

STATE OFFICE OF INDUSTRIAL PROPERTY

REGULATION
for the professional exam of the Industrial Property Representatives and
the Register of Representatives

Published in "The Official Gazette of the Republic of Macedonia" No. 92 from 24/07/09

According to Article 280 paragraph (6), Article 283 paragraph (4), Article 284 paragraph (2) and Article 289 paragraph (2) of the Law on Industrial Property (“The Official Gazette of the Republic of Macedonia” number 21/ 2009) the Director of the State Office for Industrial Property adopts the following

REGULATION

for the professional exam of the Industrial Property representatives and the Register of Representatives

I. GENERAL PROVISIONS

Article 1

This Regulation prescribes the content and the program of the professional exam; the content of the application for taking professional exam; the procedure of conducting the professional exam and the correction exam, as well as the content of the evidence list of persons who passed the exam; content and form of the request for entry in the Register of Representatives; procedure for entry in the Register of Representatives and the proper documentation; content, form and the procedure of the request for renewal of entry in the Register of Representatives; and content, form of the request and the procedure of the request for entering changes in the Register of Representatives.

II. PROFESSIONAL EXAM

Article 2

(1) Any natural person with a graduation degree from a Faculty of Law or one of the Faculties of Technology or Faculties of Pharmacy and covered examination expenses may take the Professional Exam for Industrial Property Representatives (hereinafter: Professional exam).

(2) The content of the Professional exam is established with the Program of the Professional Exam for the Industrial Property Representatives (hereinafter: the Program) and is enclosed to this Regulations as its integral part.

Article 3

(1) The State Office for Industrial Property shall published the professional exam in two daily newspapers.

(2) The publication provides information about:

- 1) the term of the lectures;
- 2) the conditions for the professional exam;
- 3) the deadline for submitting the application for professional exam;
- 4) the amount of the expenses of the e professional exam as well as the account to which the payment should be paid;
- 5) the content of the application form;
- 6) explanation for the evidence.

(3) Persons interested in taking the professional exam should submit the application to the State Office of Industrial Property within the set deadline for accepting the application from the announcement of paragraph (2) of this Article.

(4) The application for taking professional exam from paragraph (2) item 5) shall contain:

- 1) data for the candidate: name, surname, address, telephone number, fax, e-mail;
- 2) evidence for the candidate professional qualifications;
- 3) evidence for paid expenses for taking professional exam;
- 4) According paragraph (4) item 2) of this Article, a university degree with 240 ECTS-credits from the first cycle or a university degree from four-year studies issued by the Republic of Macedonia, or a validate diploma obtained abroad would be considered as a proper evidence;

(5) Documents showing the legal grounds for fulfillment of the conditions for taking the professional exam shall be submitted in the original or certified copy, in the whole or only the part that clearly shows that the condition has been fulfilled.

Article 4

(1) The Exam Commission (hereinafter: Commission) determines whether the candidate fulfills the conditions for taking the professional exam, for which the candidate shall be notified in written or by e-mail.

(2) The notification appoints the date, hour and place when the lectures, i.e. Examination shall take place.

(3) The decision of the Commission for rejecting an application for the professional exam must be explicated.

Article 5

- (1) Prior to the examination, lectures will be delivered including all sectors according to the Program.
- (2) The Commission conducts the oral and writing part of the exam according to the Program and then decides whether the candidate passed the exam.
- (3) The Commission makes the decision with the majority of all members of the Commission.

Article 6

- (1) The Professional Exam consists of oral and written part.
- (2) In the written part the candidate elaborates certain questions regarding the procedure of the protection of the industrial property rights.
- (3) During the written part of the exam the use of a professional literature is allowed as long as it is not an integral part of the written assignment.
- (4) The duration of the written exam is 180 minutes. The candidate who passed the written part of the exam successfully, will take the oral part of the exam the same day or no longer than 8 days from the day of taking the written part of the exam.
- (5) The candidate who will not pass the written part of the exam will be considered that the candidate failed the Professional Exam and will have to take the same exam again.
- (6) The candidate from paragraph (5) has a right to have insight into exam paper.
- (7) During the oral part of the exam, a Minutes of the following information is taken: name, surname and occupation of the candidate; members of the Commission; day, month and year of taking the written part of the exam; day, month and year of taking the oral exam; exam questions; grade of the candidate for each thematic field; candidate's overall grade (from both the oral and written part of the exam); signatures of the President, members and the secretary of the Commission; other important notes made during the exam, the Office seal.
- (8) The written part of the exam of the candidate is attached to the Minutes of paragraph (7).

Article 7

- (1) There is a separate grade for each thematic field of the Program, and according to these grades the Commission evaluates the overall exam success of the candidates.
- (2) The candidate's success is verbally graded: "passed" or "failed".
- (3) The candidate will pass the exam if he/ she demonstrate sufficient knowledge in each thematic field.
- (4) If the candidate demonstrates insufficient knowledge in at least three thematic fields the same takes a correction exam.
- (5) If the candidate demonstrates insufficient knowledge in four or more thematic fields, the candidate overall exam success will be graded as: "failed".
- (6) The grade is given with the majority of votes of the Commission members, and the results of the exam are published 24 hours after the completion of the exam.
- (7) The candidates may be informed about the results by e-mail as well.

Article 8

- (1) The candidate may take the correction exam in the term determined by the Commission which cannot be less than a month or longer than six months.
- (2) The candidate taking the correction exam must provide evidence for covered exam expenses no longer than 8 days before the term set for the correction exam.
- (3) If the candidate demonstrates insufficient knowledge in the correction exam, it should be considered that the candidate failed the professional exam and will have to take the same exam in whole again.

Article 9

- (1) The candidate may submit a request and proper evidence to the Commission to postpone taking the exam due to family or health reasons.
- (2) The Commission determines the validity of the request and informs the candidate in writing.
- (3) The examination may be postponed for six months at most.

Article 10

(1) If the candidate, without any justified reasons, does not take the professional exam or correction exam or does not submit the work or if he / she withdraws from taking the written part of the exam, it shall be considered that the candidate failed the professional, or correction exam.

(2) In the case of Article 9 paragraphs (3) and (1), of this Article the expenses for examination are not reimbursed and if the exam is taken again the expenses are paid in whole.

Article 11

(1) The candidate who passed the professional exam receives a Certificate for passed Professional Exam which signifies that the candidate obtained the right to be registered in the Register of Representatives.

(2) The Certificate is issued in two copies, one for the candidate and the other remains in the personal file in the Office.

Article 12

The List of the candidates that passed the professional exam in the current year shall be published in the Official Gazette of the Office, once a year, in the last edition.

Article 13

(1) Persons who passed the professional exam are recorded in the Office.

(2) The following data from paragraph (1) of this Article shall be entered In the records:

- 1) Register number;
- 2) Data for the person who passed the exam: name, surname, address, telephone number, fax, e-mail and profession;
- 3) Date and place when the professional exam took place;
- 4) Date and manner of delivering the Certificate for passed Professional Exam for representatives;
- 5) Note.

III. ENTRY IN THE REGISTER OF REPRESENTATIVES

Article 14

(1) The request for entry in the Register of Representatives is filed in a DZIS 3-1 form, A4 format, in three copies.

- (2) The request from paragraph (1) of this Article shall contain the following:
- 1) data regarding the applicant for entry in the Register of Representatives: name, surname, address telephone number, fax, e-mail of a natural person, or company, main office, telephone, fax, e-mail of a legal person and its abbreviation;
 - 2) translation to English language of the data from paragraph (1) item 1);
 - 3) profession of a natural person, or business of a legal entity;
 - 4) list of the employee/-s of the legal person, profession, and number of the evidence sheet of the persons who passed the professional exam;
 - 5) seal and signature of the person filing the request.

(3) The following shall be attached to the request for entry in the Register of Representatives:

- 1) evidence for citizenship (original or verified copy);
- 2) evidence showing person's professional qualifications in accordance with Article 3 paragraph (5) of this Regulation;
- 3) evidence for registered activity in the Central Register of the Republic of Macedonia (original or certified copy);
- 4) for lawyers; lawyers association or law firm, evidence from the Bar Association (original or certified copy of confirmation or certificate);
- 5) M-1/M-2 Form from the Employment Center of the Republic of Macedonia (original or certified copy of confirmation or certificate);
- 6) evidence for passed professional exam for representatives;
- 7) evidence showing knowledge of one of the official languages of the organizations in which the Republic of Macedonia is a member (original or certified copy of confirmation or certificate);
- 8) evidence for paid appropriate administration fee (original);
- 9) evidence for paid expenses for publishing in the Official Gazette of the Office (original).

(4) The evidence in paragraph (3) item 3) of this Article shall be instantly filed to the Office, or no longer than 8 working days from the day of delivering the decision for entry in the Register of Representatives.

(5) If the applicant does not act in accordance with the obligation of paragraph (4) of this Article, the Office will null the decision for entry in the Register of Representatives after previously notifying the applicant on given deadline to state the reasons for not acting in accordance with the obligations of paragraph (4) of this Article.

- (6) Representative from another country provides the following evidence:
- 1) document showing person's representative authorization issued by the competent body of person's country (original or certified copy).

- 2) document showing knowledge of the Macedonian language in accordance with the regulations of the Ministry of Education and Science (original or certified copy).
- 3) evidence for paid appropriate administration fee (original or certified copy).
- 4) evidence for paid expenses for publishing in the Official Gazette of the Office.

(7) The Form DZIS 3-1 is enclosed as an integral part to this Regulation.

Article 15

(1) If the request for entry in the Register of Representatives is filed in accordance with Article 14 of this Regulation, the representative shall be registered in the Register of Representatives on the date of filing the request for entry in the Register.

(2) Every representative shall be given an ordinal number in the Register that should be listed together with the rest of the data while filing the request to the Office.

(3) The entry in the Register of Representatives is published in the Official Gazette of the Office, after the payment of the expenses.

(4) If the request for entry in the Register of Representatives is not filed in accordance with Article 14 of this Regulation, the Office shall invite the applicant to correct the request within a determined period.

(5) If the applicant fails to act according to the notification, the request for entry shall be rejected.

(6) If the legal grounds of the request for entry in the Register of Representatives does not fulfill the requirements determined with the Law, the Office will reject the request for entry, after previously notifying the applicant, in determined deadline, to state the reasons for failing to pursue the entry.

Article 16

(1) In the Register of Representatives shall be entered the following data:

- 1) register number;
- 2) date of entry in the Register;
- 3) data for the applicant of the request for entry: name, surname, address, telephone number, fax, e-mail of a natural person, or company, registered seat, telephone number, fax, e-mail and list of employees who fulfill the requirements of representation and their occupation in the legal person.
- 4) date of renewal of the entry in the Register of Representatives;

- 5) changes of the Representative;
- 6) deletion from the Register of Representatives.

Article 17

(1) Extract from the Register of Representatives shall be published once a year, in the first edition of the Office Gazette of the Office.

(2) The Register is in written and electronic form.

Article 18

On the request of the representative, a Certificate for Regular Representative in the field of protection of industrial property rights shall be issued.

IV. RENEWAL OF THE ENTRY IN THE REGISTER OF REPRESENTATIVES

Article 19

(1) The request for renewal of the entry in the Register of Representatives shall be filed on a DZIS-3-3 Form, A4 paper size, in two copies.

- (2) The request from paragraph (1) of this Article shall contain the following:
- 1) the representative data: name, surname, address, telephone number, fax, e-mail, of a natural person, or company, registered seat, telephone number, fax, e-mail of a legal person;
 - 2) translation to English language of the data from item 1) of this paragraph should be provided.
 - 3) validity of the entry in the Register of Representatives;
 - 4) list of the employees of the legal person which fulfills the requirements for representation;
 - 5) seal and signature of the representative.

(3) The following attachments to the request of paragraph (2) of this Article, shall be enclosed:

- 1) M-1/M-2 form from the Employment Center of the Republic of Macedonia, or confirmation of working relations in legal person or statement of working relations of a natural person.
- 2) evidence for registered activity of the Central Register of the Republic of Macedonia, or of the Bar Association of the Republic of Macedonia and a statement or confirmation that there has not been a change in the activity.
- 3) evidence for paid appropriate administration fee.

(4) The Acts that prove the fulfillment of the requirements for renewal of the entry in the Register of Representatives shall be filed, in their original form or certified copy in the whole or in the part stating the fulfillment.

(5) DZIS 3-3 Form is enclosed as an integral part to this Regulation.

Article 20

(1) If the request for renewal of the entry in the Register of Representatives is filed in accordance with Article 19 of this Regulation, the Office shall adopt a decision for renewal of entry in the Register of Representatives.

(2) If the request for renewal of the entry in the Register of Representatives is not filed in accordance with Article 19 of this Regulation, the Office shall invite the applicant to correct the request within a determined period.

(3) If the representative shall not correct the request for renewal of entry in the Register of Representatives, the Office shall adopt a decision to delete the representative from the Register of Representatives, after previously notifying the applicant, in a determined deadline, to state the reasons for failing to pursue the renewal of the entry in the Register of Representatives.

V. ENTRY OF CHANGES IN THE REGISTER OF REPRESENTATIVES

Article 21

(1) The request for entry of changes in the Register of Representatives shall be filed on a DZIS-3-2 Form, A4 paper size, in two copies.

(2) The request from paragraph (1) of this Article shall contain the following:

- 1) data for the representative: name, surname, address, telephone number, fax, e-mail of a natural person, and company, registered seat, telephone number, fax, e-mail of a legal person;
- 2) indication of the type of change and its content;
- 3) indication whether the change shall be published or not in the Official Gazette of the Office;
- 4) seal and signature of the representative.

(3) The following shall be enclosed to the request of paragraph (1) of this Article:

- 1) evidence for the legal grounds for the entry of changes and its content;
- 2) evidence for paid appropriate administration fee.

(4) The Acts that proves the legal grounds for the entry of changes in the Register shall be filed in original or certified copy, in the whole or the part stating the fulfillment.

(5) The Form DZIS-3-2 is enclosed as an integral part to this Regulation.

Article 22

(1) If the request for the entry of changes in the Register of Representatives is filed in accordance with Article 21 of this Regulation, and if the evidence fulfills the conditions for changes, the Office shall adopt a decision for entry of the changes in the Register of Representatives.

(2) Changes that are entered in the Register of Representatives shall be published in the Official Gazette of the Office after the payment of the fee.

(3) If the request for entry of the changes in the Register of Representatives is not filed in accordance with Article 21 of this Regulation, the Office shall invite the applicant to correct the changes within a determined period.

(4) If the representative does not act in accordance with the notification of the Office, the request for entry of changes shall be rejected.

(5) If the legal grounds for the request for entry of changes does not fulfill the prescribed requirements, the Office shall reject the request for entry of the changes in the Register of Representatives, after previously notifying the applicant, in a determined deadline, to state the reasons for failing to pursue the entry of changes.

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 23

The day when this Regulation enters into force, the Regulation for the professional exam for representatives in the procedure for protection of industrial property rights, shall cease to be valid ("Official Gazette of the Republic of Macedonia" number. 18/ 2004).

Article 24

This Regulation shall enter into force the following day after its publication in the "Official Gazette of the Republic of Macedonia. "

No. _____

Skopje

DIRECTOR

Safet Emruli MSc.

**PROGRAM FOR TAKING THE PROFESSIONAL EXAM
for representatives for protection of industrial property rights**

I. INDUSTRIAL PROPERTY RIGHT

1. Notion of industrial property.
2. Theories for industrial property.
3. Historical development of the industrial property.
4. Paris Convention for the Protection of Industrial Property.
5. World Intellectual Property Organization (OMPI, i.e. WIPO).
6. World Trade Organization (WTO). Agreement on Trade- Related Aspects of Intellectual Property Rights (TRIPS).
7. European Patent Organization- European Patent Convention.
8. Patent Law Treaty (WIPO).
9. Singapore Treaty on the Law of Trademarks.
10. Vienna Classification of the Figurative Elements of Marks.
11. Industrial property rights (general).
12. Entities of industrial property rights.
13. Rights of the entities of industrial property rights.
14. Law on industrial property (general provisions).
15. System of protection and enforcement of the protection of industrial property rights - institutions and competences in the Republic of Macedonia.

II. PATENT

1. Patentable invention.
2. Exceptions to patentability.
3. Novelty of the invention, non prejudicial disclosures, inventive step and industrial application.
4. Entities of patent right.
5. Right of Priority.
6. Contents of the patent application
7. Method for conducting the procedure for examination of the application
8. Characteristics of the procedure for granting of patent.
9. Evidence of the substantive examination, the content of the evidence and additional examination.
10. Type of decisions, registers and publishing of decisions.
11. Certificate and patent specification.
12. Procedure after application and patent for confidential invention.
13. Patent and Certificate validity.
14. Conditions and procedure for issuing a supplementary protection certificate.
15. Cancellation of the patent prior to the expiry of the validity.
16. Rights of third parties.
17. Exclusive rights of the patent holder and scope of the right.
18. Free use, right based upon previous use and an exemption from the infringement of the patent right.

19. Exclusive rights, scope and limitation of the rights of patent in the biotechnology.
20. Procedure for issuing and characteristics of a compulsory license.
21. Procedure of issuing and characteristics of a compulsory license for the needs of public health.
22. The Office procedure upon applications filed in accordance with PCT and the Extension Agreement.
23. The Office procedure upon applications filed in accordance with EPC and the European patents.
24. Nullity of the decision for granting patent.

III. INDUSTRIAL DESIGN

1. Subject to protection of industrial design.
2. Novelty and individual character of the design.
3. Discloser of the design.
4. Design conditioned by technical functions and design of connected elements.
5. Absolute and relative grounds for refusal.
6. Applicant and author.
7. Initiation of a procedure for a grant of an industrial design.
8. Right of priority.
9. Publication of the application and postponement of the publication of the industrial design application.
10. Opposition and procedure for opposition of an industrial design.
11. Moral and exclusive rights of the author of the industrial design.
12. Validity and the cessation of the validity of the industrial design.
13. Nullity of the decision for grant of an industrial design right.
14. International protection of the industrial design right.
15. International classification of industrial design.

IV. TRADEMARK

1. Subject to trademark protection.
2. Distinctiveness as a condition for protection.
3. Absolute grounds for refusal.
4. Relative grounds for refusal.
5. Priority right.
6. Initiation of procedure for a grant of a trademark right.
7. Division of the application and the registered trademark.
8. Correct application, or formal examination of the trademark application.
9. Third person intervention.
10. Opposition and procedure for opposition of trademark.
11. Continuation of the procedure and returning to the previous state
12. Types of decision of the procedure for a grant of a trademark right and the maintaining of the right.

13. Exclusive rights of the trademark holder.
14. Limitation, acquiescence and exhaustion of the right.
15. Cessation of the validity of the trademark.
 16. Cessation of the validity of the trademark due to other reasons.
17. Subject of protection, applicant and characteristics of the collective mark.
18. Subject of protection, applicant and characteristics of the certification mark.
19. Nullity of the decision for grant of a trade mark as null
20. International registration of the trade mark.
21. International classification of the goods and services due to registration of a trademark.

V. GEOGRAPHICAL NAME

1. Subject of protection of appellation of origin and geographical indication.
2. Scope of protection.
3. Exclusion from protection and prohibiting protection.
4. Initiation of procedure for protection of a geographical name.
5. Applicants for protection of a geographical name.
6. Elaboration, content, changes and control.
7. Specification and content.
8. Acquiring and validity of the right.
9. Procedure for a grant of a right to use a protected geographical name.
10. Right of use and right of the user of the protected geographical name.
11. Exclusion of the right of the user of protected geographical name.
12. Non-assignment of the protected geographical name.
13. Conditions and procedure for revocation of the right of use of the protected geographical name.

VI. SAFETY MEASURES

1. Temporary measures.
2. Measures for obtaining evidence.
3. Obtaining evidence during the legal procedure.
4. Custom measures.
5. Civil penalty.

VII. TOPOGRAPHY OF INTEGRATED CIRCUITS

1. Notion for topography of integrated circuits.
2. Procedure for protection and registration of topography of integrated circuits.
3. Subjects of protection.
4. Content, duration and limitation of the right.
5. Nullity of the Registration.
6. Damage reimbursement.

VIII. ADMINISTRATIVE PROCEDURE AND ADMINISTRATIVE DISPUTE

1. Notion for general administrative procedure.
2. General principles of the general administrative procedure.
3. Clients and representation of clients.
4. Primary procedure.
5. Decisions and conclusions.
6. Delivery and deadlines.
7. Argumentation.
8. Restitutio in integrum and continuation of the procedure.
9. Second instance procedure over appeal.
10. Notion of Power of Attorney.
11. Oral argument.
12. Administrative dispute.
13. Verdict in an administrative dispute.

IX. OBLIGATION RELATIONS

1. Agreement on assignment of Rights (cession).
2. License agreement.
3. Types of licenses.
4. Agreement on transfer of technology (know how).
5. Damage reimbursement.
6. Pledge of rights of industrial property.

X. CRIMINAL LAW

1. Unauthorized use of another party's firm (infringement of the right to industrial property and unauthorized use of another party's firm).
 2. Unauthorized use of someone else's invention or software (infringement of the right of protected or registered innovation and topography of integrated circuits).
-