

LAW ON INDUSTRIAL PROPERTY

Adopted by the Assembly of Republic of Macedonia on 20.06.2002.
According to Art.229 the regulations provided by in this Law shall be enacted by 31.12.2003.

BASIC PROVISIONS

Contents of law

Article 1

This law regulates the acquisition, exercising and protection of industrial property rights.

Industrial property rights

Article 2

(1) Industrial property rights shall be patent, industrial design, trademark and appellation of origin and geographical indication.

(2) Patent shall be used for protection of invention.

(3) Industrial design shall be used for protection of new form of a body, picture, drawing, contours, composition of colors or a combination of these features-design.

(4) Trademark shall be used for protection of trade sign.

(5) Appellation of origin and geographical indication shall be used for protection of geographical name.

Definitions

Article 3

Certain expressions used in this law have the following meaning:

- “industrial property rights” are rights from intellectual creations and economic connections in the field of industry and trade, as well as agriculture under Article 2 paragraph 1 of this Law;
- “patent” is an industrial property right used for protection of an invention in a procedure provided for by this Law;
- “industrial design” is an industrial property right acquired in procedure for protection of design provided for by this law;
- “trademark” (mark for goods, service mark, collective mark and certification mark) is an industrial property right acquired in procedure for protection of trade sign provided for by this Law;
- “geographical indication” is an industrial property right acquired in procedure for protection of a geographical name provided for by this Law;
- “appellation of origin” is an industrial property right acquired in procedure for protection of a geographical name provided for by this Law;
- “invention” is a solution of a technical problem in the context of Article 19 of this Law referring to a product, process or substance per se which came as a result of specific process;
- “design” is a new form of a body, picture, contours, composition of colors, texture or combination of these features within the meaning of Article 82 of this Law;
- “trade sign” is a sign that can be presented graphically and fulfils the conditions under Article 124 of this Law;
- “geographical name” within the meaning of this Law is a name and/or indication of the country, region or place marking the product which originates from that region;

- "subjects of industrial property rights" are domestic or foreign legal and natural persons that acquired industrial property rights in a procedure provided for by this Law;
- "Paris Convention for Protection of Industrial Property" is the Convention passed 1883 that came into force 1884 as revised and amended (hereinafter: "Paris Convention").
- "Patent Cooperation Treaty" is the Treaty signed June 19, 1970, as revised and amended (hereinafter PCT);
- "Madrid Agreement Concerning the International Registration of Marks" as revised and amended (hereinafter: Madrid Agreement);
- "Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of Registration of Marks" as revised and amended (hereinafter: Nice Agreement);
- "Locarno Agreement Establishing an International Classification for Industrial Designs as revised and amended (hereinafter: Locarno Agreement);

Principle of legality

Article 4

(1) The rights recognized on the basis of this Law cannot be used contrary to the Constitution, the laws and the good business practice.

Subjects of industrial property rights

Article 5

(1) Subjects of industrial property rights are domestic and foreign legal and natural persons.

(2) Under this Law, foreign legal and natural persons in respect of protection of industrial property rights in the Republic of Macedonia shall enjoy the same rights as domestic legal and natural persons in conformity with international agreements and conventions or by application of the principle of reciprocity.

(3) The existence of reciprocity under paragraph (2) of this Article shall be determined by the Minister of Justice, under conditions and in procedure determined by law.

Rights of subjects of industrial property rights

Article 6

(1) The inventor of patent or author of industrial design has moral and economic rights on his creations determined by law.

(2) The subjects referred to in paragraph (1) of this Article, the owner of trademark, the authorized user of appellation of origin and the authorized user of the geographical indication also have other rights under international agreements and conventions, other laws, general acts and agreement.

Moral right

Article 7

(1) The inventor and the designer shall have the moral right to be mentioned in the application and the documents referring to the patent and the industrial design.

(2) If the invention or the design comes as a result of the creative work of more than one person, they all shall have the right under paragraph (1) of this Article.

Economic right

Article 8

(1) The economic right of the owner of patent, industrial design and trademark includes the right for using, disposing, right for compensation and prohibition of unauthorized use by third person(s) in the cases and in a manner provided for by international agreements and conventions, this Law, other law and agreement.

(2) The owner of collective mark and the authorized users of appellation of origin and geographical indication shall have the rights under paragraph (1) of this Article, apart from the right for disposal.

Industrial Property Protection Office

Article 9

(1) The administrative procedure for acquisition and protection of industrial property rights shall be performed by the Industrial Property Protection Office (hereinafter: "the Office").

(2) The Office is a body under the Ministry of Economy having capacity of legal entity.

Registers and Official Gazette of the Office

Article 10

(1) The Office keeps registers of applications, registers of recognized industrial property rights and registers of representatives in the field of industrial property.

(2) The registers referred to in paragraph (1) of this Article shall be open to the public.

(3) The data on the applied for protection and recognized industrial property rights shall be published in the Official Gazette issued by the Office under the provisions of this Law.

Types of applications for industrial property right protection

Article 11

(1) Protection of industrial property rights in the Republic of Macedonia shall be sought by filing the adequate application to the Office.

(2) The Office shall also accept applications requiring protection of industrial property rights abroad if that is in accordance with the international agreements and conventions, which have been ratified by the Republic of Macedonia.

(3) Protection of industrial property rights may also be required in the Republic of Macedonia with an application filed abroad, if that is in accordance with the international agreements and conventions, which have been ratified by the Republic of Macedonia.

(4) The applicant referred to in paragraph (3) of this Article shall have the same rights as the national applicants, unless provided otherwise by the respective agreement or convention.

Filing application

Article 12

(1) Application for recognition of industrial property right shall be filed in writing, personally, by mail or by electronic means.

(2) Application for recognition of industrial property right may be filed in foreign language provided that it includes indication of the requested right and information for contact with the applicant in Macedonian language.

(3) If the application is filed in a foreign language, within 90 days from the date of filing the application in a foreign language, the applicant must submit translation of the application in Macedonian language. Otherwise, the application shall be deemed to be withdrawn.

Administrative procedure

Article 13

(1) In the administration procedure for acquisition, exercising, maintenance and protection of industrial property rights the Office shall decide in first instance.

Appeal to first instance decision

Article 14

(1) The applicant shall have the right to appeal to a first instance decision issued by the Office to a commission of the Government of the Republic of Macedonia.

(2) The Commission referred to in paragraph (1) of this Article shall consist of five members appointed by the Government of the Republic of Macedonia who shall be scientists and experts in the field of industrial property right.

(3) Members of the Commission under paragraph (1) of this Article may not be persons who are registered agents in the field of industrial property, lawyers, legal agents of trade companies or other persons who may have any interest in acquisition, exercising and protection of industrial property rights.

Procedure in accordance with international agreements

Article 15

(1) The Office shall perform the procedure referring to applications under Article 11 paragraphs (2) and (3) of this Law in accordance with the international agreements which have been ratified by the Republic of Macedonia.

Exercising rights through representative

Article 16

(1) In the procedure before the Office and the governmental administration bodies, the foreign legal or natural persons shall exercise their rights arising from this Law through a representative who is a domestic legal or natural person registered for representation in the field of industrial property.

Availability of Office documentation and information

Article 17

(1) The Office is obliged to make available to all interested legal and natural persons its documentation and information for applied for protection and protected industrial property rights, apart from the documentation which has not been published in the Official Gazette issued by the Office.

(2) Only information from the register of applications shall be available for the applications for industrial property right.

(3) Unpublished application may be made available only with consent of the applicant.

(4) The documentation and information referred to in paragraph (1) of this Article, as well as the other services related to protection of industrial property, shall be made available after paying specified expenses.

Fees and expenses

Article 18

(1) For acquisition and maintenance of industrial property right fees shall be paid under the Law on administrative fees, as well as specific expenses in the procedure for recognizing the right.

(2) The Government of the Republic of Macedonia shall determine the amount of the specific expenses in the procedure referred to in paragraph (1) of this Article and the expenses for giving information services referred to in Article 17 paragraph (4) of this Law.

PART ONE

PATENT

Object of patent protection

Article 19

(1) Patent shall be granted for invention in all fields of technique and technology which is new, involves inventive step and is susceptible of industrial application.

(2) The following in particular shall not be considered to be inventions within the meaning of paragraph (1) of this Article:

1. discovery, scientific theory and mathematical method;
2. esthetic creation;
3. plan, rule and procedure for performing intellectual activity, playing games or doing business, as well as computer program;
4. presentation of information.

(3) Exception to the object of protection under paragraph (2) of this Article shall be possible only if the subject matter of the patent application does not refer to some of those objects per se.

Exceptions to patent protection

Article 20

(1) The following shall be excluded from protection by patent:

- inventions related to new animal species and plant varieties and essentially biological processes for production of animals or plants, apart from inventions related to microbiological processes and products from such processes;
- inventions for surgical and diagnostic methods or method for treatment of living human or animal body, apart from inventions related to a product, in particular substances or compositions used for application of any of these methods;
- inventions the publishing or exploitation of which would be contrary to the public order or morality, where exploitation of invention shall not be deemed as such only because of the fact that it is prohibited by law.

Novelty of invention

Article 21

(1) Invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of oral or written description of the invention, by use or in any other way before the date of filing the patent application in a manner which allows to be applied by experts skilled in the art.

(3) The state of the art under paragraph (2) of this Article shall also include:

- the contents of national patent applications, as originally filed in the Office, apart from patent applications that have been rejected or withdrawn before the publication date;
- European patent applications, as originally filed in the European Patent Office under the European Patent Convention requesting protection in the Republic of Macedonia;
- International applications, as originally filed under the Patent Cooperation Treaty filed to the Office as elected institution.

(4) The provisions from paragraphs (1) to (3) of this Article shall not exclude from patentability any substance or composition comprised in the state of the art where it is intended for use in method or treatment referred to in Article 20 paragraph (1) item 2 of this Law, provided that such use is not comprised in the state of the art.

Non-prejudicial disclosures

Article 22

(1) While estimating whether the invention is new under Article 21 of this Law, the fact that the invention was available to the public six months prior to the filing of the application shall not be taken into consideration if it was due to or in consequence of:

- evident abuse in relation to the applicant or his legal predecessor, or
- the fact that the applicant or his legal predecessor had exhibited the invention at an official or officially recognized exhibition falling within the terms of the Convention on International Exhibitions signed at Paris on November 22, 1928 and last revised on May 31, 1988.

(2) The provision under paragraph (1) item 2 of this Article shall be applied only if while filing the application the applicant indicates that the invention had been exhibited and submits written certificate issued by the competent authority of the state where it was exhibited.

Inventive step

Article 23

(1) Invention shall be considered to involve an inventive step if, having regard to the state of the art within the meaning of Article 21 paragraph (2) and (3) of this Law, it is not obvious to a person skilled in the art.

(2) The applicant may renounce the initial application and file a new application for the same invention and, in that case, the first application shall not be taken into consideration in deciding whether there has been an inventive step in the later application.

Industrial applicability

Article 24

(1) Invention shall be considered susceptible of industrial application if the object of protection can be manufactured or used in any branch of industry, including agriculture.

Subjects of patent rights

Article 25

(1) The right to a patent shall belong to the inventor or his successor in title.

(2) If the invention has been created jointly, by several inventors, the right to patent shall belong to all inventors or their successors in title.

Inventor

Article 26

(1) Inventor shall be the person who had created the invention in the course of his creative work.

(2) The person who has contributed to the creation of an invention by providing only technical assistance shall not be deemed to be inventor.

Inventor's successor in title

Article 27

(1) Inventor's successor in title shall be legal or natural person entitled to acquire a patent right by virtue of law, legal business, inheritance or court decision.

(2) The employer shall be considered to be inventor's successor in title where by virtue of law or employment contract he has the right to acquire patent for invention created under inventor's employment.

Initiation of procedure

Article 28

(1) Patent granting procedure shall be initiated by filing a patent application to the Office.

(2) Patent granting procedure may also be initiated by filing European patent application and application filed in accordance to the Patent Cooperation Treaty (PCT).

(3) Patent granting procedure on applications referred to in paragraph (2) of this Article shall be prescribed by regulations issued by the Minister of Economy.

Unity of invention

Article 29

(1) Each invention shall be filed as separate patent application.

(2) One patent application may contain more than one invention linked in such a way as to form a single inventive concept.

Priority right

Article 30

(1) As from the date of filing a proper patent application in the Office, the applicant shall have priority right to any other person who shall later file an application for the same invention.

(2) Exception to paragraph (1) of this Article shall be the case when the conditions for recognition of union or exhibition priority right under Articles 31 and 32 of this Law are fulfilled.

Exhibition priority right

Article 31

(1) A person who has exhibited an invention at an officially recognized international exhibition or fair in the Republic of Macedonia or in any of the states member of the Paris Union may claim in his application that the date of the first day of exhibition of the invention be accorded as priority date within 90 days from date of the closing of the exhibition or fair.

(2) The application referred to in paragraph (1) of this Article shall be accompanied by a certificate issued by a competent authority of the state member of the Paris Union proving that the exhibition or fair was recognized within the meaning of the Convention for International Exhibitions and shall indicate the type of exhibition or fair, its place, its opening and closing date or the date of use.

Union priority right

Article 32

(1) Any legal or natural person who had filed a proper patent application in any of the state member of the Paris Union or of the World Trade Organization shall be granted priority right in the Republic of Macedonia from the date of filing the first application if that is claimed within 12 months of the filing date of the first application.

(2) The application referred to in paragraph (1) of this Article shall be considered proper if the filing date is determined under the national legislation of the state member of the Paris Union or the World Trade Organization in which it was filed or in accordance with the international agreements made between the states member of the Union, regardless of the future legal outcome of the application.

Obligations of applicant for union priority

Article 33

(1) The applicant who intends to use the priority right referred to in Article 32 of this Law shall be obliged in the application filed in the Republic of Macedonia to give all information on the application the priority to which is claimed and, no later than 90 days from the date of filing the application, to submit a priority document certified by the competent authority of the state member of the Paris Union in which the first application was filed.

Multiple priority right

Article 34

(1) The applicant may file a claim for grant of multiple priority right on the basis of several earlier applications filed in one or more states member of the Paris Union.

(2) Where multiple priority right is claimed, the time limits under this Law shall run from the date of granted priority right starting from the earliest date of multiple priority right.

Scope of priority claim

Article 35

(1) The priority claim shall relate only to such characteristics of the invention which are contained in the first application or applications for which priority is claimed.

(2) If certain characteristics of the invention do not appear among the patent claims contained in the first application or applications for which priority is claimed, it shall be sufficient for recognition of priority right that all other documents of application as a whole specifically disclose such characteristics.

Priority document

Article 36

(1) On request of the applicant, the Office shall issue a priority document as of the date accorded as filing date of the patent application.

(2) The conditions, procedure and contents of the priority document referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.

Amendments in patent application

Article 37

(1) Patent application with accorded filing date may not be additionally amended by extending the object for which protection is required.

Contents of patent application

Article 38

- (1) Patent application shall contain:
1. request for grant of patent;
 2. description of the invention;

3. one or more patent claims;
4. brief contents of the essence of the invention (abstract);
5. drawing (if necessary) referred to in the description and the patent claim;
6. evidence for paid application fee;
7. translation in Macedonian language if the application was filed in foreign language.

(2) The other elements and supplements of the application shall be filed in manner and number of copies prescribed by the regulations issued by the Minister of Economy.

Contents of request for grant of patent

Article 39

- (1) The request for grant of a patent shall contain:
- an express indication that grant of a patent is required,
 - title of the invention expressing the essence of the invention,
 - indications concerning the applicant and the inventor.

(2) A written declaration of the inventor, in case he does not want to be mentioned in the application, shall be filed to the Office within two months from the filing date of the application.

Description of invention

Article 40

(1) The description of the invention must disclose the invention in a manner sufficiently clear and precise for it to be applied by a person skilled in the art in that field.

(2) If the application relates to a viable biological or microbiological material which cannot be described, the application must be accompanied with evidence that a sample of that material has been deposited with a competent depositary institution no later than the filing date of the patent application.

(3) The competent depositary institution referred to in paragraph (2) of this Article shall be considered to be an institution which complies with the requirements prescribed in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

Patent claims

Article 41

- (1) Patent claims shall define the subject matter for which protection is sought.
- (2) Patent claims shall be clear and fully contained in the description of the invention.
- (3) Patent claims may be independent and dependent.
- (4) The independent claims shall contain new, essential characteristics of an invention.

(5) The dependent claims shall contain specific characteristics of the invention defined in the independent or other dependent claim.

Abstract

Article 42

(1) Abstract shall be a short summary of the essence of an invention serving exclusively for information on the invention.

Proper application

Article 43

(1) Accordance of the filing date of the patent application shall require that on such a date the application contains:

1. request for grant of patent;
2. name or company name and residence or business seat of the applicant;
3. description of an invention and one or more patent claims.

Accordance of filing date of application

Article 44

(1) If the application does not contain all elements provided for in Article 43 of this Law, the Office shall notify the applicant that his application is not proper and that filing date cannot be accorded.

(2) If the filing date of the application cannot be accorded, the Office shall invite the applicant to correct the deficiencies referred to in paragraph (1) of this Article within 60 days from the day of receipt of the notification.

(3) If the applicant corrects the deficiencies within the prescribed time limit, the Office shall issue a conclusion for accordance of the filing date.

(4) Filing date shall be considered to be the date of reception of a proper application within the meaning of Article 43 of this Law submitted by the applicant under the notification.

(5) If the applicant fails to correct the deficiencies within the prescribed time limit, the application shall be rejected by conclusion.

Register of patent applications

Article 45

(1) The application the filing date of which had been accorded by conclusion shall be entered in the register of patent applications.

(2) The contents of the register of patent applications and the manner of its keeping shall be prescribed by the regulations issued by the Minister of Economy.

Division of patent application

Article 46

(1) The applicant may divide the subject matter of the patent application having accorded filing date (the original application) into two or more applications and separate procedure shall be carried out on the basis of each of them.

(2) Division of the original patent application shall be possible until the issuing of the decision for grant of patent.

(3) Patent application resulting from division of the original application (a divisional application) shall maintain the filing date of the original application and enjoy the priority thereof.

Ordering patent application

Article 47

(1) After the entering of the patent application in the register of patent applications, the Office shall examine whether:

1. the filing fee for the application has been paid;
2. translation of the application in Macedonian language has been filed, where the application is in a foreign language;
3. the drawings referred to in Article 38 paragraph (1) item 5 of this Law have been filed;
4. proper power of attorney has been filed, where the application was filed through a representative.

(2) If the patent application does not contain all basic elements referred to in paragraph (1) of this Article, the Office shall invite the applicant to correct the determined deficiencies within 90 days from the day of receipt of the invitation.

(3) On reasoned request of the applicant, the time limit referred to in paragraph (2) of this Article may be extended for justified reasons by no more than 60 days.

(4) If the applicant fails to correct the determined deficiencies referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall rejected the patent application by issuing a conclusion.

(5) Where a patent application refers to drawings which are not included in the application, the Office shall notify the applicant that he may file them within the prescribed time limit.

(6) If the applicant does not comply with the notification of the Office referred to in paragraph (5) of this Article, any reference to the drawings shall be considered to be non-existent.

(7) If the applicant corrects the application within the time limit, the application shall be deemed to be proper.

Processing patent application in case of dispute

Article 48

(1) In case of dispute regarding the right from the patent application, the applicant may require the Office to process the application immediately.

(2) Request for immediate processing of the application may not be filed earlier than 12 months from the date of filing the patent application.

(3) In case of dispute referred to in paragraph (1) of this Article, the applicant shall submit evidence from substantive examination performed in one of the institution for examination under this Law.

Examining contents of patent application

Article 49

(1) The examination of the patent application shall establish whether the application complies with the following requirements:

1. whether the inventor has been mentioned;
2. whether a proper priority claim has been filed within the meaning of Articles 31 and 32 of this Law, where priority right is claimed;
3. where the applicant is represented by a representative, whether the representative is entered into the Register of representatives kept by the Office;
4. whether the application complies with the rule on unity of invention under Article 29 of this Law;
5. whether the separate elements of application are in accordance with Article 38 paragraph (2) of this Law;
6. whether the subject matter of the application is at first sight patentable under Article 19 paragraph (2) and (3) and Articles 20, 21(3), 22 and 24 of this Law.

Deficiencies of patent application

Article 50

(1) If the Office determines that the patent application does not meet all basic requirements under Article 49 of this Law, it shall notify the applicant of that fact in writing and invite him to correct the determined deficiencies within 60 days as of the day of receipt of the notification.

(2) On reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (1) of this Article by no more than 60 days.

(3) The Office shall issue a conclusion for rejection of the patent application if the applicant fails to correct the deficiencies determined in the notification referred to in paragraph (1) of this Article 37 within the prescribed time limit.

Payment of expenses and fees

Article 51

(1) Where the patent application complies with the requirements under Article 49 of this Law, the Office shall issue a conclusion that the requirements for grant of a patent had been fulfilled and invite the applicant to pay the expenses for publication of the patent in the Official Gazette of the Office, the expenses for issuing a patent certificate and patent specification and the maintenance fee within 30 days.

(2) The Office shall issue a conclusion for rejection of the patent application if the applicant fails to pay the expenses referred to in paragraph (1) of this Article.

Decision for grant of patent

Article 52

(1) If the applicant acts in compliance with the conclusion in the time limit set in Article 51 paragraph (1) of this Law, i.e. pays the prescribed fees and expenses, the Office shall issue a decision for grant of a patent for the first ten years of validity and invite the applicant within nine years to submit written evidence of substantive examination issued by institutions authorized for substantive examination.

(2) The data from the decision for grant of a patent shall be entered in the patents register at the day of issuing of the decision and shall be published in the Official Gazette of the Office within 90 days from the day of issuing.

Decision for refusal of patent application

Article 53

(1) The Office shall issue a decision for refusal of the claim for grant a patent if the application has been filed for an invention which is not patentable under Article 19 paragraphs (2) and (3), Article 20 and Article 24 of this Law.

(2) Decision for refusal of patent application shall not be issued if the applicant had not been previously notified in writing about the grounds on which the claimed right cannot be recognized and invited to make a declaration thereon.

Filing evidence of substantive examination

Article 54

(1) The patent-owner or owner of the exclusive right from patent is obliged to submit translation in Macedonian language of the evidence of substantive examination performed in one of the institution for examination within nine years from the date of filing the application in the Office.

(2) If the applicant filed an application for recognizing the same invention to the patent offices of other countries, he may submit as evidence the translation of the results from the substantive examination or the granted patent.

(3) If the patent-owner or owner of the exclusive right from patent does not act in compliance with paragraph (1) of this Article, the validity of the patent in question shall expire on the date of the expiring on the tenth year of the patent term.

(4) The patent-owner or owner of the exclusive right from patent is also obliged to submit the evidence referred to in paragraph (1) of this Article if a third party had instituted an action for infringement of patent rights.

(5) In the case referred to in paragraph (4) of this Article, the Office shall rule an expeditious procedure for issuing a decision for grant of patent, partial grant of patent or refusal of the claim for grant of patent.

Institutions for substantive examination

Article 55

(1) The substantive examination of the patent application referred to in Article 52 shall be conducted in one of the institution for examination.

(2) The institution for examination referred to in paragraph (1) of this Article shall be as a rule national and international offices which under the Patent Cooperation Treaty (PCT) have the status of International Searching Authority or International Preliminary Examining Authority for international search or for preliminary examination of international patent applications.

Substantive examination

Article 56

(1) Substantive examination determines whether the invention is in compliance with all requirements for grant of a patent right, i.e. whether the subject matter of the application is:

1. invention which is patentable under Articles 19 and 20 of this Law;
2. invention which has been described in a manner that can be applied by a person skilled in art under Article 40 of this Law;
3. invention which is in compliance with the rule of unity of invention under Article 29 of this Law;
4. invention which is new under Article 21 paragraphs (1), (2) and (4) and Article 22 of this Law, which contains an inventive step under Article 23 of this Law and is industrially applicable under Article 24 of this Law.

Additional examination

Article 57

(1) The Office shall issue a decision for grant of patent on the basis of submitted evidence from the substantive examination under Article 54 paragraph (1) and (2) of this Law and on the basis of the additional examinations from this Article.

(2) The additional examination of a patent application shall establish whether the invention complies with the requirements for grant a patent, i.e. whether the subject matter of the application is:

1. invention which is patentable in compliance with Article 19 paragraph (2) of this Law;
2. invention which is new with regard to all patent applications filed earlier to the Office in compliance with Article 21 paragraph (3) of this Law.

Types of decisions

Article 58

(1) On the basis of the filed evidence, the Office shall determine to what extent the contents and scope of the patent claims for the given invention comply with the requirements under Articles 19, 20 and 21 of this Law and it shall issue one of the following decisions:

1. decision that the invention complies with all requirements referred to in Articles 19, 20, 21 and 22 of this Law and that patent claim(s) fully complies with those requirements;
2. decision that the invention only partially complies with the requirements referred to in Article 19, 21 and 22 of this Law and that it gives limited future validity of the patent claim(s) in the scope in which it complies with the requirements;
3. decision for declaring as nullity if the invention did not comply with the requirements for patent protection from the day of filing the patent application.

Entry in register

Article 59

(1) The data from the decision for grant a patent shall be entered into the patents register kept by the Office on the date of the decision.

(2) The data from the decision for rejection of patent application and for refusal of claim for grant a patent shall be entered into the register of patent applications.

(3) The contents and the manner of keeping the patents register shall be prescribed by the regulations issued by the Minister of Economy.

Publication

Article 60

(1) The data from the decision for grant a patent shall be published in the Official Gazette of the Office within 90 days from date of the decision of the grant thereof.

(2) The contents of the data on granted patent which are published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

Patent certificate

Article 61

(1) The patent-owner shall be issued a patent certificate within 6 months from the date of the decision on grant of patent.

(2) The patent certificate shall be accompanied by patent specification. The contents and form of the certificates and the patent specification shall be prescribed by the regulations issued by the Minister of Economy.

Patent for secret invention

Article 62

(1) The applications for grant of patent on invention referring to national defense shall be deemed to be secret and shall be filed to the Minister of Defense.

(2) The provisions under Articles 46, 47, 49, 50 and 51 of this Law shall apply mutatis mutandis in the procedure for grant of patent for secret invention, unless otherwise provided for by this Law.

(3) If in the procedure for examination of the filed application the Minister of Defense determines that the invention is not secret, the application shall be submitted to the Office.

(4) If in the course of procedure for examination of the application the Office determines that the invention is secret, it shall pass it on to the Minister of Defense.

(5) If the Minister of Defense determines that the invention ceased to be secret, the entire file shall be submitted to the Office.

(6) After receiving the patent, the Office shall enter the patent in the patents register, issue to the patent-owner a patent certificate and specification and publish the data under Article 60 of this Law.

Specifics of secret invention

Article 63

(1) Patent for secret invention shall not be published.

(2) Domestic legal and natural persons may apply for protection of secret invention abroad only with written consent of the Minister of Defense.

(3) The provisions under Articles 58 and 59 of this Law shall be applied mutatis mutandus for patent applications which are in interest of the state security.

(4) The Minister of Interior shall be competent to decide on the applications referred to in paragraph (3) of this Article.

(5) The Government of the Republic of Macedonia shall decide which inventions shall be considered secret under Articles 62 and 63 of this Law, as well as on the procedure for grant of patent for those inventions.

Use of secret invention

Article 64

(1) The Ministry of Defense has the exclusive right to use the secret invention and dispose of it.

(2) The patent-owner of secret invention protected by patent is entitled to remuneration, regardless whether the invention is being used in the defense and to which extent.

(3) The amount of the remuneration referred to in paragraph (2) of this Article shall be agreed by the applicant and the Minister of Defense.

(4) If agreement referred to in paragraph (3) of this Article is not reached, the applicant may ask the competent court to determine the amount of the remuneration.

Term of patent

Article 65

(1) The term of patent shall be twenty years as from the filing date of the patent application.

(2) The term of patent under paragraph (1) of this Article may be extended for over twenty years if the subject matter of the patent is a medical product or a product for protection of plants or process for their production which has to undergo an administrative authorization procedure required by law before it can be put on the market, but no for more than 5 years.

Supplementary protection certificate

Article 66

(1) The term of the patent under Article 65 paragraph (2) of this Law may be extended by issuing a supplementary protection certificate.

(2) The procedure for issuing supplementary protection certificate shall be prescribed by the regulations issued by the Minister of Economy.

Payment of fees

Article 67

(1) Before issuing a decision for grant of patent, the Office shall invite the patent-owner to pay the total amount of fees for maintenance of the patent right for the period from the filing date of the application to the date of the grant of patent.

(2) The annual maintenance fee for the forthcoming period shall be due on the date corresponding to the filing date of the patent application.

Ceasing of patent before expiration of validity

Article 68

- (1) A patent right shall cease before the expiration of its validity date:
1. if the prescribed fees and expenses are not paid, the day after the expiration of the time limit for payment thereof;
 2. if the patent-owner renounces his right, the day after the filing of the request for renouncing to the Office;
 3. on the basis of court decision or act of the Office in cases provided for by this Law, at the day determined in the decision or act;
 4. with the lapse of the legal person or upon the death of the natural person who is the patent-owner, on the day of lapse or death, or with the declaration of a missing patent-owner dead, on the day of the coming into force of the declaration, unless the right has been transferred to the legal successors in title of the legal person or to the heirs of the natural person;
 5. If the patent-owner or the owner of exclusive right from patent does not comply with Article 52 paragraph (1) and Article 54 of this Law, the validity of the patent shall expire on the date of the expiring of the tenth year of the patent term.

Rights of third person

Article 69

(1) If license, pledge or any other right of a third person has been entered into the patent register, the patent-owner may not renounce his rights without written consent from the person who is signatory of the license, pledge or other right.

(2) If the patent-owner fails pay the fee within the prescribed time limit and the license, pledge or any other right of a third person has been entered into the patents register, the Office shall notify the third person that the fee had not been paid and that in order to keep his right he shall have to pay the fee within six months from the date of the notification.

(3) In case of action for securing the registered rights of a third person, the court may decide to transfer the patent to the person in whose name the license, pledge or other right is entered into the register, if that is necessary for securing those rights.

(4) In the case referred to in paragraph (3) of this Article, the person to whom the patent rights was transferred by the court shall be considered fiduciary patent-owner.

Economic rights

Article 70

(1) The patent-owner shall have:

1. exclusive right to use the protected invention in production;
2. exclusive right to put on the market objects produced according to the protected invention;
3. right to dispose of the patent;
4. right to prohibit use of the protected invention in production or in trade by third person(s) who did not have his consent for that.

(2) The right under paragraph (1) of this Article refers to a patent for process and the product obtained directly by that process.

Free use

Article 71

(1) The patent-owner's right under Article 70 of this Law for exclusive exploitation of the invention shall not apply to:

1. acts in which the invention is exploited for private and non-commercial purposes;
2. acts done for the purpose of research and development of the subject matter of the protected invention, in particular: making, using, offering for sale, import or export of protected invention, where such acts are reasonably connected with experiments and tests necessary for registration of human and veterinary medications, medical and veterinary products or preparations for protection of plants;
3. direct and individual preparation of medicine in pharmacy on the basis of an individual medical prescription and acts relating to the medicine so prepared.

Process patent

Article 72

(1) If the patent was issued for process, its rights shall also refer to the products and substances directly obtained by that process.

(2) In absence of proof to the contrary, it shall be deemed that the product have been obtained by a protected process if the product is new or there is a reasonable doubt that the product was obtained by a protected process and that the patent-owner was not able to determine the process actually used in spite of the reasonable efforts.

(3) It shall be deemed that there is reasonable doubt that the product was obtained by protected process if the protected process is the only known process.

(4) The burden of the proving referred to in paragraph (1) of this Article shall fall on the alleged infringer only if one of the conditions referred to in paragraph (2) of this Article is fulfilled.

Scope of exclusive rights

Article 73

(1) The scope of the exclusive rights of the patent-owner shall be determined with the text of the patent claims which have been finally accepted in the patent granting procedure, where the description and the drawings shall be used for interpreting the patent claims.

Right based on prior use

Article 74

(1) The patent right shall have no effect on the person who used the invention prior to the filing date of the application or the date of recognized priority right in good faith and not publicly in the Republic of Macedonia or performed preparation necessary for use thereof.

(2) The person referred to in paragraph (1) of this Article shall have the right, without consent from the patent-owner, to continue using the invention to the extent to which it was used or prepared for using from the filing date of the application for the invention.

Exception from infringement of patent right

Article 75

Use of product made on the bases of patent in construction or equipment of a ship, aircraft or land vehicle belonging to any of the states member of the Paris Union shall not be considered to be patent infringement where such means of transportation finds itself temporarily or accidentally on the territory of the Republic of Macedonia, provided that the product serves exclusively for the purposes of that means of transportation.

Compulsory license

Article 76

(1) If the patent-owner does not exploit the protected invention or exploits it to the extent which is insufficient to satisfy the needs of the Macedonian market, and refuses to conclude a license agreement or sets forth non-market conditions for conclusion of such agreement, the right of use of the invention may be given to another person with obligation to pay remuneration to the patent-owner.

(2) Compulsory license shall not be given if the patent-owner proves the existence of legitimate reasons justifying the non-exploitation or insufficient exploitation of the protected invention.

Processing request for compulsory license

Article 77

(1) Request for grant of compulsory license shall be processed in a litigation procedure by a court on the basis of an opinion from the administrative body competent in the area to which the license refers.

When to file request for compulsory license

Article 78

(1) Request for grant of a compulsory license may not be filed before the expiration of the period of 4 years as of the filing date of the application or before the expiration of the period of 3 years as of the date of the patent grant, whichever occurs later.

(2) If the exploitation of the protected invention is of public interest, for example for health, defense, security, improvement of living environment, or of particular interest to a given branch of economy, compulsory license may be granted even before the expiration of the terms referred to in paragraph (1) of this Article.

Remuneration

Article 79

(1) Where compulsory license is granted, the patent-owner has the right to adequate remuneration.

(2) The amount of the remuneration is agreed by the patent-owner and the user to whom the license was granted, i.e. who shall be using the invention protected with patent.

(3) If agreement is not achieved, the amount of the remuneration shall be determined by the competent court.

(4) The absence of agreement or court decision referred to in paragraph (3) of this Article shall not prevent the person who was granted license from exploiting the invention.

Duration of compulsory license

Article 80

(1) Compulsory license shall not be exclusive.

(2) The duration of the compulsory license shall be connected exclusively with the duration of the reasons it had been granted for.

(3) The compulsory license shall not be transferable.

Compulsory license of dependant patent

Article 81

(1) Compulsory license may also be granted if the invention protected by patent cannot be exploited fully or partially without using some other invention protected with previous patent where the later invention, which is a more significant technical progress, is of particular significance to state economy or for supplying the general needs.

(2) If compulsory license is granted under paragraph (1) of this Article, the owner of the former patent may request compulsory license for exploiting the invention of the later patent.

PART TWO

INDUSTRIAL DESIGN

Object of protection

Article 82

(1) Industrial design right shall protect appearance, picture, drawing, contours, composition of colors, texture, or combination of these features applicable on certain industrial or handcraft products or part thereof to the extent that it fulfils the requirements as to novelty and individual character.

(2) For the purpose of this Law, the term "design" shall be use for appearance, picture, drawing, contours, composition of colors, texture, or combination of these features applicable on certain industrial or handcraft products or part thereof to the extent that it fulfils the requirements as to novelty and individual character.

Product and parts of product

Article 83

(1) The product under Article 82 paragraph (1) of this Law shall be any industrial or handcraft object, including parts intended for incorporation in a complex product.

(2) Under this Law, the product shall be complex where it consists of different physical parts united in one physical unit, as well as a number of independent parts that form that unit.

(3) The new appearance, picture, drawing, contours, composition of colors, texture or combination of these features applied on a product intended to be incorporated in a complex product may be protected as industrial design if the incorporated part for which protection is sought remains visible during normal use of the complex product, and if the visible new appearance, picture, drawing, contours, composition of colors, texture or combination of these features applied on the incorporated part fulfils the requirements as to novelty and individual character.

(4) Normal use referred to in paragraph (3) of this Article shall refer to use with purpose by the user of the product and shall not apply to maintenance and repairing of the product.

Novelty of design

Article 84

(1) A design of product shall be considered new under this Law if it is essentially different from any design previously applied for protection or made available to the public prior to the filing date of the application, except if the application was withdrawn before the publication of the decision for grant of industrial design right.

(2) The design shall be deemed to have been made available to the public if it has been published as application or granted industrial design right, if it has been exhibited or used in trade or if it has been disclosed otherwise in the normal course of business that has made it known to the relevant business circles specialized in the given field.

(3) The fact that the filed design was made available to the public no more than six months prior to the filing date of the application without consent from the applicant shall not influence the assessment of novelty and individual character.

Individual character of design

Article 85

(1) Designs of products shall be considered identical when if features differ only in insignificant details.

(2) Design of product shall be considered to have individual character if a skilled person can immediately notice differences from any design which was previously made available to the public.

(3) Design of product shall not be considered to have individual character for the sole fact that its application refers to other industrial or handcraft products or parts thereof.

Absolute grounds for refusal

Article 86

- (1) An industrial design right shall not protect a design of product which:
1. is contrary to law or morality;
 2. presents technical plan or scheme;
 3. exclusively presents cartographic or photographic work;
 4. contains national coat of arms or any other public coat of arms, flag or emblem, name or abbreviated name of a country or international organization, unless with consent from competent authority of that country or organization;
 5. contains or imitates appearance of a famous person, unless with consent from that person or the government body competent for general administrative affairs in the case of a deceased famous person;
 6. contains or imitates appearance of a person, unless with consent from that person;
 7. contains or imitates portrait of a deceased person, unless with consent from all successors of that person from the first order of succession.

Relative grounds for refusal

Article 87

- (1) An industrial design right may not protect design of product:
1. which is not new under Article 84 of this Law;
 2. which has no individual character under Article 85 of this Law;
 3. which is exclusively dictated by the type of that product or the product in which it is incorporated, or by the technical or functional characteristics necessary for achievement of a certain technical result or normal function of any of those products;
 4. which infringes previously granted rights of the holder.

(2) Grounds for exclusion from protection by industrial design right under paragraph (1) item 4 of this Article may be invoked only by the applicant of earlier application or the owner of earlier right.

Applicant

Article 88

(1) The designer or his successor in title shall be entitled to initiate procedure for acquiring industrial design right.

(2) If several designers have jointly created an industrial design, all the designers or their successors in title shall be deemed entitled to initiate a procedure referred to in paragraph (1) of this Article.

Designer

Article 89

(1) Designer shall be the person who created the design in the course of his creative work.

(2) A person who only provided technical assistance in the creation of industrial design shall not be deemed to be designer.

Designer's successor in title

Article 90

(1) Designer's successor in title shall be legal or natural person entitled to acquire an industrial design right by virtue of law, legal business, inheritance or court decision.

(2) The employer shall be considered to be designer's successor in title if by virtue of law or employment contract he has the right to acquire industrial design created under the inventor's employment.

Initiation of procedure

Article 91

(1) The procedure for grant of an industrial design right shall be initiated by filing an application for industrial design right to the Office.

(2) The procedure for grant of an industrial design right may also be initiated by filing an application for industrial design right under the Hague Agreement Concerning the International Deposit of Industrial Design of November 28, 1960 as completed in Stockholm on June 14, 1967 and amended on September 28, 1979.

Uniqueness of design

Article 92

(1) Separate application shall be filed for any new form of body, picture, drawing or combination thereof.

(2) One application for grant of right to industrial design may relate to two or more products (multiple application).

(3) Multiple application shall relate to products classified under a single subclass under the Locarno Agreement on International Classification for Industrial Designs (hereinafter: International Classification).

Priority right

Article 93

(1) As from the date of filing of a proper application of industrial design in the Office, the applicant shall have the right to acquire priority right over any other person who shall later file an application for the same design.

(2) Exception to paragraph (1) of this Article shall be the case when the conditions for filing an application for industrial design under Articles 94 and 95 of this Law are fulfilled.

Exhibition priority right

Article 94

(1) A person who has exhibited design at an officially recognized international exhibition or fair in the Republic of Macedonia or in any of the states member of the Paris Union may claim in his application that the date of first day of exhibition of the design be accorded as priority date within 90 days from date of the closing of the exhibition or fair.

(2) The application referred to in paragraph (1) of this Article shall be accompanied by a certificate issued by a competent authority of the state member of the Paris Union proving that the exhibition or fair was recognized within the meaning of the Convention for International Exhibitions and shall indicate the type of exhibition or fair, its place, its opening and closing date or the date of use.

Union priority right

Article 95

(1) Any legal or natural person who has filed a proper industrial design application in any of the states member of the Paris Union or of the World Trade Organization shall be granted priority right in the Republic of Macedonia from the date of filing the first application provided that it is claimed within 6 months from the filing date.

(2) The application under paragraph (1) of this Article shall be considered proper if the filing date is determined under the national legislation of the state member of the Paris Union in which it was filed or in accordance with the international agreements made between the states member of the Union, regardless of the future legal outcome of the application.

Obligations of applicant for union priority right

Article 96

(1) The applicant who intends to use the priority right under Article 95 of this Law shall be obliged in the application filed in the Republic of Macedonia to give all information on the application the priority to which is claimed and, no later than three months from the date of filing of the application, to submit a copy of the first application certified by the competent authority of the state member of the Paris Union with which the first application was filed.

Multiple priority right

Article 97

(1) The applicant may file a claim for grant of multiple priority right on the basis of several earlier applications filed in one or more states member of the Paris Union.

(2) Where multiple priority right is claimed, the time limits under this Law shall run from the date of granted priority right starting from the earliest date of multiple priority right.

Certificate for priority right

Article 98

(1) On request of the applicant, the Office shall issue a certificate of priority right as of filing date of the application for industrial design.

(2) The conditions, procedure and contents of the certificate referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.

Contents of application

Article 99

- (1) An industrial design application shall contain:
1. request for grant of industrial design;
 2. data on the applicant;

3. representation of the design for which protection is sought;
4. description of the design, if necessary for assessing novelty.

(2) An industrial design application shall be deemed as filed if it complies with the requirements referred to in paragraph (1) of this Article.

(3) Other components of the application and supplements to the application shall be filed in the manner and in the number of copies prescribed by the regulations issued by the Minister of Economy.

Accordance of filing date of application

Article 100

(1) If the application does not contain the elements provided for in Article 99 paragraph (1) of this Law, the Office shall notify the applicant that his application is not proper and that filing date cannot be accorded.

(2) If the filing date of the application cannot be accorded, the Office shall invite the applicant to correct the deficiencies in accordance with Article 99 paragraph (1) of this Law within 30 days from the day of receipt of the notification.

(3) If the applicant corrects the deficiencies within the prescribed time limit, the Office shall issue a conclusion for accordance of the filing date.

(4) Filing date shall be considered to be the date of receipt of a proper application within the meaning of Article 99 paragraph (1) of this Law, submitted by the applicant under the notification.

(5) If the applicant fails to correct the deficiencies within the prescribed time limit, the application shall be rejected by conclusion.

Register of industrial design applications

Article 101

(1) The application the filing date of which had been accorded by conclusion shall be entered in the register of industrial design applications.

(2) The contents of the register of industrial design applications and the manner of its keeping shall be determined by the regulations issued by the Minister of Economy.

Division of industrial design application

Article 102

(1) During the granting procedure, multiple industrial design application may, at the applicant's request, be divided into two or more applications.

(2) The request for division of industrial design application may be filed until the issuing of the decision for grant of industrial design right.

(3) The divided industrial design application shall maintain the filing date and the priority right of the first application.

Processing application in case of dispute

Article 103

(1) In case of dispute referring to infringement of the right from the industrial design application, the applicant may request the Office to proceed the application immediately.

(2) The request for immediate proceeding of the industrial design application may not be filed earlier than 90 days from the filing date.

Orderly filed application

Article 104

(1) After the entry of the industrial design application in the register of industrial design applications, the Office shall examine whether:

1. the filing fee for the application has been paid;
2. translation of the application in Macedonian language has been filed, where the application is in a foreign language;
3. the application contains the elements and supplements under Article 99 of this Law;
4. proper power of attorney has been filed, where the application was filed through representative.

(2) If the industrial design application does not contain the basic elements referred to in paragraph (1) of this Article, the Office shall notify the applicant to correct the determined deficiencies within 60 days from the day of receipt of the notification.

(3) On reasoned request of the applicant, the time limit referred to in paragraph (2) of this Article may be extended for justified reasons by no more than two months.

(4) If the applicant fails to correct the determined deficiencies referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall reject the industrial design application by issuing a conclusion.

(5) Where an industrial design application refers to supplements which are not included in the application, the Office shall notify the applicant that he may file them within the prescribed time limit. If the applicant does not comply with the notification of the Office, any reference to the supplements shall be considered to be non-existent.

(6) If the applicant corrects the application within the time limit, the application shall be deemed to be orderly filed.

Examination of application

Article 105

(1) If the Office determines that the patent application is proper under Article 104 of this Law, it shall examine whether the conditions for grant of industrial design right under Articles 84 and 85 of this Law are fulfilled.

(2) If the design for which industrial design application is filed cannot be granted on the grounds provided for in Articles 86 and 87 of this Law, the Office shall issue a decision on refusal or a decision on partial refusal of the application.

(3) Decision on refusal of the industrial design application may not be issued if the applicant has not been previously notified in writing about the grounds for full or partial exclusion from protection and invited to make a declaration thereon.

(4) The industrial design applicant shall have the right to make a declaration concerning the grounds for exclusion of design from protection within 90 days from the day of the receipt of a written notification and to submit evidence on possible new facts that might influence the final decision of the Office.

(5) In declaration the applicant may not additionally change the design.

(6) On reasoned request of the applicant, the time limit referred to in paragraph (4) of this Article may be extended for no more than 90 days.

Payment of expenses

Article 106

(1) Where the industrial design application complies with the requirements under Article 99 paragraph (1) and (3) of this Law, the Office shall issue a conclusion that the requirements for publication of a data from industrial design application had been fulfilled and invite the applicant to pay the expenses for publishing the industrial design in the Official Gazette of the Office within 30 days.

(2) The Office shall issue a conclusion for rejection of the industrial design application if the applicant fails to pay the expenses referred to in paragraph (1) of this Article.

(3) On reasoned request from the applicant, the publishing referred to in paragraph (1) of this Article may be postponed for the required period of no more than 12 months as from the filing date or the priority date if priority right is claimed.

Publication of industrial design application

Article 107

(1) If the applicant complies with Article 106 paragraph (1) of this Law, the Office shall publish the contents of the application in the Official Gazette of the Office within 90 days.

Opposition

Article 108

The opposition to the published industrial design application may, within 90 days from the date of publication, be filed to the Office by:

1. person who filed an earlier industrial design application;
2. person who at the time of filing the industrial design application had a trade name provided that this trade name or the essential part thereof is identical to the published design or part thereof;
3. natural person whose name, family name or appearance is identical to or essentially imitated by the published design;
4. owner of an earlier industrial property right, if the subject of such a right is identical to or essentially imitated by the published design;
5. any owner of a copyright on a work which is identical to or substantially imitated by the published design;
6. any interested person who is of the opinion that the published design has not met the requirements as to novelty or individual character or is exclusively dictated by the functional features of the product within the meaning Article 87 of this Law.

(2) The time limit for filing the opposition under paragraph (1) of this Article shall not be extended.

(3) The opposition shall be filed as prescribed by the regulations issued by the Minister of Economy.

Examination of opposition

Article 109

(1) The Office shall examine whether the opposition is filed by the person entitled to file opposition within the meaning of Article 108 paragraph (1) of this Law and whether the opposition is filed in the prescribed time limit.

(2) If the requirements referred to in paragraph (1) of this Article are not complied with, the Office shall issue a conclusion on rejection of the opposition.

(3) If the requirements referred to in paragraph (1) of this Article are complied with, the Office shall notify the industrial design applicant about the grounds specified in the opposition and invite him to make a declaration thereon within prescribed period that cannot be longer than 60 days.

(4) If the applicant does not declare himself on the reasons specified in the opposition within the time limit referred to in paragraph (3) of this Article, the Office shall decide on the grounds specified in the opposition.

Deciding on opposition

Article 110

(1) If the applicant declares himself on the grounds specified in the opposition and submits a response to it, the Office shall examine the justification of the opposition, taking into consideration the grounds for opposition and the response to the opposition.

(2) If the Office establishes that the opposition is unjustified, it shall refuse it by decision.

(3) The decision under paragraph (2) of this Article shall be sent to the applicant and to the person who filed the opposition.

(4) If the Office establishes that the opposition is justified, it shall refuse the industrial design application and communicate a written decision to that effect to the applicant and to the person who filed the opposition.

Grant of industrial design right and entry in register

Article 111

(1) If the conditions provided for in Articles 86 and 87 of this Law are fulfilled, the Office shall issue a conclusion that all requirements for grant of right to industrial design had been complied with and invite the applicant within 30 days to pay the maintenance fee for the first five-year term of the industrial design, the expenses for publication of the industrial design in the Official Gazette and the expenses for issuing an industrial design certificate.

(2) If the applicant pays the fees and expenses within the time limit referred to in paragraph (1) of this Article, the Office shall issue a decision for grant of right to industrial design and enter the granted right in the industrial designs register.

(3) If the applicant fails to pay the fees and expenses within the time limit referred to in paragraph (1) of this Article, the Office shall issue a conclusion for rejection of the application.

Scope of protection

Article 112

(1) The decision under Article 111 of this Law determines the scope of the granted protection of the industrial design right presented with the adopted description and presentation.

Acquisition of industrial design right

Article 113

(1) Industrial design right shall be acquired on the day of the issuing of the decision for grant of right and the entry of the industrial design in the register.

(2) The date of entering the industrial design in the register is the same as the date of issuing the decision for grant of industrial design.

Publication of industrial design

Article 114

(1) The data on the industrial design shall be published in the Official Gazette of the Office no later than 90 days from the date of entry of the industrial design in the register.

(2) The data published in the Official Gazette shall be prescribed by the regulations issued by the Minister of Economy.

Industrial design certificate

Article 115

(1) The industrial design owner shall be issued industrial design certificate within six months from the date of issuing a decision for grant of industrial design.

(2) The data contained in the Industrial design certificate shall be prescribed by the regulations issued by the Minister of Economy.

Moral rights of designer

Article 116

(1) The designer shall always have the right to be mentioned as the designer of the industrial design in all the documents and public presentations, irrespective of the fact whether he is the applicant or the right-owner.

(2) The transfer or waiver of the right under paragraph (1) of this Article shall be considered as nullity.

(3) If several designers have jointly created an industrial design, all the designers shall have equal rights, irrespective of their contribution to the creation of the industrial design, and therefore all of them shall have right to be mentioned as designers.

Economic rights

Article 117

(1) The owner of industrial design shall have the exclusive rights to apply the protected industrial design on products and put on the market products embodying protected industrial design.

(2) The owner of industrial design shall have the right to prohibit any unauthorized use of the industrial design by third persons.

(3) Without consent from the owner of industrial design, third person may not manufacture, offer, put on the market, import, export or use any product that embodies or imitates protected industrial design, nor store such a product for the specified purposes.

(4) The owner of industrial design is entitled to demand information about the origin of the product and trade circulation of the product or the documentation relating to that product from each person who had put or intends to put on the market a product that embodies or imitates protected industrial design.

Free use

Article 118

(1) The exclusive industrial design rights under Article 117 of this Law shall not affect the use of the product that embodies or on which protected industrial design is applied:

1. for private and non-commercial purposes;
2. for the purpose of informing the public or for education, if this is in compliance with good business practices and shall not harm the interests of the right-owner and designer;
3. for experimental and scientific purposes.

Exception from prohibition to use an industrial design

Article 119

(1) Use of product made on the bases of industrial design in the construction or equipment of a ship, aircraft or land vehicle belonging to any of the states member of the Paris Union shall not be considered to be industrial design infringement where such transport means finds itself temporarily or accidentally on the territory of the Republic of Macedonia, provided that the product serves exclusively for the purposes of that means of transportation.

Right based on prior use

Article 120

(1) The right-owner may not invoke the exclusive rights in relation to a third person who has been using the same industrial design or who has performed the relevant preparations for the use of the same industrial design prior to the filing date of the application to the Office or the date of granted priority right, if claimed, provided that the third person created the industrial design without knowledge of the existence of industrial design not available to the public at that time.

(2) Third person may not use the industrial design under paragraph (1) of this Article in a manner exceeding the boundaries of usual entrepreneurial activities.

Acquiescence in use of industrial design

Article 121

(1) The owner of the prior industrial design right shall have no right to:

1. request invalidation of a later granted industrial design on the basis of his priority right;
2. prohibit use of later granted identical or substantially similar industrial design, if he had within a five-year period consciously acquiesced this usage, unless the later industrial design was protected in bad faith.

(2) The owner of the later granted industrial design right should have no right to prohibit use to the owner of the earlier granted industrial design right.

(3) Acquiescence in the use of an industrial design within the meaning of paragraph (1) of this Article may not be a reason for its deletion from the register.

Term and maintenance of industrial design right

Article 122

(1) The term of industrial design right shall be 5 years from the filing date of industrial design application.

(2) The industrial design term may be renewed by periods of five years up to the total of 25 years, provided that the industrial design owner, during the last year of protection or within six months upon the expiration of that term, files to the Office a request for renewal of the industrial design validity and pays the appropriate maintenance fee and expenses.

(3) The new period of protection shall begin with the day of expiration of the preceding term of protection.

(4) The data to be contained in the request for renewal of the industrial design shall be prescribed by the regulations issued by the Minister of Economy.

Ceasing of industrial design right

Article 123

(1) An industrial design shall cease to be valid:

1. if the term of the industrial design validity under Article 122 of this Law has expired;
2. upon a written declaration of the right-owner on waiver of the industrial design the day following the day of filing the declaration to the Office;
3. with the lapse of the legal person or upon the death of the natural person who is the industrial design owner, on the day of lapse or death, or with the declaration of a missing industrial design owner dead, on the day of the coming into force of the declaration, unless the right has been transferred to the legal successors in title of the legal person or to the heirs of the natural person.

(2) The declaration referred to in paragraph (1) item 2 of this Article shall have no legal effect if certain right of third person has been entered in the register and the right-owner had not obtained written consent from those persons prior to that.

(3) The ceasing of industrial design validity shall be entered in the register of industrial designs.

PART THREE

TRADEMARK

Object of trademark protection

Article 124

(1) A trademark shall protect a sign which may be represented graphically and which is suitable for distinguishing goods or services of one undertaking from those of other undertakings.

(2) Trademark shall protect signs suitable for distinguishing, in particular: words, letters, numerals, pictures, drawings, combinations of colors, three-dimensional forms, including shapes of goods or their packaging, as well as combinations of all of the above-mentioned signs.

(3) The words and letters referred to in paragraph (2) of this Article may be written in any language and alphabet.

Distinctiveness

Article 125

(1) A sign shall be suitable for distinguishing if it gives certain goods or services character distinctive from identical or similar goods or services.

(2) While establishing whether a given sign is suitable for distinguishing, all circumstances shall be taken into consideration, particularly the time and scope of its past use in trade.

Absolute grounds for refusal

Article 126

(1) A trademark shall not protect a sign:

1. the publishing or use of which is contrary to law or morality;
2. which cannot be represented graphically;
3. which is not distinctive, i.e. suitable for distinguishing goods or services in trade;
4. which indicates exclusively kind of goods or services, their purpose, time or manner of production, geographical origin, quality, price, quantity or weight;
5. which is customary for marking certain kind of goods or services;
6. which exclusively consists of shape defined by the kind of goods, shape of goods necessary to obtain a specific technical result or shape giving substantial value to goods;
7. the appearance of which may create confusion in trade and mislead the average consumer particularly as to the geographical origin, kind, quality or any other characteristic of the goods or services;
8. which contains a national coat of arms or other public coat of arms, flag or emblem, name or abbreviated name of a country or an international organization, as well as imitations thereof, except with authorization from the competent authority of the country or organization;
9. contains or imitates appearance or name of a famous person, unless with consent from that person, or the government body competent for general administrative affairs in the case of deceased famous person;
10. which contains seal, official sign or hallmarks for control and guarantee of quality and imitations thereof;
11. which contains religious symbols or imitations thereof.

(2) The signs under paragraph (1) items 3, 4 and 5 of this Article may be protected by trademark if the applicant proves that during the long years of use, the sign acquired distinctiveness.

Relative grounds for refusal

Article 127

(1) Trademark may not protect a sign:

1. which is identical to earlier trademark filed for protection or registered by another person designating identical kind of goods or services;
2. which is identical with or similar to trademark, earlier filed for protection or registered by another person designating the same or similar kind of goods or services which would mislead the average consumer, including the possibility of association to earlier filed for protection or registered trademark.

(2) Trademark, earlier filed for protection shall be a reason for refusal within the meaning of paragraph (1) of this Article only if it was registered.

(3) The term "earlier filed for protection or registered trademark" shall comprise:

1. trademark enjoying priority right under the provisions of this Law;
2. earlier internationally registered trademark with effect in the Republic of Macedonia;
3. trademarks which at the time of filing the trademark application for the sign referred to in paragraph (1) of this Article are well-known in the Republic of Macedonia within the meaning of Article 6-bis of the Paris Convention or Article 16(3) from the TRIPs Agreement.

(4) Well-known trademark referred to in paragraph (3) item 3 of this Article shall be in particular trademark known to the relevant sector of the public and trademark which is well-known as a result of representation, publication and advertising in the public.

(5) A trademark shall not protect a sign which infringes earlier acquired rights of:

1. a person who at the time of filing the trademark application had a trade name, provided that the trade name or essential part of it is identical with or similar to the published sign and provided that he manufactures identical or similar goods or renders identical or similar services to those to whom the published sign refers, or where such goods or services are subject matter of the firm's activity;
2. a natural person whose name and surname or appearance are identical with or similar to the published sign;
3. the owner of earlier industrial property right, if the subject matter of such right is identical with or similar to the published sign;
4. the person having copyright on the work which is identical with or similar to the published sign.

(6) A trademark shall not protect a sign which is identical with or similar to a trademark the validity of which has expired on the ground of expiring of term of protection and if the right-holder failed to file a request for renewal of validity and pay the prescribed fees in the prescribed time limit, when a trademark application was filed before the expiration of the period of nine months, counting from the expiration date of the trademark validity, unless the protection of such a sign is required by the owner in whose name the trademark has been protected, or by his successor in title.

(7) Grounds for exclusion from trademark protection under this Article may be invoked only by the applicant of the earlier application or the owner of the earlier right.

Applicant

Article 128

(1) Procedure for acquiring right to trademark may be initiated by a natural or legal person.

Initiation of procedure

Article 129

(1) The procedure for grant of trademark shall be initiated by filing an application that contains request for grant of trademark and other relevant elements under this Law.

(2) Separate application shall be filed for each sign for which trademark protection is sought.

(3) One and the same trademark application may be used for requesting protection of two or more goods and services.

Contents of application

Article 130

(1) A trademark application shall contain:

1. a request for grant of a trademark;
2. appearance of the sign applied for trademark protection;
3. list of goods or services for which protection is sought.

(2) The other components and supplements of the application shall be filed in the manner prescribed by the regulations issued by the Minister of Economy.

Accordance of filing date of application

Article 131

(1) If the application does not contain the basic elements provided for in Article 130 paragraph (1) of this Law, the Office shall notify the applicant that his application is not proper and that filing date cannot be accorded.

(2) If filing date of the application cannot be accorded, the Office shall invite the applicant to correct the deficiencies in accordance to Article 130 paragraph (1) of this Law within 30 days from the date of receipt of the notification.

(3) If the applicant corrects the deficiencies within the prescribed time limit, the Office shall issue a conclusion for accordance of the filing date.

(4) Filing date shall be considered to be the date of reception of a proper application within the meaning of Article 130 paragraph (1) of this Law submitted by the applicant under the notification.

(5) If the applicant fails to correct the deficiencies within the prescribed time, the application shall be rejected by conclusion.

Division of trademark application

Article 132

(1) Any trademark application may, at request of the applicant, be divided during the trademark granting procedure into two or more applications in respect to the proposed list of goods and services.

(2) The divided applications shall maintain the priority right of the first application.

(3) Request for division of application shall be allowed if the applicant of the earlier application filed a request for protection of one trademark for two or more goods or services from the International classification of goods and services.

(4) The applicant shall accompany the request for division of the application by new trademark applications.

(5) The request for division of application may be filed until the issuing of the decision for grant of trademark right.

Priority right

Article 133

(1) If the trademark application is filed in accordance with Article 130 paragraphs (1) of this Law, the applicant shall acquire right of priority as from the date of filing of the application over any other applicant filing a later trademark application for protection of identical or similar sign and identical or similar goods or services.

Union priority right

Article 134

(1) Any citizen of the state member of the Paris Union who filed a proper application in any of the state member of the Paris Union or the World Trade Organization shall be granted priority right in the Republic of Macedonia from the date of filing of the first application, provided that he requires that within 6 months from the date of filing of the first application.

(2) The applicant who intends to use the priority right under paragraph (1) of this Article shall be obliged in the application filed in the Republic of Macedonia to give all information on the application (state, date and number of application) and, within 90 days from the date of filing the application, to submit a copy of the first application certified by the competent authority of the state member of the Paris Union or the World Trade Organization with which the first application was filed, as well as translation of the first application in Macedonian language.

Exhibition priority right

Article 135

(1) The person who exhibits goods or services marked by a specific sign at an officially recognized international exhibition or fair in the Republic of Macedonia or in any of the member states of the Paris Union may, within three months from the date of the closing of the exhibition or fair, file an application requesting that the date of exhibition of the goods or rendering of the services be accorded as priority date.

(2) The application referred to in paragraph (1) of this Article shall be accompanied by a certificate issued by a competent authority of the state member of the Paris Union proving that the exhibition or fair was recognized within the meaning of the Convention for International Exhibitions and indicate the type of exhibition or fair, its place, its opening and closing date and the first day of exhibiting the products or rendering the services specified in the application.

When time limits cannot be extended

Article 136

(1) With grant of priority right under Article 135 of this Law, the time limit under Article 134 of this Law shall not be expended.

Order of proceeding

Article 137

(1) Trademark applications shall be proceeded according to their filing date.

(2) As exception to paragraph (1) of this Article, an application may be proceeded immediately if:

1. request for international registration of trademark has been filed;
2. there is a dispute referring to infringement of the right;
3. where, under other regulations, it is necessary to perform earlier registration of a trademark.

(3) In the cases under paragraph (2) items 2 and 3 of this Article, the applicant shall file an individual request for immediate proceeding of the application and pay the prescribed fees.

(4) The request for immediate proceeding of application cannot be filed earlier than 90 days from the date of filing the application.

Proper trademark application

Article 138

(1) After entry of the trademark application in the register of trademarks application, the Office shall examine its correctness, i.e. whether it complies with the requirements prescribed by this Law and the regulations issued by the Minister of Economy.

(2) The trademark application shall be correct if:

1. separate application has been filed under Article 129, paragraph (2) of this Law;
2. the prescribed application fee has been paid and evidence of that submitted thereto;
3. it has been drafted in such a manner as to contain all the necessary components and supplements provided for in Article 130 paragraphs (1) and (2) of this Law;
4. an orderly power of attorney is attached thereto, if the application is filed through representative.

Trademark application that is not proper

Article 139

(1) If the application contains the basic elements under Article 130 paragraphs (1) of this Law, but is not filed in a way to contain all the necessary elements and supplements under this Law and the regulations issued by the Minister of Economy, the Office shall notify the applicant to correct the established deficiencies within no more than 90 days from the day of receipt of the notification.

(2) On reasoned request of the applicant, the time limit referred to in paragraph (1) of this Article may, for the justified reasons, be extended by no more than 90 more days.

(3) If the applicant corrects the application within the prescribed time limit, the application shall be considered to be proper.

(4) If the applicant fails to correct the deficiencies referred to in paragraph (1) of this Article within the prescribed time limit, the application shall be rejected by conclusion.

Decision for refusal of application

Article 140

(1) If the sign for which trademark application is filed is excluded from protection in respect to all or some of the specified goods or services on the grounds referred to in Article 126 of this Law, the Office shall issue a decision for refusal of the application.

(2) Decision for refusal of trademark application may not be issued if the applicant has not been previously notified in writing about the grounds for the full or partial exclusion from protection and invited to make a declaration thereon in due time.

(3) The trademark applicant shall have the right to make a declaration concerning the grounds for the exclusion of the sign from protection within 90 days from the day of receipt of the written notification and to submit evidence on the possible new facts that might influence the final decision of the Office.

Publication of application

Article 141

(1) If the trademark application complies with all the requirements regarding correctness of the application under Article 138 of this Law, if the sign is not excluded from protection under Article 126 of this Law and if the prescribed publication fee is paid, the data from application shall be published in the Official Gazette of the Office.

(2) The application data published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

Opposition

Article 142

(1) Opposition to a published trademark application may, within 90 days from the publication date, be filed with the Office by:

1. applicant of an earlier filed trademark application and owner of earlier registered trademark under Article 127 paragraphs (1) to (4) of this Law;
2. person who, at the time of filing the trademark application, had a trade name, provided that such trade name or essential part of it is identical with or similar to the published sign and provided that he manufactures identical or similar goods or renders identical or similar services to those the published sign refers to, or where such goods or services are subject matter of the firm's activity;
3. natural person whose name and surname or appearance are identical with or similar to the published sign;
4. owner of an earlier protected industrial property right, if the subject matter of that right is identical with or similar to the published sign;
5. any person having copyright on the work which is identical with or similar to the published sign.

(2) The time limit for filing opposition referred to in paragraph (1) of this Article shall not be extended.

(3) The opposition shall be filed in the manner prescribed by the regulations issued by the Minister of Economy.

Examination of opposition

Article 143

(1) The Office shall examine whether the opposition is filed by a person entitled to that under Article 142 paragraph (1) of this Law and whether the opposition is filed in the prescribed time limit.

(2) If the requirements referred to in paragraph (1) of this Article are not complied with, the Office shall issue a conclusion for rejection of the opposition.

(3) If the requirements referred to in paragraph (1) of this Article are complied with, the Office shall notify the trademark applicant about the grounds specified in the opposition and invite him to make a declaration thereon within prescribed period that cannot be longer than 60 days.

(4) If the applicant does not make a declaration on the grounds specified in the opposition within the time limit referred to in paragraph (3) of this Article, the Office shall decide within the boundaries of the grounds specified in the opposition.

Deciding on opposition

Article 144

(1) If the applicant makes a declaration on the grounds specified in the opposition, the Office shall examine the justification of the opposition within the boundaries of the specified grounds, taking into consideration the declaration thereon.

(2) If the Office establishes that the opposition is unjustified, it shall be refused with decision.

(3) The decision under paragraph (2) of this Article shall be sent to the applicant and to the person who filed the opposition.

(4) If, in the examination procedure on the opposition, the Office establishes that the opposition is justified, it shall refuse the trademark application and submit a written decision to that effect to the applicant and to the person who filed the opposition.

Grant of trademark right and entry in register

Article 145

(1) If the requirements provided for in Article 126 paragraph (1) and Article 127 paragraphs (1) to (6) of this Law are fulfilled, the Office shall issue a conclusion that the requirements for grant of a trademark right had been fulfilled and invite the applicant within 30 days from receipt of the conclusion to pay the fee for maintenance of the trademark for the first ten-year period, the expenses for publication of trademark in the Official Gazette of the Office and the expenses for issuing a trademark certificate.

(2) If the applicant pays the fee and expenses referred to in paragraph (1) of this Article within the prescribed time limit, the Office shall issue a decision for grant of a trademark right and enter the granted right in the trademark register.

(3) If the applicant fails to pay the fee and expenses referred to in paragraph (1) of this Article, the trademark application shall be rejected by conclusion.

Acquisition of trademark right

Article 146

(1) Trademark right shall be acquired by issuing decision for grant of the right and entry of the trademark in the register.

(2) The date of entering the trademark in register is the same as the date of issuing the decision for grant of the trademark.

Publication of trademark

Article 147

(1) The data on the trademark shall be published in the Official Gazette of the Office within 90 days from the date of entry of the trademark into register.

(2) The data published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

Trademark certificate

Article 148

(1) The Office shall issue to the owner a trademark certificate no later than six months from the date of publication of the trademark in the Official Gazette of the Office.

(2) The data in the trademark certificate shall be prescribed by the regulations issued by the Minister of Economy.

Economic rights

Article 149

(1) The trademark-owner shall have the exclusive right to use the trademark on the market for marking his goods or services.

(2) The trademark-owner shall have the right to use the symbol ® next to his trademark.

(3) The trademark-owner has the right to prohibit use on the market by a third person, without his consent, of a sign which is:

1. identical to trademark used for identical products or services;
2. identical or similar to trademark used for identical or similar products or services if that similarity may mislead the average consumer, including the possibility of association between the sign and the trademark;
3. identical or similar to trademark used for different products or services if the trademark is well-known in the Republic of Macedonia and if the use of that sign without justified reason may lead to unfair competition and damage the distinctive character or reputation of the trademark.

- (4) The prohibition under paragraph (3) of this Article shall also include:
1. applying the sign on products and their packages;
 2. giving services or putting on the market products marked with that sign, or storing products with that intention;
 3. import or export of products under that sign;
 4. use of the sign in correspondence, publishing or marketing.

Exception from prohibition to use the trademark

Article 150

(1) The trademark shall not entitle its owner to prohibit third persons to use in trade their name, surname, sign or trade name, address, indications on the kind, quality, quantity, purpose, value, geographical origin, date of production of the goods or rendering of the services or any other characteristic of the goods, irrespective of the fact that those indications are identical with or similar to the trademark or parts thereof, provided that they are used in compliance with the good business practices and does not lead to unfair market competition.

(2) The trademark shall not entitle its owner to prohibit third persons from using in trade a sign which is identical with or similar to a trademark if that is necessary for indicating the purpose of the goods, particularly the spare parts thereof, or the kind of services rendered in compliance with the good trade practices and does not lead to unfair competition.

Right based on prior use

Article 151

(1) The owner of prior trademark right shall not have the right to require cancellation of later trademark on the basis of his earlier priority right nor to prohibit use of the later trademark in relation to the goods or services for which the later trademark has been used, if he had acquiesced in this use for five consecutive years, unless the later trademark was protected in bad faith.

(2) The owner of a trademark with later priority right shall not have the right to prohibit use to the owner of earlier registered trademark.

Exhaustion of right

Article 152

(1) The owner of trademark shall not have the right to prohibit use of the trademark for marking goods or services put on the domestic market by himself or with his consent, unless there have been essential changes in the goods, deterioration of their characteristics or change of the nature of the goods or services after their putting on the market.

Reproduction of trademark in publications

Article 153

(1) If the reproduction of a registered trademark in dictionaries, encyclopedia or similar publications creates an impression that it is a generic name of the products or services for which the trademark was registered, the editor of the publication shall, on request of the trademark-owner, accompany the reproduction of the trademark in the first following edition of the publication by an indication that the trademark has been registered.

Term of trademark

Article 154

(1) A trademark term shall be 10 years as from the date of filing the trademark application.

(2) A trademark may be renewed indefinite number of times for term of ten years, provided that the trademark applicant files with the Office a request for renewal of the trademark validity and pays the corresponding fee and procedural expenses during the last year of the ten-year term of protection or no later than six (nine) months after the expiration of the validity.

(3) The new period of protection shall begin the day of expiration of the previous ten-year period of protection.

(4) The data to be contained in the request for renewal of the trademark term shall be prescribed by the regulations issued by the Minister of Economy.

Obligation to use trademark

Article 155

(1) A trademark-owner shall, in order to maintain the trademark validity, use the trademark in respect to the goods or services for which it has been granted, unless there are serious reasons for its non-use that do not depend on the trademark-owner's will.

(2) The use of trademark within the meaning of paragraph (1) of this Article shall also include use of the trademark on packages, catalogues, brochures, manuals, advertisements, invoices, correspondence, means for electronic commerce, etc.

(3) The use of a trademark in an insignificantly modified form without changing its distinctive character and the use of a trademark on goods and equipment exclusively for the purpose of export shall also be considered use thereof.

(4) The use of a trademark by another person with owner's consent shall be considered use by the owner himself.

Ceasing of trademark right

Article 156

(1) A trademark shall cease to be valid:

1. if the term of protection expires and the trademark-owner fails to file, within a prescribed time limit, a request for renewal of the trademark validity and pay the prescribed fee;
2. upon a written declaration of the right-owner on waiver of the trademark, on the day following the day of filing the declaration to the Office;
3. with the lapse of the legal person or upon the death of the natural person who is trademark-owner, on the day of lapse or death, or with the declaration of a missing trademark-owner dead, on the day of the coming into force of the declaration, unless the right has been transferred to the legal successors in title of the legal person or to the heirs of the natural person;
4. on the basis of a court decision or act of the Office in cases provided for by this Law, from the date determined in that decision or act.

(2) The declaration under paragraph (1) item 2 of this Article shall have no legal effect if certain right of third person has been entered in the register and the right-owner had not obtained written consent from those persons prior to that.

Object of protection by collective mark

Article 157

(1) Collective mark shall protect a sign intended for collective designation of the goods or services put on the market by an association of legal and natural persons.

Applicant for collective mark

Article 158

(1) Applicant for collective mark may be a domestic association of legal and natural persons.

(2) Under this Law and in compliance with the international conventions which have been ratified by the Republic of Macedonia, applicant for collective mark may also be a foreign legal person.

Contents of application for collective mark

Article 159

(1) The application for collective mark shall be accompanied by a general act or contract for collective mark.

(2) The general act or contract referred to in paragraph (1) of this Article shall contain name of the firm or of the applicant, name of the authority or person authorized to represent the applicant, provisions about the appearance of the sign and the products or services to which that sign refers, provisions on who have the right to use the collective mark and the circumstances of the use, provisions on the rights and obligations of the users of the collective mark in case of infringement of the trademark right, provisions on the measures and consequences in case of infringement of the trademark right and provisions on the measures and consequences in case of non-following of the provisions from the general act or contract.

Changes in collective marks register

Article 160

(1) On request of the applicant or the owner of a collective mark, the Office shall enter into the register any change or amendment of the contract regulating the use of a collective mark.

(2) The rights arising from a collective mark shall not be transferable and shall not be the subject matter of the license.

Object of protection by certification mark

Article 161

(1) Certification mark shall protect a sign which is being used by several companies under supervision of the trademark-owner and it shall protect the quality, origin, way of production and other joint characteristics of goods or services of those companies.

(2) The provision from Article 126 paragraph (4) of this Law shall not be applied on certification marks, except for agricultural or alimentary products.

Contents of application for certification mark

Article 162

(1) The application for certification mark shall be accompanied by rules for use of the certification mark containing provisions on the quality and other characteristics of the goods or services, the control measures that will be used by the applicant of the certification mark and the sanctions he will be applying.

(2) The owner of the right to certification mark may not use that mark for marking products and services he put on the market.

International registration

Article 163

(1) The trademark-owner or applicant may file a request for international registration of the trademark under the international agreements and conventions ratified by the Republic of Macedonia.

(2) The provisions of this Law shall be applied to all issues which are not provided for by those agreements.

(3) The request referred to in paragraph (1) of this Article shall be filed through the Office in a procedure prescribed by the regulations issued by the Minister of Economy.

(4) For the purpose of international registration of trademarks under the Madrid Agreement Concerning the International Registration of Marks, the publication of the application under Article 141 of this Law shall be replaced with publication of the international registration in the Official Gazette of international registrations of trademarks of the World Intellectual Property Organization.

(5) The time limit for filing opposition to the grant of internationally registered trademark for the Republic of Macedonia shall run from the first day of the month following the month of publication of the Official Gazette of the World Intellectual Property Organization in which that trademark was published.

PART FOUR

APPELLATION OF ORIGIN AND GEOGRAPHICAL INDICATION

Subject matter of protection

Article 164

(1) Geographical name shall be protected with appellation of origin and geographical indication.

(2) Geographical name shall mark products produced by natural or legal persons on a given geographical area.

Appellation of origin

Article 165

(1) Appellation of origin shall be the geographical name of the country, region or place marking the product which originates from that region, the quality and particular characteristics of which are exclusively or mainly conditioned by the geographical environment, including the natural and human factor, and the production, processing and preparation of which are entirely carried out in the limited region of origin.

Geographical indication

Article 166

(1) Geographical indication shall be the geographical name of the country, region or place marking the product the quality, reputation or other characteristic of which may be essentially attributed to the geographical origin.

(2) The geographical indication of a product may be protected only if the production and/or processing and/or preparation for production are carried out in the place of origin.

(3) The geographical name which does not comply with the requirements for protection with appellation of origin may be protected as geographical indication.

Origin of raw materials

Article 167

(1) Product may also be marked by a geographical indication if the raw materials used for its production originate from a geographical area larger than or other than the processing area provided that:

1. the production area of the raw materials is limited or that special conditions for production of raw materials exist;
2. the traditional way of production, i.e. the human factor, is crucial to the quality and particular characteristics of the product.

Traditional names

Article 168

(1) Appellation of origin and geographical indication may also be used to protect geographical name of a given country, region or place which, in the course of long years of use on the market, became generally known as name of the product which originated from that territory, as well as the traditional geographical or non-geographical name which refers to certain origin of the product and complies with the requirements under Article 165 and Article 166 paragraph (2) of this Law.

Field of protection

Article 169

(1) Geographical name may be used for marking natural, agricultural, industrial, handcraft and home-made products.

Exclusion from protection

Article 170

(1) A geographical indication or appellation of origin shall not be granted for protection of name of place of origin of a product which:

1. does not meet the requirements under this Law,
2. is against law or morality;
3. with its contents may be misleading as to the kind, origin, quality, manner of production or other characteristics of the product;
4. is identical to name of a plant variety or animal race, in case in which it may be misleading as to the geographical origin of the product;
5. is identical or similar to a geographical name or trademark previously registered for identical or similar products, when it may be misleading to the average consumer.

Exclusion from protection

Article 171

(1) A geographical indication or appellation of origin shall not be granted protection if the name of the place of origin of a product has become a common name for a certain type of products as a result of long years of presence on the market.

(2) The name of the place of origin protected by a geographical indication or appellation of origin may not become generic.

Homonyms

Article 172

(1) If the names of two or more places of origin of a product are the same or almost the same in writing, protection of such geographical names with geographical indication or appellation of origin shall be granted to all persons who comply with the requirements under this Law and in the manner prescribed in the regulations issued by the Minister of Economy, on the principles of equitable treatment of producers on the market and truthful informing of consumers, except when it may mislead the public as to the true geographical origin.

Equitable treatment of domestic and foreign persons

Article 173

(1) Geographical name may be protected in favor of a foreign natural or legal person and he may be registered as authorized user of the protected geographical name only if those rights have been granted in the countries of origin and if the requirements under this Law are fulfilled.

(2) Foreign natural and legal person may be granted the rights referred to in paragraph (1) of this Article if that results from the international agreements ratified by the Republic of Macedonia or on the grounds of bilateral agreement for mutual protection if so provided in the legislation of the person's country of origin.

(3) The geographical name which has already been protected with geographical indication or appellation of origin in the Republic of Macedonia may also be protected abroad on the grounds of bilateral agreements for mutual protection or the international agreements ratified by the Republic of Macedonia.

(4) The application for protection in a foreign country may be filed only by the authorized users of geographical names who have been entered in the adequate register kept by the Office.

Initiation of procedure

Article 174

The procedure for grant of protection of a geographical name and/or acquisition of the right to use a protected geographical name shall be initiated by filing an application containing a request for grant of geographical name and request for grant of the right to use a protected geographical name, accompanied by the other supplements provided for by this Law.

Application by foreign person

Article 175

(1) While filing the application, foreign persons shall accompany the request for grant of geographical name by a true copy of public certificate or another legal act in the official language of the country of origin, as evidence that the geographical name had been protected in that country, as well as certified translation in Macedonian language.

Uniqueness of application

Article 176

(1) One application may refer to protection and grant of the right to use only one geographical name relating to only one type of product.

Applicant

Article 177

(1) The application for protection of a geographical name may be filed by:

- natural or legal persons which produce a given product and associations having capacity to acquire rights and incur liabilities relating to protection and right of use;
- state administrative body, local administrative body and chambers interested in protection of geographical names in the region of their activity.

Contents of application

Article 178

(1) The application for protection of geographical name shall contain a request for protection of the geographical name with indication that the requested protection is by geographical indication or appellation of origin.

(2) The application for protection of geographical name by appellation of origin, apart from the request for protection of geographical name, shall also contain elaboration for the product which shall be marked with the geographical name.

(3) The application for protection of geographical name by geographical indication, apart from the request for protection of geographical name, shall also contain specification for the product which shall be marked with the geographical name.

(4) The contents of the request for protection of geographical name, the elaboration and the specification shall be prescribed by the regulations issued by the Minister of Economy.

Elaboration

Article 179

(1) The elaboration shall be prepared by an institution that fulfills the requirements provided for in the regulations issued by the Minister of Economy.

(2) The institution competent on preparing the elaboration or any other institution that fulfills the requirements provided for in the regulations issued by the Minister of Economy shall perform the control of the particular characteristics of the product and shall issue evidence for that.

(3) The applicant for protection of geographical name with geographical indication shall prepare the specification and guarantee for the data therein.

Registers of applications

Article 180

(1) The Office shall keep register of applications for protection of geographical names and register of applications for use of protected geographical names, register of protected geographical names and register of authorized users of protected geographical name.

(2) The contents of the registers referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.

(3) The interested parties may inspect the protected geographical name and the authorized users of those names only in presence of an Office employee.

(4) On written request of interested party and after paying the prescribed fee, the Office shall issue excerpt from the registers.

Acquisition of right

Article 181

(1) Protection of the name of the place of origin of product by geographical indication or appellation of origin shall be made by issuing a decision and entering the geographical name of the product and type of product to which that name refers in the register of protected geographical names.

(2) The right to use protected geographical names shall be acquired by issuing a decision for grant of the right and entering it in the register of authorized users of protected geographical names.

Term of right

Article 182

(1) The term of protection of geographical names shall be unlimited.

(2) The right to use protected geographical names shall last for 5 years and may be renewed infinite number of times. The right-owner shall file an application for renewal of the right before the expiration of the five-year period in manner prescribed by the regulations issued by the Minister of Economy.

(3) Renewal of the right to use protected geographical names shall be approved if the requirements for acquiring that right have been met, otherwise, the right of use shall cease on the day of expiration of a five-year term of protection. The registration of the renewal of the right shall be made as prescribed by the regulations issued by the Minister of Economy.

Right of use

Article 183

(1) The appellation of origin is a collective right and may be used exclusively by legal and natural persons which:

1. produce a product the geographical name of which has been protected with appellation of origin;
2. fully perform the production process in the geographical region specified in the elaboration;
3. are entered in the register of authorized users as users of that appellation of origin.

(2) The geographical indication is a collective right and may be used exclusively by legal and natural persons which:

1. produce a product the geographical name of which has been protected with geographical indication;
2. perform the production and/or processing and/or the preparation of the product in the geographical region specified in the specification;
3. are entered in the register of authorized users as users of that geographical indication.

Contents of application for grant of right to use

Article 184

(1) The application for grant of right to use protected geographical name (hereinafter: application) shall contain:

1. request for grant of right to use a protected geographical name;
2. evidence for performing certain activity;
3. adequate evidence for performed control, when use of appellation of origin is sought, or declaration of the applicant, when use of geographical indication is sought.

(2) The content of the request for granting right to use protected geographical name, the evidence and the declaration referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.

Examination of application

Article 185

(1) If the application does not contain all the necessary elements and supplements under this Law and the regulations issued by the Minister of Economy, the Office shall notify the applicant to correct the established deficiencies within 30 days from the day of receipt of the notification.

(2) On reasoned request of the applicant, the time limit referred to in paragraph (1) of this Article may, for the justified reasons, be extended by no more than 30 days.

(3) If the applicant, within the prescribed time limit, fails to correct the application or pay the expenses for correcting the application, the Office shall issue a conclusion for rejection of the application for protection of geographical name or the application for grant of right of authorized user.

Fulfillment of requirements

Article 186

If under this Law and the regulations issued by the Minister of Economy the Office establishes that the application is proper, it shall examine the application and determine whether it complies with the prescribed requirements for protection of geographical name or grant of right to authorized user.

Proceeding application and deciding

Article 187

(1) If the Office determines that the application does not fulfill the requirements for protection of geographical name or grant of right to authorized user of protected geographical name, it shall inform the applicant in writing about the grounds for which the geographical name cannot be protected or the right to authorized user granted and invite him to declare himself thereon within 90 days from the date of receipt of information.

(2) On reasoned request of the applicant, the time limit referred to in paragraph (1) of this Article may, for justified reasons, be extended by no more than 90 days.

(3) If the applicant does not, within the prescribed time limit, declare himself or if he does so and the Office decides that it cannot protect the geographical name or grant the right to authorized user of a protected geographical name, it shall issue a decision for refusal of the application for protection of geographical name or the application for grant of right of authorized user of geographical name.

(4) If in the case referred to in paragraph (3) of this Article the subject matter is an application for appellation of origin which complies with the requirements for protection by geographical indication or application for grant of the right to use the appellation of origin which complies with the requirements for grant of a right to use the geographical indication, the Office shall notify the applicant of that fact and, with his approval, it shall register geographical indication or grant the right to use geographical indication.

Issuing decision and notifying

Article 188

(1) If the application for protection of geographical name complies with the requirements under this Law, the Office shall issue a decision for protection of the geographical name and enter it in the register of protected geographical names.

(2) If the application for grant of right to authorized user of geographical name complies with the requirements under this Law, the Office shall invite by conclusion the applicant to pay within 30 days from the date of receipt of conclusion the, fee for grant of right of authorized user of geographical name for the first 5 years, the expenses for publishing the data on the granted right to use a protected geographical name and the expenses for issuing a certificate, as well as to submit evidence of the payments.

(3) If the applicant fails to submit evidence of the made payments within the time limit referred to in paragraph (2) of this Article, the Office shall issue a conclusion for rejection to grant right to authorized user of protected geographical name.

Entry in register

Article 189

(1) If the applicant submits evidence of the made payments under Article 188 paragraph (2) of this Law, the Office shall issue a decision for grant of right to authorized user and enter the name of the applicant in the register of authorized users of protected geographical name and the register of protected geographical names.

Publication of protected geographical name

Article 190

(1) The publication of the protected geographical name in the Official Gazette of the Office shall be done ex officio.

(2) The data on the protected geographical name which are being published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

Publication of data on authorized user

Article 191

(1) When the right-owner pays the expenses for publication of the right of authorized user, the Office shall publish the data on the granted right of authorized user in the Official Gazette.

(2) The data on the granted right of authorized user which are being published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

Certificate

Article 192

(1) The Office shall issue to the authorized user of protected geographical name a certificate for the recognized right of authorized user within 6 months from the date of issuing of the decision.

(2) The contents of the certificate referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.

Rights of authorized user

Article 193

(1) The user of protected geographical name shall have the right to use it for marking exclusively the type of product entered in the register of protected geographical names kept by the Office.

(2) The right on use shall also refer to the use of the protected geographical name on packages, business certificates and marketing materials.

(3) The manner of marking the products geographical name of which has been protected shall be prescribed by the regulations issued by the Minister of Economy.

Non-transferability

Article 194

(1) The protected geographical name cannot be subject of agreement for transfer of right, license, pledge, franchise, etc.

(2) If the protected geographical name is subject of previously applied for protection or registered trademark, that trademark cannot be transferred, licensed, pledged.

Prohibition

Article 195

(1) The users of geographical names may request prohibition of:

1. direct or indirect unauthorized use of the protected geographical name for identical or similar products for the purpose of acquiring financial gain;
2. marking products which do not originate from the place of origin indicated with the protected geographical name, even when the true geographical origin of the product is indicated, when translation of the geographical indication is used or when it is accompanied by additional expressions, like “kind”, “type”, “sort”, “imitation”, etc.;
3. any kind of use of a protected geographical name that damages or takes advantage of the reputation of the protected geographical name;
4. any use of false information which may mislead the consumers as to the geographical origin, quality or characteristics of the product, placed on the packaging, business certificates or other documents, giving false impression as to the real origin;
5. any other uses that may mislead the consumers as to the geographical origin of the product.

Free use

Article 196

(1) The authorized users of protected geographical names cannot request prohibition due to infringement of the right if the protected geographical name is being used for information or education of the public in a way that does not damage their interests.

(2) The use of geographical names for the purposes under paragraph (1) of this Article shall be performed without remuneration.

Changes in register

Article 197

(1) At request of the applicant or the authorized user of the protected geographical name, the Office shall enter in the adequate register all changes regarding the granted right of authorized user which occurred after the filing of the application or the grant of the right, if they correspond to the factual situation.

(2) If the request refers to significant changes in the scope of production, the request shall be accompanied by evidence under Article 178 paragraphs (2) and (3) of this Law, no older than 90 days.

(3) The changes entered in the register of authorized users shall be published in the Official Gazette of the Office.

(4) The data which should be contained in the request for entering the changes shall be prescribed by the regulations issued by the Minister of Economy.

Conditions for revocation of right to use

Article 198

(1) The decision for grant of right of use of a protected geographical name may be revoked if established that the requirements for protection of geographical name provided for by this Law have ceased to exist. In the proceeding on the request for revocation of the decision for grant of right to use of a protected geographical name, the authorized user of the protected geographical name shall be obliged to prove that there are grounds for grant of the right.

Request for revocation of decision

Article 199

(1) The decision for grant of right to use protected geographical name may be revoked ex officio or at proposal of an interested party or a public prosecutor.

(2) The request for revocation of the decision under paragraph (1) of this Article shall be filed to the Office in written form.

(3) The request referred to in paragraph (2) of this Article shall be accompanied by the necessary evidence.

(4) The Office shall, within 15 days of receiving the request, submit it to the owner of the right of use and invite him to declare himself thereon within 30 days from the reception of the notification.

Continuation of procedure for revocation of decision

Article 200

(1) If the person who filed the request for revocation of the decision for grant of right to use protected geographical name gives up the request during the procedure, the Office may continue the procedure ex officio.

(2) The right of use of protected geographical name granted to a person registered as authorized user shall terminate the day after the issuing of the decision for revocation of that right.

PART FIVE

JUDICIAL PROTECTION

Infringement of rights

Article 201

(1) The person who shall infringe the right to industrial property under this Law shall be responsible for the damage according to the general rules for remuneration of damages.

(2) The person whose right was infringed may request, apart from the remuneration, that the court orders the person who had infringed the right to desist any future infringement, confiscate and destroy the products produced or put on the market that infringe the right, request submission of the documentation and the data on the person who infringed the right and publish the decision stating the infringement in the media on expense of the infringing party.

Action

Article 202

(1) An action for infringement of the rights under this Law may be instituted by the applicant, the right-owner, the person who was granted exclusive license, the authorized user of geographical indication and the appellation of origin or the authorized user of collective and certification mark.

(2) The court may interrupt the procedure for infringement of right of applied for protection patent, industrial design, trademark and use of geographical indication or appellation of origin until the Office issues a decision for grant of the right.

(3) Infringement of applied for protection right or granted right under this Law shall be any unauthorized exploitation, disposal, limitation, imitation, association, disturbing thereof, etc. which is contrary to the provision of this Law.

(4) Imitation within the meaning of paragraph (3) of this Article shall be established if the average consumer, regardless the type of goods, can notice difference only by paying particular attention, i.e. if the trademark is translation, transcription or transliteration.

(5) The plaintiff shall accompany the action for infringement of patent right by adequate written evidence under Article 54 of this Law.

(6) The court may prescribe the time limit within which the plaintiff has to file the evidence under paragraph (5) of this Article.

(7) If the evidence referred to in paragraph (5) of this Article is not filed within the time limit prescribed by the court, the action shall be rejected.

Time limit for institution of action

Action 203

(1) The action for infringement of rights under this Law may be instituted within 3 years from the day the plaintiff learnt about the infringement and the infringer, and no later than 5 years from the day of the infringement.

Urgency of procedure

Article 204

(1) The action for infringement of protection of rights under this Law shall be expeditious.

Declaring of patent-owner or industrial design-owner

Article 205

(1) The inventor or the designer, his heir or any other successor in title may institute an action before the competent court and request to be declared owner of the patent or industrial design during the entire term of validity of that patent or industrial design, if that right was granted to a person who is not an inventor or designer, his heir or any other successor in title.

Entry in register

Article 206

(1) Within 90 days from the date of submission of the final judgment accepting the request, the plaintiff may request to be entered into the adequate register as patent-owner or industrial design-owner and adequate certificate to be issued to him by the Office.

(2) If the person whose request was accepted within the time limit referred to in paragraph (1) of this Article fails to file a request to be entered in the adequate register as owner of the granted right, the right shall be deleted from that register.

Right of third person

Article 207

(1) The rights which a third person has acquired from the former right-owner shall also apply to the new right-owner if they had been entered in the adequate register or properly filed for registration before the action.

Mentioning in application and other documents

Action 208

(1) The inventor of the patent or the designer of the industrial design may institute an action to the competent court asking to be mentioned in the application and the documents.

(2) In case of death of the inventor or designer referred to in paragraph (1) of this Article, the right for instituting an action passes on his heirs.

Request for publication of judgment

Article 209

(1) Apart from the request under Article 201 paragraph (2) of this Law, the plaintiff may also ask for court decision recognizing him as inventor or designer to be published on the expense of the defendant.

(2) Apart from the request referred to in paragraph (1) of this Article, the plaintiff may also request remuneration for non-material damage.

Time limit for filing action

Article 210

(1) The action for infringement of right to patent or industrial design may be initiated from the date of filing an application during the entire term of validity of the patent or the industrial design.

Infringement of moral right

Article 211

(1) In case of infringement of moral right, the court may rule the inventor or designer to receive adequate remuneration for damage on his personality, honor and reputation, i.e. for non-material damage, if that is determined as justified under the circumstances in the case, particularly the degree of damage and its duration.

Contesting right to trademark

Article 212

(1) Legal or natural person may institute an action and request the competent court to establish that the sign he uses on the market to mark his goods or services is identical with or similar to the trademark used by another legal or natural person to mark his own goods or services of the same or similar type and that that sign was generally known as sign for marking of the goods or services of the plaintiff even before the defendant had filed the trademark application.

(2) The plaintiff may ask the court to issue a decision declaring him trademark-owner.

(3) The action under paragraph (1) of this Article shall not be accepted by the court if the defendant, the trademark-owner, proves that he had used the mentioned sign for the same or similar type of goods or services even before filing the application for as long as the plaintiff or longer.

(4) The action under paragraph (1) of this Article may not be instituted after the expiration of the time limit of 5 years from the date of entering the trademark in the trademark register.

PART SIX

SECURITY MEASURES

Provisional measures

Article 213

(1) The right-owner who can initiate an action for infringement of his rights under this Law may also submit to the court request for ruling provisional measures under the conditions and in the manner provided for by the Law on executive procedure.

Submission of data and other documents

Article 214

(1) The right-owner may request the persons who were in any way connected with the infringement of the right acquired under this Law (producer, publisher, importer, distributor, consignor, owner, seller, owner of samples, items or means with which his right was infringed and other persons) to submit the data and documents regarding the infringement without delay.

(2) If the persons referred to in paragraph (1) of this Article fail to submit the data or document at their disposal, they shall be responsible for remuneration of damages caused by that failure.

(3) If the right-owner referred to in paragraph (1) of this Article abuses the data or documents acquired from the persons under paragraph (1) of this Article, causing them damages, he shall be obliged to remunerate the damages under the general provisions for remuneration of damages.

Border measures

Article 215

(1) If the right-owner lodges an application that the import of given goods in the Republic of Macedonia infringes his rights acquired under this Law, at his request, the customs officials may rule the following border measures:

1. an authorized customs employee, accompanied by the right-owner or his representative, to inspect the goods which are being imported and exclude them from

trade or store them in a safe place, unless the importer has authentic evidence on the production of the goods he is importing.

(2) At request of the customs officials or the importer, the right-owner shall be obliged to submit bail for possible damages caused by the measures under paragraph (1) of this Article.

(3) The customs officials shall immediately notify the importer and receiver of goods of the ruled measures.

(4) The customs officials shall suspend the ruled measures under paragraph (1) of this Article if the right-owner does not institute an action for infringement of right to the competent court within 8 days from the date of filing the request.

Civil penalty

Article 216

(1) During an infringement of rights acquired under this Law, if the right has been infringed intentionally and because of omission, the right-owner may request payment of the usual remuneration increased by 200%, regardless whether the infringement resulted in material damage.

(2) On deciding on the request for payment of remuneration under paragraph (1) of this Article and determining the amount, the court shall take into consideration all circumstances in the case, particularly the degree of guilt of the defendant, the amount of the usual remuneration and the preventive purpose of the penalty.

(3) If the material damage is higher than the penalty, the right-owner may request remuneration of the difference until full compensation.

PART SEVEN

TRANSFER OF INDUSTRIAL PROPERTY RIGHTS

Agreement for transfer of right

Article 217

(1) The applicant for industrial property right and the right-owner may by agreement fully or partially transfer their right under the conditions prescribed by this Law and other provisions.

(2) The agreement for transfer of right shall be filed in written form and the signatures of the parties in the agreement shall be certified by a notary public.

(3) On request of one of the parties in the agreement, the agreement under paragraph (2) of this Article shall be entered in an adequate register kept by the Office.

(4) The agreement under paragraph (2) of this Article which has not been filed in written form and certified shall not have legal effect.

License agreement

Article 218

(1) The applicant for industrial property right and the patent-owner may by agreement fully or partially license the use of that right.

(2) The license agreement shall be filed in written form.

(3) If the patent application was filed by more than one person or more than one person is patent-owner, consent from all patent-owners shall be necessary for concluding a license agreement.

(4) License agreement which has not been filed in written form shall not have legal effect.

(5) License agreement which has not been entered in the adequate register shall not have legal effect for third persons.

Elements of license agreement

Article 219

(1) The license agreement shall contain: duration of license, scope of license, whether the license is exclusive and the amount of remuneration paid for the licensed right, where such remuneration has been agreed.

(2) On request of one of the parties in the agreement under paragraph (1) of this Article, the agreement shall be entered in the adequate register kept by the Office.

Declaring license agreement as nullity

Article 220

(1) In the license agreement, any provision which poses limitations to the licensee that do not result from the right which is subject matter of the agreement or which is unnecessary for maintaining that right shall be declared as nullity.

PART EIGHT

TERMINATION OF PATENT AND TRADEMARK IN CASE OF NON-USE

Termination of patent

Article 221

(1) The Office may issue a decision for termination of patent if grant of compulsory license could not reach the goal for which it was granted, at request of an interested legal or natural person and according to previously acquired opinion of the administrative body competent in the area in which the patented invention should be exploited.

(2) The request for terminating the patent cannot be filed before expiring of two years from the date of grant of the first compulsory license.

(3) The request referred to in paragraph (2) of this Article shall be filed to the Office in a written form.

(4) Within 15 days from the receiving the request, the Office shall submit the request to the patent-owner and invite him to declare himself thereon within 30 days from receiving the notification.

Termination of trademark

Article 222

(1) If the trademark-owner has not used the trademark for marking the goods or services it refers to without justified reasons for over 5 years continuous period from the date of entering the trademark in the trademark register or from the date when the trademark was last used, the Office may at request of an interested person issue a decision for termination of that trademark.

(2) In the procedure on the request for termination of a trademark, the trademark-owner shall have to prove that he is using the trademark.

(3) The right to collective mark may also be terminated if the trademark is not used under the general act or contract for collective trademark.

(4) The request referred to in paragraphs (1) and (3) of this Article shall be filed to the Office in written form.

(5) Within 15 days from the reception of the request, the Office shall submit it to the trademark-owner and invite him to declare himself within 30 days from the date of reception of the notification.

Decision for termination of right

Article 223

(1) The patent and the trademark shall stop being valid the date when the decision of the Office for termination enters into force.

(2) The decision referred to in paragraph (1) of this Article shall be published in the Official Gazette of the Office.

PART NINE

DECLARING DECISION FOR GRANT OF INDUSTRIAL PROPERTY RIGHTS AS NULLITY

Declaring as nullity

Article 224

(1) The decision for grant of industrial property right under this Law shall be declared as nullity if it is established that the conditions for grant of that right are not provided for by this Law.

Proceeding proposal

Article 225

(1) The decision for grant of industrial property right may be declared as nullity during the whole term of protection, ex officio, at proposal of an interested person or at proposal of the public prosecutor.

(2) The proposal for declaring a decision as nullity shall be filed to the Office in a written form.

(3) The proposal under paragraph (1) of this Article shall be accompanied by the necessary evidence.

(4) The Office shall submit the proposal to the right-owner within 15 days from the reception thereof and invite him to declare himself thereon within prescribed period that cannot be longer than 60 days from the reception of the proposal.

Weaver of proposal

Article 226

If the person filing the proposal for declaring as nullity the decision for grant of industrial property right renounces the proposal during the procedure, the Office may continue the procedure ex officio or on request of the owner of that right.

PART TEN

REPRESENTATION

Article 227

(1) In the procedure for protection of industrial property rights before the Industrial Property Protection Office, the client may be represented by natural and legal persons entered in the register kept by the Office.

(2) In the register referred to in paragraph (1) of this Article the Office may enter:

- natural person who has graduated at the faculty of law or any technical faculty and passed the specialist examination in industrial property or special examination in the field regulated by this Law and taken in the Office;
- legal person who has at least one employee who has graduated at the faculty of law or any technical faculty and fulfils the conditions referred to in item 1 of this Paragraph.

(3) The Minister of Economy shall issue the regulations regarding the register of representatives referred to in paragraph (1) of this Article and the contents of the special examination under paragraph (2) item 1 of this Article.

PART ELEVEN

PENALTY PROVISIONS

Article 228

(1) Fine in the amount of MKD 150,000 to MKD 300,000 shall be imposed to the legal person which:

1. performs unauthorized representation of foreign legal and natural persons (Article 16 of this Law);
2. performs unauthorized use of applied for protection or protected invention (Article 202 paragraphs (3) and (4) of this Law);
3. performs unauthorized use or imitation of applied for protection or protected industrial design (Article 202 paragraphs (3) and (4) of this Law);
4. performs unauthorized use or imitation of applied for protection or protected trademark (Article 202 paragraphs (3) and (4) of this Law);
5. performs unauthorized use or imitation of a well-known trademark (Article 202 paragraphs (3) and (4) of this Law);
6. performs unauthorized use or imitation of protected geographical name (Article 202 paragraphs (3) and (4) of this Law);
7. at request of the right-owner, does not submit the documents and data regarding an infringement (Article 202 paragraph (5) of this Law).

(2) For offences referred to in paragraph (1) of this Article, the competent employee in the legal person shall also be imposed a fine in the amount of MKD 25,000 to MKD 50,000.

(3) For offences referred to in paragraph (1) of this Article, the legal person shall be ruled the security measure prohibition of performing the activity in the period of six months to one year.

(4) Fine in the amount of MKD 10,000 to MKD 50,000 shall be imposed on the person who independently performs economic or professional activity without the capacity of legal entity if he performs any of the activities under Article 228 of this Law.

(5) Fine in the amount of MKD 10,000 to MKD 50,000 shall be imposed on natural person if he performs any of the activities under Article 228 of this Law.

(6) For offences referred to in paragraph (1) of this Article, the natural person shall be ruled the security measure prohibition of performing the activity in the period of six months to one year.

PART TWELVE

TRANSITIONAL AND FINAL PROVISIONS

Transformation of the Bureau in Industrial Property Office

Issuing sub-law acts

Article 229

(1) The regulations provided by in this Law shall be enacted by 31.12.2003.

Procedures in course

Article 230

(1) The procedures for grant of industrial property rights which were not finished by the date of entry into force of this Law shall be finished under the provisions which were in force until the date of entry into force of this Law.

(2) The procedures for infringement of industrial property rights which were not finished by the date of entry into force of this Law shall be finished under the provisions which were in force until the date of entry into force of this Law.

(3) The procedures for declaring as nullity a decision for grant of industrial property rights which were not finished by the date of entry into force of this Law shall be finished under the provisions which were in force until the date of entry into force of this Law.

(4) The procedures on patent applications for plant variety and hybrid which were not finished by the date of entry into force of this Law shall be finished under the provisions which were in force until the date of entry into force of this Law.

(5) The provisions under Article 66 paragraph (2) of this Law for extension the term of validity of patents with supplementary certificate shall be applied to the applications filed to the Office after the date of entry into force of this Law.

(6) The rights to plant variety and hybrid which are valid at the date of entry into force of this Law shall continue to be valid under the provisions which were in force until the date of entry into force of this Law.

(7) The rights to model and design which are valid at the date of entry into force of this Law shall continue to be valid under the provisions of this Law.

Termination of validity

Article 231

(1) On the date of application of this Law, the validity of the Industrial Property Law (“Official Gazette of the Republic of Macedonia”, No. 45/93) shall terminate.

Entry into force

Article 232

(1) This Law shall enter into force on the eighth day of its publication in the “Official Gazette of the Republic of Macedonia” and will be applied from 01.01.2004.
