

## **LAW on transitional protection of patents for inventions (No. 93/13 May 1998)**

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**Article 1** - The Romanian State recognizes a transitional protection for owners of patents having priority before 21 January 1991 in a State Member of the Paris Union for the Protection of Industrial Property or of the World Trade Organization for inventions having as subject-matter substances obtained by nuclear and chemical methods, pharmaceuticals, methods for diagnostic and medical treatment, disinfectants, food stuffs and spices and new plant varieties, bacteria and fungi strains, new animal breeds and silkworms.

**Article 2 (1)** - The transitional protection shall be granted upon request.

**(2)** - The term of protection shall start on the date on which an application is filed with the State Office for Inventions and Trademarks and shall cease on the date on which the validity of the patent for invention expires, or on which the patent is cancelled or the date of forfeiture of the patent owner's rights, and shall not exceed 20 years of the date of the regular filing in the country of origin.

**Article 3** - Transitional protection shall be granted provided that the following conditions are fulfilled cumulatively:

a) the invention is the object of a patent in force in a Member State of the Paris Union for the Protection of Industrial Property or of the World Trade Organization, having a priority date before 21 January 1991;

b) the subject matter of the invention has not been patented in Romania and belongs to the categories provided for in Article 1;

c) the product to which the patent for invention relates has not been marketed in Romania before 31 December 1993;

d) the application for the grant of transitional protection was filed within a six-month period of the date on which this Law entered into force.

**Article 4 (1)** - The application for the grant of transitional protection, drafted in Romanian, shall be filed with the State Office for Inventions and Trademarks, through an authorized mandatary and shall comprise:

a) the express request for transitional protection;

b) the name or denomination, address/business office and signature of the reference patent owner;

c) the number of the patent of reference and the title of the invention, its term of validity and the country where it was issued.

**(2)** - The following shall be attached to the application for transitional protection:

a) a copy of the patent of reference;

b) a translation into Romanian of the patent of reference;

- c) a proof from the office that issued the patent of reference, attesting its validity;
- d) the patent owner's authentic statement that the product to which the patented invention relates has not been marketed in Romania before 31 December 1993;
- e) the authorized mandatary's power of attorney.

(3) - The documents set forth in paragraph two shall be filed at the time the application for transitional protection is filed or within two months of that date, at the latest.

**Article 5 (1)** - The State Office for Inventions and Trademarks shall register the application, consider whether the conditions provided for in this Law are satisfied and, within three months of the date on which the application was filed, shall publish the granted transitional protection in the Official Bulletin of Industrial Property, which shall be registered in the Annexe to the National Register of Patents and issue the Certificate of Transitional Protection, accompanied by the translation into Romanian of the patent.

(2) - The fees for the procedures provided for in paragraph one shall be paid within two months of the date on which the application for transitional protection was filed, at the latest.

(3) - The applications not satisfying the conditions provided for in this Law shall be rejected.

**Article 6 (1)** - Decisions of the State Office for Inventions and Trademarks regarding the applications for transitional protection may be contested before the Reexamination Board within 30 days of notification, where the application has been rejected, or of publication, where the application has been accepted.

(2) - Decisions of the Reexamination Board may be appealed against before the Municipal Court of Bucharest within three months of the notification.

(3) - The cancellation of the certificate of transitional protection for failure to satisfy the conditions provided for in this Law may be requested throughout the term of protection and shall be judged by the Municipal Court of Bucharest.

**Article 7 (1)** - As regards procedures, rights conferred by transitional protection, transfer, defence and renewal thereof, the provisions of the Patent Law, No. 64/1991, as published in the Official Gazette of Romania Part I, No. 212 of 21 October 1991, shall apply, except for the terms of procedures set forth in Article 5, which are those provided for by this Law.

(2) - In view of the implementation of this Law, The State Office for Inventions and Trademarks, with the approval of the Ministry of Finance, shall issue Norms that shall be published in the Official Gazette of Romania.

**Article 8** - On the date this Law enters into force, the Government Ordinance on transitional protection of patents for inventions No. 25 of 30 January 1998, published in the Official Gazette of Romania, Part I, No. 41 of 30 January 1998, shall be abrogated.