of the application fee; and
7) an authorization, if the application is filed through an authorized representative (patent attorney).

(5) In cases of disputes referred to in Articles 12, 20 and Chapter X of this Law, the applicant or patent owner must submit, upon the request of the Board of Appeal of the Patent Office (hereinafter Board of Appeal) or court, a description of the invention in the Latvian language in addition to the materials referred to in Paragraph 4 of this Article.

(6) The description of the invention must be clear and complete enough in order that a specialist can implement the invention without supplementary inventive work. The technical level, as known to the applicant, must also be disclosed in the description.

(7) The invention formula may consist of one or more claims which determine the scope of protection for the invention.

(8) If an invention relates to the use of a specific microorganism with restricted availability, the applicant must submit a document to the Patent Office on the deposit of the respective microorganism (culture) in one of the international depositary authorities.

(9) If the object of the invention is, in the meaning of Article 3 of this Law, a substance which may be used as a medicinal or veterinary product covered by the provisions of Laws in force on pharmaceuticals requiring obligatory testing and registration of that product before putting it on the market in the Republic of Latvia, or a process to obtain such a substance, or a new application of a known substance in a medicinal or veterinary product the applicant must submit to the Patent Office a copy of an official document confirming the registration of that product with a competent State authority which is designated by the Laws in force on pharmaceuticals, or a copy of an identical document, certified by the above mentioned authority, which allows the product to be placed on the market. A copy of that document may be submitted at any time of the validity of the patent, but no later than 6 months from the date of the first registration of the product if it is registered after the grant of the patent, or within a period of six months from the date of grant of the patent if the product is registered before the date of the grant of the patent.

Article 8. Unity of invention

(1) Each application may include a request for the grant of patent for only one invention, or for a group of inventions united by a single concept.

(2) In accordance with Article 3 of this Law, each independent claim of the invention formula must encompass only one object of the invention.

(3) The requirement on the unity of invention shall be considered fulfilled, if the invention formula includes several independent claims which relate to different but mutually connected objects and thus reflect the single concept of the invention.

(4) Special forms for implementation of the invention may be reflected in the dependent claims of the invention formula.

Article 9. Priority of invention

(1) The filing date (priority date) of the application for a patent, provided that the requirements of Article 7, Paragraph 4, Subsections 1, 2, 3 and 4 of this Law have been met, and that the applicant is clearly identified in the request for the grant of patent, shall be the date when the Patent Office receives the application. If the above mentioned requirements have not been met, the filing date is accorded by the Patent Office, when the requirements are fulfilled.

(2) In accordance with Article 4, Paragraph 3 of this Law, the right to priority shall also accrue if an application on the invention has been previously filed in another state party to the Paris Convention. An applicant intending to take advantage of the right of the Convention priority must so indicate in the application. Certified copies of documents which confirm this right shall be submitted either along with the application, or no later than three months from the filing date of the application.

(3) The priority of invention shall be determined according to the date when the Patent Office has received the first application filed on the same invention by the same applicant, if the later application for which the priority was requested has been received no later than twelve months after receipt of the first application. In this case, the first application is considered to be withdrawn.

(4) The claimed priority of invention shall be established on the basis of several earlier applications, provided that each of these applications complies with the provisions mentioned in Paragraphs 1, 2, and 3 of this Article.

(5) A right to priority indicates that the application shall not be opposed by any information or facts which have become known after the fixed priority date.

Article 10. Preliminary examination

(1) The Patent Office shall determine whether the filed application complies with the requirements of Article 7 of this Law. The preliminary examination of the application is to be conducted within three months from the date the application has been filed with the Patent Office.

(2) If an application does not comply or only partially complies with the prescribed requirements, the Patent Office shall notify the applicant, explain the discrepancies and designate a three month period for the elimination of the noted deficiencies. The preliminary examination period shall be extended accordingly.

(3) Until completion of the preliminary examination, the applicant shall have the right, upon his own initiative, to make amendments in the application which do not affect the essence of the invention and do not broaden the scope of the invention formula (claims) These types of amendments can also be made upon the Patent Office's request. In both cases, the preliminary examination period shall be extended accordingly. If the applicant makes amendments upon his own initiative, he must pay a corresponding fee.

(4) If the application meets the prescribed requirements, the Patent Office shall notify the applicant that the preliminary examination has been completed and that the application has been accepted.

(5) The application shall be rejected, if the applicant fails to eliminate the deficiencies indicated by the Patent Office.

(6) If, subject to Paragraph 5 of this Article, a decision to reject an application has been made, the applicant may, on payment of fee, appeal to the Board of Appeal within a three month period. The Board of Appeal shall examine the appeal within three months and its decision shall be final.

Article 11. Publication of acceptance of the application

(1) As soon as possible, after eighteen months from the filing date or, if priority has been claimed—from the earliest priority date, the Patent Office shall publish an announcement of acceptance of the application (hereinafter—announcement of the application) in the official publication. An announcement of the corrected translation of the formula (claims), description or abstract of the invention, that, in accordance with the provisions of Article 7, Paragraph 3 of this Law, has been submitted to the Patent Office after the publication of the announcement of the application, shall be published by the Patent Office as soon as possible, but no later than four months from the acceptance date of the corrected translation. Upon the applicant's request, the announcement of the application may be published before the end of the eighteen month period but no earlier than three months from the date the application was accepted.

(2) The announcement of the application shall include:

1) information on the inventor (if he has not renounced the right to be mentioned) and on the applicant;

2) the title of the invention;

3) the International Patent Classification (IPC) indexes;

4) the filing date and acceptance date of the application; and

5) the abstract of the invention.

(3) As soon as the announcement of the application has been published, any person has the right to inspect the application materials in the Patent Office and to obtain, on payment of cost thereof, a copy of the description and drawings of the invention.

(4) If the invention affects the interests of State security, the Patent Office shall have the right, upon its own initiative, to postpone the publication of the announcement of the application for up to four months from the acceptance date of the application. Upon expiration of this term, the decision of the Patent Office becomes null and void, if it is not approved and the term is not extended by a competent State institution.

(5) In accordance with the provisions of Article 31, Paragraphs 6, 7 and 8 of this Law, provisional legal protection shall be conferred on each invention after the announcement of the application is published.

Article 12. Application examination and grant of patents

(1) The Patent Office shall examine whether the accepted application conforms with the requirements of Articles 3 and 8 of this Law. The Patent Office shall not evaluate the conformity of the invention with the Law provisions on patentability of the invention. A patent shall be granted without a guarantee of its validity, value or also the completeness and accuracy of the description of the invention.

(2) If the applicant has not met the requirements of Article 8 of this Law on the unity of the invention and, if the applicant, in response to the Patent Office's notification of the abovementioned violation of the requirements, has not informed the Patent Office of a division of the application or has not requested to examine only those claims of the invention or group of inventions which conform to the requirement for invention unity, then any further processing of the application shall be conducted only in relation to the first claim of the invention formula.

(3) If the results of the application examination are positive, then within four months from the date the announcement of the application is published, the Patent Office shall adopt a decision on the grant of patent, register the invention in the State Register and publish the bibliographical data of the patent and the independent claims of the invention formula in the official publication. The Patent Office simultaneously shall prepare a full publication of the accepted application which includes the bibliographical data of the patent, the abstract of the invention, description of the invention, invention formula (claims) and, if necessary, drawings.

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

(5) If the application does not conform or only partially conforms to the requirements of Paragraph 1 of this Article, the Patent Office shall notify the applicant, specifying the discrepancies and setting a three month period for providing a reply. The application shall be rejected if the applicant fails to correct the deficiencies indicated by the Patent Office.

(6) The applicant may, on payment of fee, appeal against the decision, taken in accordance with Paragraph 5 of this Article, to the Board of Appeal within a three month period. If the applicant is not satisfied with the decision of the Board of Appeal, he may, within six months,

appeal against this decision subject to the procedure laid down by Article 48, Paragraph 1 of this Law.

(7) A corresponding fee must be paid for maintenance of a patent, including also the case referred to in Article 31, Paragraph 5 of this Law. The fee must be paid for each year, calculating the beginning of the year from the date corresponding to the filing date in the year following the year when, in accordance with Paragraph 3 of this Article, the announcement of the grant of patent is published. The annual maintenance fee must be paid before the beginning of the next year of payment. If the fee has not been paid within the due time period, but the patent owner pays it, together with an additional fee, within the following six months, the patent shall be considered as maintained in force.

(8) The terms specified in Chapters III and V of this Law may be extended (postponed) by no more than three months unless otherwise prescribed by this Law, or the terms may be renewed, if the request for the renewal has been received no later than six months after the expiration of the prescribed term and there has been due cause for the non-observance of the term. An additional fee must be paid for the extension (postponement) or renewal of terms.

(9) The patent owner may, at any time after the patent has been granted, upon payment of a publication fee, file a corrected translation of the invention formula (claims), provided that the corrected translation does not change the essence of the invention and does not broaden the scope of its protection as compared with the scope of protection of the invention in the original language of the application or patent. The corrected translation shall not have any legal effect until it has been published by the Patent Office. The Patent Office shall publish the corrected translation of the invention formula (claims) as soon as possible after the prescribed fee has been paid.

Article 13. Opposition to the grant of patent

(1) Within nine months from the date the announcement of the grant of patent is published, any person, on payment of fee, shall have the right to file with the Board of Appeal a substantiated opposition against the grant of patent. The opposition shall be filed in written form in two copies.

(2) An opposition against the grant of patent may be filed with the Board of Appeal, if the requirements of Articles 3, 7, and 8 of this Law have not been observed.

(3) Opposition against the grant of patent on the grounds of other requirements set in this Law, shall be reviewed by court. Opposition against the grant of patent on the grounds of Article 2, Paragraph 3 of this Law may only be filed by the applicant whose application has been previously filed with the Patent Office.

(4) Pursuant to Paragraph 1 of this Article, a copy of the opposition shall be forwarded to the applicant who shall submit observations within three months. On the request of the applicant, this term may be extended for one more month. The Board of Appeal shall examine the opposition within three months from the date of receipt of the applicant's observations or from the date of expiration of the term for submitting the observations. The applicant and the opponent shall be notified of the opposition examination 30 days before the fixed date of the proceedings. Both parties shall have the right to participate in the opposition proceedings, to submit essential materials and to provide oral explanations.

(5) According to the results of the opposition examination, the Board of Appeal shall adopt a decision either to fully or partially revoke the patent or to reject the opposition.

(6) Rejection of the opposition does not deprive the opponent of the right to contest the granted patent in accordance with general provisions. A decision to revoke the patent may be appealed within six months subject to the procedure set by Article 48, Paragraph 1 of this Law.

Chapter IV
Special Provisions Concerning International Applications Under the Patent Cooperation Treaty

Article 14. International application

(1) In this Chapter, an international application means an application for a patent, which, in accordance with Articles 11(1), 11(2) and 14(2) of the Patent Cooperation Treaty (hereinafter—PCT), has been accorded an international filing date.

(2) In the Republic of Latvia, any international patent application shall be equivalent to an application filed with the Patent Office in accordance with Article 7 of this Law. Such an international application shall be considered to have the effect of a regular national application as of its international filing date and this date shall be considered to be the filing date of the application with the Patent Office, provided the Republic of Latvia is indicated in the international application as a designated" state [within the meaning of Article 4 (1) (ii) of the PCT] or elected state" [within the meaning of Article 31 (4) (a) of the PCT].

Article 15. Provisions of this Law with regard to international application

(1) Where the Republic of Latvia is indicated in the international application as a designated or elected state and the applicant, in accordance with Chapters I to III of this Law, wishes to obtain a patent of the Republic of Latvia, he shall, within one month after the expiration of the time limits applicable under Articles 22 or 39 of the PCT and in accordance with Article 7, Paragraph 3 of this Law, submit to the Patent Office a translation into the Latvian language of the international application materials [formula of the invention (claims), abstract of the invention and textual matter on the drawings] and pay the filing fee. The translation of the materials of the international application shall be considered as an essential part of the international application. The international application shall be considered as withdrawn if, within the time limits referred to in this Article, the translation into the Latvian language of the formula of the invention (claims), abstract of the invention and textual matter on the drawings is not submitted to the Patent Office.

(2) Further examination of the international application in the Patent Office shall be carried out in accordance with the provisions of Articles 10, 12 and 13 of this Law.

(3) Any international application designating the Republic of Latvia which has been published according to Article 21 of the PCT, as well the international application which has been published prior to the announcement of the application (Article 11, Paragraph 1), shall give rise to the same rights which are afforded in case the announcement of the application is published in the official publication of the Patent Office. The rights above shall take effect from the date the translation into the Latvian language of the abstract of the invention has been published in the official publication of the Patent Office. The translation shall be published within three months from the date of its submission to the Patent Office.

(4) While specifying the terms of the publication of the translated abstract, as well as of the procedure by which third parties can obtain access to the materials of the international application

designating the Republic of Latvia, the Patent Office shall follow the provisions of Article 30 of the PCT on the confidential nature of the international applications.

(5) Where an international application claims both a patent of the Republic of Latvia and a European patent, the applicant shall be given the opportunity either to follow the procedure prescribed in the previous paragraphs of this Article, or, notwithstanding general requirements of this Article, to file with the Patent Office, in accordance with the requirements of Chapter V of this Law, a request for extension of the European patent to the Republic of Latvia. In this case the provisions of Chapter V, Article 19, Paragraph 7 shall apply.

(6) If one and the same inventor or his successor in title is granted two patents for one and the same invention with the same priority date, the patent of the Republic of Latvia shall expire from the date of the grant of the patent claimed in the international application.

Article 16. International applications filed with the Patent Office as the receiving office

(1) If the applicant of the international application is a citizen or a permanent resident of Latvia, then, in accordance with Article 10 of the PCT, the international application may be filed with the Patent Office as a receiving Office.

(2) Subject to Rule 14 of the Regulations under the PCT, the international application shall be filed in accordance with the established procedure upon payment of a transmittal fee.

(3) International applications filed with the Patent Office as a receiving office shall be filed in the languages specified in the agreement with the International Bureau.

Article 17. Limitation of effect of this Law with regard to PCT

(1) The provisions of the PCT, the provisions of this Law and of any implementing legislation shall apply to international applications in cases when the Patent Office is acting as a receiving Office or the Republic of Latvia is indicated as the designated state, or the elected state.

(2) Reference of this Law to the PCT also includes reference to the Regulations under the PCT.

(3) If the provisions of the PCT differ from the provisions of this Law or the provisions of any implementing legislation thereof, then the provisions of the PCT by which the Republic of Latvia is bound shall apply.

Chapter V
Special provisions concerning the extension of European Patents to the Republic of Latvia

Article 18. Requests for extension of European patents to the Republic of Latvia

(1) A European patent application and a European patent granted on such application shall, subject to further provisions of this Chapter, be extended to the Republic of Latvia at the request (hereinafter—request for extension) of the applicant filed with the European Patent Office. They shall have the same legal effect as the national patent application and the national patent, and the same provisions of this Law shall apply to them.

(2) The provisions of the European Patent Convention and its Regulations are applicable insofar as this Chapter does not provide otherwise.

(3) The request for extension shall be deemed to be filed with any European patent application if the application is filed with the European Patent Office on or after the date on which this Chapter enters into force.

(4) A European patent application which has been accorded by the EPO a filing date and a priority date—if priority has been claimed—shall be equivalent to a regular patent application filed with the Patent Office, whatever the outcome of the EPO examination may be.

(5) The novelty provisions of Article 2, Paragraphs 2, 3, 4 and 5 of this Law shall apply to a European patent application for which the extension fee has been paid as well as an extended European patent, with regard to a national patent application and a national patent. The novelty provisions of Article 2, Paragraphs 2, 3, 4 and 5 of this Law shall also apply to a national patent application and a national patent, with regard to an extended European patent.

(6) The Patent Office shall publish in its official publication any request for extension as soon as possible after it has been transmitted to the Patent Office by the EPO but not before the expiry of 18 months from the filing date or, if priority has been claimed, the earliest priority date.

(7) After the publication of the European patent application provisional protection shall be conferred on the invention, subject to the provisions of Article 31, Paragraphs 7 and 8 of this Law, as from the date on which a translation into the Latvian language of the invention formula (claims) of the published European patent application has been communicated by the applicant to the person using the invention in the Republic of Latvia. The European patent shall be deemed not to have had *ab initio* the above effects where the request for extension has been withdrawn or is deemed withdrawn.

(8) The request for extension may be withdrawn at any time. It shall be deemed withdrawn where the prescribed extension fee has not been paid to the EPO within the prescribed time limits or where the European patent application has been finally refused by the EPO, or withdrawn or deemed to be withdrawn. The Patent Office shall publish an announcement of these changes as soon as possible if the request for extension has already been published.

Article 19. Extended European Patents

(1) Subject to the provisions of Paragraphs 2 to 7 of this Article, an extended European patent shall confer, from the date on which EPO has published the announcement of its grant, the same rights as would be conferred by a national patent.

(2) Within three months from the date on which the announcement of the grant of the European patent has been published by the EPO, the owner of the patent shall furnish to the Patent Office a translation of the invention formula (claims) of the European patent into the Latvian language and shall pay the prescribed fee for its publication.

(3) If, as a result of an opposition filed with the EPO, the European patent is maintained with an amended invention formula (claims), the owner of the patent shall, within three months from the date on which the decision to maintain the European patent as amended was published, furnish to the Patent Office a translation of the amended invention formula (claims) into the Latvian language and pay the prescribed fee for its publication. The provisions of Article 13 of this Law shall not apply to any opposition against the grant of a European patent.

(4) The Patent Office shall, as soon as possible, publish any translation filed under Paragraphs 2 and 3.

(5) If the translation specified in Paragraph 2 or 3 of this Article is not filed within the prescribed time limits or the prescribed fee for its publication is not paid in due time, the extended European patent shall be deemed to be void ab *initio*.

(6) An extended European patent shall be deemed not to have had ab *initio* the effects specified in this Chapter to the extent that the patent has been revoked in opposition proceedings before the EPO.

(7) Where an extended European patent and a national patent having the same filing date or, where priority has been claimed, the same priority date have been granted to the same person or his successor in title, the national patent shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed or as from the date on which the opposition procedure has resulted in a final decision maintaining the European patent.

(8) Renewal fees for an extended European patent shall be paid to the Patent Office for the years following the year in which the announcement of the grant of the European patent was published. The payment of fees shall be subject to the procedure laid down for the payment of renewal fees for national patents.

Article 20. Authentic text of European patent applications or European patents

(1) The text of a European patent application or a European patent in the language of the proceedings before the EPO shall be the authentic text in any proceedings (before the Patent Office or court) in the Republic of Latvia.

(2) However, the translation as provided for under Article 19, Paragraphs 2 and 3 shall be regarded as authentic except in revocation (invalidation) proceedings (Article 35), where the European patent application or extended European patent in the language of the translation confers protection which is narrower than that conferred by it in the language of the proceedings before the EPO.

Chapter VI
Patent Office

Article 21. Patent Office and its main functions

(1) The Patent Office is established by the Cabinet of Ministers of the Republic of Latvia. The Patent Office shall be an independent State institution under the supervision of the Ministry of Justice. The activities of the Patent Office shall be regulated by this Law and by the Statute certified by the Cabinet of Ministers. The Cabinet of Ministers shall appoint the Director and deputy directors of the Patent Office according to the recommendations of the Minister of Justice. The Patent Office shall have a seal bearing a replica of the small supplemented coat of arms of the Republic of Latvia which shall be used for sealing patents and certificates for the registration of trademarks, as well as other Patent Office documents.

(2) The Patent Office's financial activities are regulated by the provisions of the special budget The Patent Office collects fees for its services and payments relating to industrial property protection. The amount of the fees and payments shall be fixed by the Cabinet of Ministers. The Cabinet of Ministers decides how much of the Patent Office's income is allocated for the financing of its activities.

(3) The Patent Office shall admit and examine applications of natural persons and legal entities for the legal protection of inventions, industrial designs and trademarks, grant patents and certificates and organize the corresponding State Registers. The Patent Office shall collect and maintain materials, drawings, descriptions, as well as other documents and items relating to patents and the registration of trademarks.

(4) The Patent Office shall, within its competence:

1) adopt regulations, instructions, official forms and explanations;

2) advise, upon payment of fee, legal entities and natural persons;

3) compile and publish its official publication, as well as other materials listed in Article 26, Paragraph 2, subsection 2;

4) examine and register patent attorneys; and

5) cooperate with organizations of the Republic of Latvia, and foreign and international organizations involved in the legal protection of industrial property.

Article 22. Structure of the Patent Office

(1) The Patent Office establishes subdivisions which ensure the qualitative and timely fulfillment of the functions of the Patent Office. The staff of the Patent Office includes the Director, deputy directors, the department heads, senior experts and experts.

(2) The Patent Office Director shall appoint the heads of the departments, senior experts, experts and technical personnel of the Patent Office. The Director, deputy directors, department heads and leading experts must have higher technical, legal or economic education, at least three years work experience in their speciality, as well as knowledge of the Latvian language and at least two foreign languages.

Article 23. Restrictions on Patent Office employees

(1) While working in the Patent Office, as well as within one year after termination of their labor relations with the Patent Office, the officials and employees of the Patent Office may not file patent applications. They may not, directly or indirectly (except through inheritance), acquire patents granted or to be granted by the Patent Office, as well as acquire any rights arising from a patent.

(2) With regard to subsequently filed patent applications, the above mentioned persons shall not enjoy the right of priority dated earlier than one year after they have terminated their employment with the Patent Office.

Article 24. Patent Office Director

(1) The Patent Office Director shall exercise the rights and fulfill the obligations laid down in the laws on the legal protection of industrial property and in the Statute of the Patent Office.

(2) The Patent Office Director shall have the right to carry out national and international programs, to organize information exchange and to request information on issues which affect the national and international interests of the Republic of Latvia in the field of legal protection of industrial property.

(3) The Director shall administer and be responsible for the property of the Patent Office, lay down the procedure for collecting fees and payments relating to industrial property protection and,

without any specific authorisation, represent the Patent Office in court, arbitrage, State institutions, and in relations with legal entities and natural persons, as well as perform any other actions laid down in this law and in the Statute of the Patent Office.

Article 25. Patent Office responsibility

The Patent Office shall be responsible for the qualitative and timely execution of duties which are assigned to the Office in laws relating to the legal protection of industrial property, as well as for realization, within the competence of the Patent Office, of State policy in the sphere of legal protection of industrial property.

Article 26. Rights of the Patent Office

(1) The Patent Office shall have the right to issue:

1) patents, including descriptions and drawings of the invention, as well as their copies and duplicates; and

2) trademark registration certificates, their copies and duplicates.

(2) The Patent Office shall have the right to publish:

1) its official publication:

2) regulations and methodological manuals, as well as other materials concerning the issues which are within the competence of the Patent Office.

Article 27. Board of Appeal

(1) A Board of Appeal is established for the review of patent disputes within the structure of the Patent Office, which shall act in accordance with the corresponding regulations approved by the Minister of Justice.

(2) The Board of Appeal includes three representatives from the Patent Office, as well as four independent specialists in science, technology and law.

(3) Members of the Board of Appeal shall be appointed for three years.

(4) The Board of Appeal shall examine appeals on the basis of a written petition for appeal. Each appeal petition shall be reviewed by no less than three members of the Board of Appeal, and one of them must be a lawyer.

(5) A specialist who has participated in the previous examination of the application, cannot take part in the proceedings of the Board of Appeal relating to the same application.

(6) Each appeal shall be examined within 3 months.

Article 28. Accounts of the Patent Office

The Patent Office Director shall render an account of resources received and spent, as well as provide statistical and other information on the activities of the Patent Office to the Cabinet of Ministers and the Ministry of Justice.

Article 29. Representation before the Patent Office

(1) The applicant shall not be obliged to be represented before the Patent Office by a professional patent attorney, except in the cases prescribed in the Paragraph 2 of this Article.

(2) Legal entities and natural persons, whose permanent residence is not in the Republic of Latvia or who do not own an enterprise within its territory, are represented before the Patent Office by professional patent attorneys.

(3) Legal entities and natural persons, whose permanent residence is in the Republic of Latvia or who own an enterprise within its territory, may be represented before the Patent Office directly or through their authorized employees. These employees shall not be obliged to be professional patent attorneys.

(4) Only a professional patent attorney registered in Register of professional patent attorneys of the Patent Office may be an authorized representative in patent matters. This provision shall not apply to persons mentioned in Paragraph 3 of this Article.

(5) The Patent Office maintains the Register of professional patent attorneys. Entries to be made in the Register of professional patent attorneys, as well as the maintenance of the Register, are determined by the Patent Office Director.

(6) Only natural persons may be registered in the Register of professional patent attorneys. A professional patent attorney shall meet the following requirements:

1) shall be a citizen of Latvia and shall have a permanent residence in the Republic of Latvia;

2) shall be at least 30 years old, a sworn advocate shall be at least 25 years old;

3) shall have a higher technical, legal or economic education (diplomas granted by foreign higher educational institutions must be recognized in the Republic of Latvia); a candidate who is not a sworn advocate shall have minimum five year work experience in his speciality;

4) shall pass the examinations before a commission of experts, the members of which are affirmed by the Patent Office Director.

(7) Any professional patent attorney registered in the Register may request that he be deleted from the Register.

(8) The Register of the professional patent attorneys shall be kept in the Patent Office and shall be accessible for any interested person. The Patent Office shall regularly publish a list of professional patent attorneys.

(9) The registration of a professional patent attorney in the Register shall be communicated by the Patent Office to the appropriate institution of the State Income Service.

Chapter VII
Rights Derived From Patent

Article 30. Exclusive rights

(1) The patent shall ensure that the patent owner shall have the exclusive rights to use the invention. Third parties shall not be allowed, without the consent of the patent owner, to perform the following acts:

1) to make a patented product (device, substance, microorganism, etc.), to offer it on the market, to put it into economic circulation or to use the product, as well as to import or stock it for the above purposes;

2) to use a patented process; or

3) to offer on the market, to put into economic circulation, to use, as well as to import and stock for the above purposes, a product which has been obtained by using the patented process.

(2) Patents the term of which may be extended according to the provisions of Article 31, Paragraph 5 shall, during the period of extension, confer exclusive rights provided for under this Law only with regard to a substance notwithstanding what is the object of the patent (a substance, or a process for manufacturing a substance, or a new application of a known substance).

(3) Irrespective of the provisions of Paragraph 1 of this Article, the patent shall prevent third parties from supplying and offering to supply essential elements of the patented invention (with the exception of such elements which are widely known in economic circulation), where the supply of such elements creates real opportunity to perform acts referred to in Paragraph 1 of this Article and infringe the rights of the patent owner.

(4) The employer shall have exclusive rights to use an employee's invention for which the employer has been granted a patent in accordance with Article 5, Paragraph 1 of this Law; these rights also apply to the employee who is the inventor.

(5) The employee shall have exclusive rights to use his invention for which the employee has been granted a patent in accordance with Article 5, Paragraphs 1 and 4 of this Law; these rights apply to the employer as well.

(6) The patent owner shall have the right to use the patented invention provided that the use of the invention is not prohibited by laws and does not infringe upon the rights of other patent owners.

Article 31. Extent of exclusive rights

(1) The extent to which the exclusive rights derived from a patent are protected shall be determined by the formula of the invention (claims). The description of the invention, as well as the drawings, may be used for determining the scope of protection and for interpreting the formula of the invention (claims).

(2) The description of the invention, as well as the drawings, may not be used for the broad interpretation of the formula of the invention (claims).

(3) The patent shall be in force in the whole territory of the Republic of Latvia including inland and territorial waters; the rights derived from a patent shall also be in force on the continental shelf adjoining the seashore of the Republic of Latvia and within the economic zone to which the Republic of Latvia has its sovereign rights pursuant to the Convention of Sea Rights of April 29, 1958, in so far as these rights concern the search for and extraction of minerals.

(4) Exclusive rights come into force to their full extent as of the date a patent is granted and expire no later than 20 years from the filing date of the application.

(5) If the object of the patented invention is a substance covered by the provisions of the Laws in force on pharmaceuticals requiring obligatory testing and registration of a medicinal or veterinary product before putting it on the market in the Republic of Latvia, or a process for manufacturing such a substance, or a new application of a known substance, the Patent Office may,

at the request of the patent owner, extend the patent term fixed in Article 31, Paragraph 4, but no more than for 5 years. The request for extension of the patent term may be, upon payment of a prescribed fee, lodged with the Patent Office at any time of the validity of the patent, provided that the requirements of Article 7, Paragraph 9 of this Law are met. When taking the decision on patent term extension, the Patent Office shall take into consideration the duration of the period of testing and registration procedures elapsing between the filing date of the corresponding application and the first registration of the product. The term of a patent may be extended only once.

(6) Within the period between the publication date of the announcement of the application or of a corrected translation referred to in Article 11, Paragraph 1, and the date a patent is granted, provisional legal protection shall be conferred on the invention. However, where, in compliance with the provisions of Article 11, Paragraph 1, the corrected translation of the invention formula (claims) is filed after the publication date of the announcement of the grant of the patent, or after the date fixed in Article 18, Paragraph 7, the provisional legal protection shall be conferred as from the date of the publication of the corrected translation or from the date on which the applicant has communicated the corrected translation of the invention formula (claims) to the person who is using the invention in the Republic of Latvia.

(7) Within this time period, third parties are permitted to use the invention to be patented without the consent of the applicant. However, in the event that a patent is granted, the user of the invention shall pay the owner reasonable compensation.

(8) If a patent is granted, the third parties who have begun using the invention during the period of provisional legal protection must interrupt the use of the invention or must obtain a license from the patent owner in order to continue the use of the invention. Otherwise, the users shall be held responsible for the infringement of the rights of the patent owner.

Article 32. Restriction of rights derived from a patent

Prohibitions concerning the use of a patented invention, as referred to in Article 30, Paragraphs 1, 2 and 3 of this Law, do not apply in cases when an invention is used for:

1) non-commercial (non-profit) purposes;

2) scientific experiments or research purposes, as well as in the testing of a patented invention;

3) the preparation of medicine in a pharmacy in exceptional cases as prescribed by a doctor;

4) exploitation of a patented product, after it has been put into economic circulation in the territory of the Republic of Latvia by the patent owner, or by another person who has been licensed by the patent owner; or

5) in the construction of or in the course of the exploitation of any foreign transport means which temporarily or accidentally enters the territory, waters or airspace of the Republic of Latvia, provided that the invention is only used for the needs of the transport means.

Article 33. Rights of prior use

(1) Any person in the territory of the Republic of Latvia who, before the date a patent application has been received by the Patent Office or before the claimed priority date, has in good faith been using an identical invention in his enterprise or for the needs thereof or has up until that date been making the necessary serious preparations for such use, has the right, without hindrance

and without paying any compensation to the patent owner, to continue using the invention in his enterprise or for the needs thereof, provided that the scope of the use of the invention is not expanded.

(2) In the case where an applicant files, in compliance with the provisions of Article 11, Paragraph 1, a corrected translation of the invention formula (claims) after the date of publication of the announcement of application, any person who, in good faith, has been using or has made the necessary serious preparations for using an invention, the use of which would not constitute infringement of the application in the original translation may, after the date of publication of the announcement of the corrected translation (Article 11, Paragraph 5), continue such use in his enterprise or for the needs thereof without payment.

(3) In the case where an applicant files, in compliance with the provisions of Article 12, Paragraph 9, a corrected translation of the invention formula (claims) after the date of publication of the announcement of the grant of the patent, any person who, in good faith, has been using or has made the necessary serious preparations for using an invention, the use of which would not constitute infringement of the application in the original translation may, after the date of publication of the corrected translation, continue such use in his enterprise or for the needs thereof without payment.

(4) Rights of prior use may only be transferred to another person together with the enterprise where the invention was being used as defined in Paragraph 1 of this Article.

Article 34. Lapse of patent

(1) The patent shall lapse before the expiration of its term provided that:

1) the patent owner submits a written request to the Patent Office to terminate the patent;

2) the annual maintenance fee is not paid at the prescribed time; or

3) the patent of the Republic of Latvia is, subject to the provisions of Article 15, Paragraph 5, or Article 19, Paragraph 8, considered as having no legal effect.

(2) If a patent lapses before the expiration of its term, the extension of the patent term (Article 31, Paragraph 5) shall be considered as having no legal effect.

Article 35. Invalidation of a patent

(1) The patent may be declared as null and void in the established procedure provided that:

1) the subject matter of the patent is found to be non-patentable in accordance with Articles 2 and 3 of this Law;

2) in the description of the invention, its essence is not disclosed sufficiently clearly and completely, in order to enable a specialist to implement the invention (Article 7, Paragraph 6);

3) the subject matter of the patent exceeds the scope of the invention as disclosed in the patent application in its original wording (Article 10, Paragraph 3);

4) the patent has been granted to a person who is not entitled to such rights (Article 42).

(2) Where a patent, subject to the provisions of Paragraph 1 of this Article, has been invalidated, the corresponding application and the granted patent shall be deemed not to have had *ab initio* the legal effects provided for in this chapter.

(3) The extension of the patent term (Article 31, Paragraph 5) shall be considered as having no legal effect provided that:

1) the provisions of Article 7, Paragraph 9, or Article 31, Paragraph 5 have been violated, or the registration of a medicinal or veterinary product, on the grounds of which the patent term has been extended, has been revoked in the established procedure;

2) a patent, the term of which has been extended, is invalidated in part (Paragraph 4 of this Article) and the restrictions of the claims of the invention formula no longer confer on the patent owner exclusive rights in respect to the substance in the meaning of Article 7, Paragraph 9 and Article 30, Paragraph 1, Subsections 1 and 3 of this Law.

(4) The patent may be invalidated in part by restricting the claims of the invention formula, where the provisions prescribed in Paragraph 1 of this Article do not fully apply to the entire patent.

Chapter VIII
Patent as Property

Article 36. Nature of patent rights

(1) Any patent or patent application, as well as rights conferred by a patent, shall be regarded by operation of law as personal property, however, the patent or patent application cannot be regarded as property subject to claims.

(2) Any patent or patent application and the rights derived therefrom may be sold or assigned to another person temporarily, completely or in part (license), be given as a gift or otherwise be made available to the public in accordance with the general provisions that must be observed in carrying out property transactions, provided that the legislative acts in force do not provide different provisions for special transactions involving patents.

(3) Property rights based on a patent and the rights to claim a patent may be inherited in accordance with the general provisions governing the inheritance of personal property.

(4) Any transactions involving patents shall be considered null and void unless they are registered with the Patent Office.

Article 37. Use of an invention

(1) An invention shall be deemed to be used where a patented object (device, substance, etc.) is manufactured or where a patented process is used industrially, provided that all features or equivalents thereof of the independent claims of the invention formula are employed.

(2) Mutual relations resulting from the exploitation of an invention for which a joint patent has been granted, shall be defined by an agreement between the joint patentees. In the event that such an agreement has not been concluded, each joint patentee shall have the right to use the invention as he sees fit, except in cases regarding the granting of a license or patent alienation.

(3) A license may be granted to third parties only with the consent of all joint patentees or on the grounds of a court judgement. Joint patentees disputes shall be decided by court (Article 48).

(4) Any person desiring to exploit a patented invention shall conclude a contract with the patent owner.

Article 38. License and license contract

(1) The transfer of the rights for the use of the patented invention to another person shall be carried out in the form of a license contract. In accordance with the type of license (an exclusive or nonexclusive license) both the party selling the rights to exploit the invention (a licensor) and the party receiving the rights to exploit the invention (a licensee) shall undertake contractual rights and obligations.

(2) A license shall be of an exclusive character if the licensee receives exclusive rights to exploit the invention in accordance with the provisions provided for in the license contract and the licensor maintains the rights to exploit the invention within the limits of the rights which have not been transferred to the licensee.

(3) A license shall be of a nonexclusive character, if the licensor, in transferring to another person the right to exploit the invention, maintains the right to exploit this invention, as well as the right to grant a license for the same invention to third parties.

(4) A license shall be called a license of right, if a patent owner states his readiness to grant a license to exploit the invention to any interested party. A written statement shall be filed by the patent owner with the Patent Office for official publication. After publication of the announcement, the annual fee for the maintenance of the patent is reduced by half. If the license of right is revoked, the annual fee must be paid in accordance with general provisions. If the interested parties do not come to an agreement on the terms of the license of right, these terms shall be determined by court.

(5) A license contract takes effect after it has been registered with the Patent Office. A fee must be paid for the registration of a license.

Article 39. Compulsory licenses

(1) If within four years time from the date a patent is granted (or foreign patent registered), the patented invention has not been used or has been insufficiently used in the territory of the Republic of Latvia, any person may appeal to court with a request that the court grant a license (compulsory license) to use the patented invention in accordance with the terms set by court. This provision does not apply in cases when the patent owner is able to substantiate the non-use or inadequate use of the invention.

(2) In accordance with the provisions of Paragraph 1 of this Article, permission to use a patented invention without the consent of the patent owner (compulsory license), may be granted by court on the grounds of one of the following conditions:

1) a patented object or a product manufactured by means of using a patented process is of vital importance to the welfare of the residents of Latvia or for the interests of the economy or national security of Latvia, but the patent owner or his licensee, either is not using the invention or is using it to an extent, which does not really satisfy interests of the Republic of Latvia; or

2) an invention being of great economic significance, cannot be exploited without the use of another earlier patented invention; under these circumstances, the owner of the previous patent may request a license in return for the use of the later patented invention.

(3) In any case, compulsory licenses shall be nonexclusive licenses and are not transferable.

Chapter IX
Patent Infringement and Responsibility Thereof

Article 40. Concept of patent infringement

(1) The infringement of a patent means infringing any right of the patent owner as referred to in Article 30, Paragraphs 1 and 3 of this Law, provided that the infringement takes place within the period of patent validity.

(2) A person shall be responsible for direct infringement of a patent, if he has performed the acts referred to in Article 30, Paragraph 1 of this Law without the consent of the owner of the patent valid in the Republic of Latvia or without any other legal grounds.

(3) A person shall be also responsible for indirect infringement of a patent, if he has performed the acts referred to in Article 30, Paragraph 3 of this Law without the consent of the owner of the patent valid in the Republic of Latvia or without any other legal grounds.

Article 41. Responsibility for patent infringement

(1) In accordance with the provisions of Article 40 of this Law, responsibility for patent infringement may arise only from the date a patent is granted and only for the acts which have been performed after this date.

(2) Responsibility for patent infringement may arise only in the event that the guilt of the infringer is proved.

(3) It is the obligation of the aggrieved party (the patent owner or the holder of the exclusive license) to prove the fact of the patent infringement and the guilt of the infringer.

(4) The provisions referred to in Paragraph 3 of this Article do not apply in cases when patents are granted for a process of making a new product. Any identical product is considered as manufactured according to the patented process unless it is proved otherwise.

(5) Where the patent owner or the holder of the exclusive license has informed the infringer that the patent has been granted, as well as in cases when the disputable article carries a patent marking (Article 45, Paragraphs 1 and 2) no other proof of the guilt of the infringer is required.

(6) An action against a patent infringer may be brought within a period of three years from the date, when the aggrieved party has discovered, or should have discovered, the fact of patent infringement.

Chapter X
Protection of Rights Derived from Patent

Article 42. Restoration of patent rights

(1) A person, for whose invention another person not entitled to the invention has submitted an application or has received patent rights, may submit a claim to court to transfer to him the right to the application or to the patent granted.

(2) If the aggrieved party is entitled to claim the right only to a part of the application or the patent granted, then, in accordance with Paragraph 1 of this Article, the aggrieved party may request to transfer the right only to that part.

(3) The rights referred to in Paragraph 1 of this Article are valid within a period of three years from the date when the respective patent has been granted.

(4) If the application or the patent is annulled in accordance with Paragraph 1 of this Article, the party who has the rights defined in the abovementioned Paragraph, may, within three months from the date when the court judgement has taken effect, submit an application maintaining the priority of the previously submitted application or the previously granted patent.

(5) If the rights to an application or a patent are changed, fully or partially, the rights to a license which has been issued up until the date the changes were made, shall be, in case of dispute, decided by court.

Article 43. Protection of the inventor's rights

(1) The author of the invention has a right to be mentioned as the inventor in all documents and papers related to the grant of patent. These rights shall not be transferred to another person or be inherited.

(2) In case of violation, the rights referred to in Paragraph 1 of this Article may be protected in the same procedure by which copyrights are protected.

(3) The inventor of the employee invention has the right to claim reasonable remuneration for the creation and use of the invention, when and where it is specified by the employment contract.

(4) The inventor also maintains the aforementioned rights, when the employer intentionally avoids filing the application for the grant of patent for the invention made by the employee.

(5) The inventor of the employee invention has the right to prove that his invention is exploited by the employer, the licensee or by the patent infringer.

Article 44. Compensation for damage caused by prohibition of publication

(1) If, accordance with Article 11, Paragraph 4 of this Law and the existing legislative acts, the open use of the invention is prohibited, the applicant or the patent owner may request compensation for the damage caused to him due to the impossibility to openly use the invention.

(2) The compensation amount shall be determined, upon reaching an agreement with the applicant or the patent owner, and is paid by the State institution on the demand of which the period of prohibition of the publication has been extended.

(3) If the parties do not reach an agreement concerning the amount of compensation, the compensation amount shall be determined by court.

Article 45. Protection against patent infringement

(1) The patent owner and licensee have the right to mark manufactured articles (products) or packages with signs such as "Patent No. …". Moreover, the licensee shall be obliged, upon the demand of the patent owner, to use this sign for marking his manufactured articles.

(2) Within a period of the provisional legal protection of the invention, as prescribed in Article 31, Paragraph 6 of this Law, the applicant shall have the right to send appropriate notice to third parties, who are likely to use or are preparing to use the invention which is under the provisional legal protection. The application copy certified by the Patent Office must be attached to the notice.

(3) In accordance with Article 40 and 41 of this Law, the patent owner may, from the date of the grant of patent, submit a claim to court on a patent infringement. The holder of the exclusive license shall have the same rights.

(4) If the fact of patent infringement is proved, the court, upon the claim of the aggrieved party, makes a judgement which, depending on the degree of the guilt of the infringer as referred to in Article 41, Paragraphs 2 and 3, shall include one or more of the following sanctions:

1) termination of the use of the invention;

2) seizure of the patented articles or articles of which the patented articles are integral parts of, as well as awarding these articles to the aggrieved party;

3) reimbursement of damages caused as a result of the infringement, including reimbursement of unrealized profit;

4) allotment of the profits to the aggrieved party, completely or in part, which the infringer has received as a result of the illicit use of the invention; and

5) cover of court costs.

(5) When satisfying the claim of an aggrieved party, the court should not, for one and the same infringement, have the infringer reimburse the damage (subsection 3, Paragraph 4 of this Article) or allot the profit to the aggrieved party (subsection 4, Paragraph 4 of this Article).

Chapter XI
The Review of Disputes in Court

Article 46. Procedures for review of disputes

(1) Disputes concerning exclusive rights, other rights related to patents or other disputes based on this Law, shall be reviewed by court in the same procedure as disputes for which civil liability is provided for in accordance with the provisions of the Civil Law governing personal property, unless this Law and the legislative acts in force prescribe otherwise.

(2) Persons guilty of actions related to misappropriation of authorship or compulsion to co-authorship, and actions concerning the divulging of information on the invention as well as other actions shall be held responsible in accordance with the legislative acts in force.

(3) Complaints against red tape in regard to examination of applications, as well as negligent or careless treatment of duty in the process of application examination, or within the period of patent validity, must be reviewed by court in accordance with the procedures set for reviewing complaints against malfeasance.

Article 47. Court jurisdiction in reviewing civil actions concerning patents

(1) The civil actions instituted by the applicant, patent owner or the holder of exclusive license against a third party shall be subject to the court in the jurisdiction of which the defendant resides, the act has been committed or the results of the infringement have occurred.

(2) Civil actions instituted by third parties against the applicant or patent owner shall be subject to the court in the jurisdiction of which the defendant resides unless other procedures are set by this Law or other legislative acts in force.

Article 48. Jurisdiction of courts in reviewing patent disputes

(1) The courts of the Republic of Latvia must adjudicate disputes related to the following issues:

1) rejection of the accepted patent application or of the foreign patent registration (Article 12, Paragraph 6);

2) patent contestation, patent invalidation (Article 35);

3) authorship (co-authorship) of the invention;

4) right to a patent (restoration of patent rights) (Article 42, Paragraphs 1 and 2);

5) right to an employee invention (Article 5);

6) remuneration for the use of an invention (Article 43, Paragraph 4);

7) execution of a contract concerning the transfer of patent rights (Articles 5 and 38);

8) ascertainment of the fact of the exploitation of the invention (Article 37, Paragraph 2 and article 43, Paragraph 5);

9) determination of the amount of compensation for the exploitation of the invention within the period of its provisional legal protection (Article 31, Paragraph 6);

10) ascertainment of the fact of the patent infringement, liability for patent infringement, protection against patent infringement (Articles 40, 41 and 45);

11) rights of prior use (Article 33);

12) inheritance rights to a patent (Article 36, Paragraph 3);

13) grant of a license and execution of license contracts (Article 37, Paragraphs 2 and 4, Article 39, Paragraphs 1 and 2, Article 42, Paragraph 5); and

14) right to compensation for the impossibility to openly use the invention (Article 44, Paragraph 3).

(2) Decisions of Courts of First Instance on any type of disputes referred to in Paragraph 1 of this Article, may be appealed in the procedure set by the legislative acts on civil procedure.

(3) The following issues, referred to in Paragraph 1 of this Article may only be reviewed by the Regional Court of Riga:

1) patent contestation, patent invalidation (subsection 2, Paragraph 1 of this Article);

2) right to a patent and restoration of patent rights (subsection 4, Paragraph 1 of this Article); and

3) right to compensation for the impossibility to openly use the invention (subsection 14, Paragraph 1 of this Article).

(4) The Regional Court of Riga shall simultaneously act as the appellate court for deciding disputes which concern the rejection of the accepted patent applications and the requests for foreign patent registration.

(5) Only Regional Courts shall act as Courts of First Instance for deciding the following disputes referred to in Paragraph 1 of this Article:

1) disputes over authorship (co-authorship) of inventions;

2) disputes concerning the ascertainment of facts of patent infringement, liability for patent infringement or protection against patent infringement;

3) disputes concerning rights of prior use; and

4) disputes about the grant of licenses.

(6) The court jurisdiction over other disputes shall be determined by general provisions regulating civil litigation, provided that the existing legislative acts do not prescribe otherwise.

(7) Foreign legal entities and natural persons for whom the Republic of Latvia is not the place of provisional or permanent residence or the location of their enterprises, shall institute civil actions in the Regional Court of Riga which shall act as the Court of First Instance.

Article 49. Terms for instituting actions in courts

(1) Within the period of patent validity, an action may be instituted in court without any time limitation, if the dispute has arisen:

1) on the invalidation of granted patents (Article 35); and

2) on the grant of licenses.

(2) In other cases of disputes, which are not referred to in Paragraph 1 of this Article, the term for instituting an action in court is limited to three years unless this Law or the legislative acts in force provide for other terms.

Chapter XII
International Agreements

Article 50. Priority of international agreements

If an international agreement signed by the Republic of Latvia contains provisions other than those laid down by this Law, the provisions of the international agreement shall be applicable.

Transitional Provisions

1. Registration of European patents, the applications for the grant of which have been filed with the European Patent Office before the date of entry into force of the Agreement between the Government of the Republic of Latvia and the European Patent Organisation in the Field of Patents, shall be continued in the Republic of Latvia provided that:

1) the patent owner files with the Patent Office a request for registration no later than one year from the date of grant of the corresponding European patent;

2) the officially certified copy of the patent and the copy of the description of the invention as well as a translation of the invention formula (claims), abstract of the invention and textual matter on the drawings into the Latvian language are attached to the request;

3) a corresponding fee is paid;

4) the invention is patentable.

2. A registered European patent shall have the same legal effect as the patent of the Republic of Latvia and the same provisions of this Law shall apply to it with the following exceptions:

1) exclusive rights conferred by the patent come into force as of the publication date of the announcement of the registration of the European patent by the Patent Office, and

expire no later than 20 years from the filing date of the request for the registration of the European patent with the Patent Office;

2) the provisions of Article 33, Paragraph 1, of this Law shall apply with regard to a registered European patent where the use of the invention has been started in good faith or the necessary preparations for such use have been made before a request for the registration of the European patent in the Republic of Latvia is filed with the Patent Office;

3) the invalidation or lapse of the European patent before the term expires in the country of its origin, shall not be considered as the grounds for declaring the registered patent null and void in the Republic of Latvia.

3. The provisions of Article 31, Paragraph 5 of this Law on extension of the term of a patent shall apply to patents granted before the entry into force of this Law provided that the requirements of Article 7, Paragraph 9 are fulfilled.

4. A person who has been registered with the Patent Office as a professional patent attorney (Article 29, Paragraph 6) before the entry into force of this Law shall maintain this right notwithstanding the nationality of the person.

5. Up until the time when the Regional court of Riga and other Regional courts start to function, disputes referred to in Paragraph 3 of Article 48 of this Law shall be subject to the District (city) court in the jurisdiction of which the Patent Office resides. Other disputes related to patent rights as well as appeals against the decisions of the courts of the first instance shall be reviewed subject to the court jurisdiction prescribed by the civil procedural laws.

6. From the date this Law enters into force the Patent Law of March 2, 1993, (Latvijas Republikas Augstakas Padomes un Valdibas ziootajs , 1993, No. 12) shall have no effect. This Law, with the exception of its Chapter V, enters into force on the day following the date of its publication. Chapter V of this Law shall enter into force on the date when the Agreement between the Government of the Republic of Latvia and the European Patent Organisation in the Field of Patents enters into force. The Patent Office shall publish a corresponding announcement in its official publication and transmit this announcement for publication in the newspaper “Latvijas Vèstnesis”.

Adopted by the Saeima on March 30, 1995.

Riga, April 19, 1995

President of the State *G. Ulmanis*