

LAW -  
ON LEGAL PROTECTION OF INDUSTRIAL DESIGN<sup>1</sup> -

I. GENERAL PROVISIONS -

Article 1 -

This Law regulates the manner of acquisition of the right to the appearance of an industrial or handicrafts product (hereinafter referred to as: the product), and the protection thereof, respectively.

The appearance of a product shall be understood to mean the overall visual impression produced by the product on an informed consumer or user.

An informed consumer or user, for the purpose of this Law, shall be a natural person who is regularly in contact with the product concerned.

The procedure for the acquisition and the protection of an industrial design which is the subject of an international registration for the territory of the Republic of Serbia on the basis of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter referred to as: the Hague Agreement) shall be governed by the provisions of this Law with regard to all the issues which are not regulated by the Hague Agreement.

II. SUBJECT - MATTER AND CONDITIONS FOR PROTECTION

The Concept of Industrial Design

Article 2

Industrial design shall mean three-dimensional or two-dimensional appearance of the entire product or a part thereof, defined by its features, in particular the lines, contours, colors, shape, texture and/or materials of the product itself or its ornamentation, as well as their combination.

A product shall mean any industrial or handicraft item, including, *inter alia*, parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs.

A complex product shall mean a product which is composed of multiple components which can be replaced, and which permit disassembly and reassembly of the product.

Requirements for Industrial Design Protection

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### Article 3 -

Industrial design shall be protected by the exclusive right (industrial design right) to the extent that it is new and has an individual character.

### Novelty Article 4

Industrial design shall be considered new if no identical industrial design has been made available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority, or if there is no application for industrial right protection previously filed and subsequently made available to the public.

Industrial designs shall be deemed to be identical if their features differ only in immaterial details.

### Individual Character Article 5

Industrial design shall be considered to have individual character if the overall impression it produces on an informed user differs from the overall impression produced on such a user by any other design which has been made available to the public before the date of filing of the application for registration or, if priority is claimed, the date of priority.

In assessing individual character, the degree of freedom of designer in developing the industrial design of a specific product shall be taken into consideration.

### Industrial Design of Component Part of Complex Product Article 6

Industrial design applied to or incorporated in a product which constitutes a component part of a complex product shall be considered to be new and to have individual character, only if:

- 1) the component part incorporated in the complex product remains visible during regular use of such complex product; and
- 2) visible features of the component part themselves meet the requirements concerning novelty and individual character.

Regular use under paragraph 1 item 1) of this Article shall mean the use by the end user, excluding maintenance, servicing or repair work.

### Disclosure - Article 7 -

It is considered that the industrial design becomes available to the public in the meaning of the articles 4 and 5 of this Law if it has been published after the registration or in some other way, if it has been exhibited, used in the channels of commerce or in some other way disclosed before the date of the filing of the application of industrial design, if it has been requested for, except in the situation when there existed no reasonable possibility for the business circles specialized for the given events to get to know about the mentioned events in the standard channels of commerce in the Republic of Serbia.

It is not considered that the industrial design became available to the public in the meaning of paragraph 1 of this article if it has been disclosed to the third person under the explicit or implicit conditions of the preservation of secrecy.

It is not considered that the industrial design was made available to the public, in the meaning of the articles 4 and 5 of this Law if the industrial design was disclosed by the author, his legal follower or the third person on the basis of information obtained from the author or his legal follower or the action that one of them undertook under the condition that, from the moment when the industrial design was disclosed until the moment of filing the application for the granting of right to the industrial design, or the moment of the requested priority right, almost 12 months have elapsed, as well as that the industrial design became available to the public as the consequence of the ill-use connected to the author or his legal follower.

Protection Excluded Due to Technical Function and contrary to public order and moral principles.

#### Article 8

Industrial design right shall not subsist with respect to features of appearance of a product that are solely dictated by its technical function.

Industrial design right shall not subsist with respect to features of appearance of a product that must necessarily be reproduced in its exact form and dimensions in order to permit the product to be mechanically connected to or placed in, around or against another product, so that either product may perform its function.

Notwithstanding paragraph 2, a industrial design right shall, under the conditions set out in Articles 4 and 5 of this Law, subsist with respect to a design enabling multiple assembly or connection of mutually interchangeable products within a modular system.

Industrial design cannot be used to protect the external look of the product, the publication of which or the use of which is contrary to the public order or the accepted moral principles.

Right to Industrial Design Protection -  
Article 8A -

The right to the industrial design protection shall be vested in the designer, or his legal successor, or the employer in cases defined by this Law.

Foreign natural and legal persons shall have rights with respect to industrial design protection equal to of national natural and legal persons, if it results from international agreements or from reciprocity principle.

Proof of the existence of reciprocity shall be provided by the person invoking reciprocity.

Non-registrability of Industrial Design  
Article 9

On the basis of this law, the protection cannot be granted to an industrial design under following conditions:

- 1) -which do not represent the industrial design in the meaning of the article 2, paragraph 1 of this law;
- 2) which does not fulfill the conditions from paragraph 3 – 8 of this law;
- 3) if the application for the grant of industrial design protection is filed by the person that has no right for the protection of industrial design in the meaning of the article 8a paragraph 1 of this law;
- 4) if the industrial design is contrary to the industrial design which has been made available to the public after the date of the filing of the application, or the date of the granted priority right, which is protected in the Republic of Serbia from the date of the date preceding the date of the filing of the application for the protection of industrial design or the date of the granted priority right;
- 5) -which is used as a well known sign, and the law which regulates such a sign enables the holder of right to the sign the right to prohibit such a utilization;
- 6) -which infringes the copyright law or the industrial property rights of another person;
- 7) -which contains the state symbol or another public crest, flag or symbol, the title or the abbreviation of the title of some country or the international organization or the religious and national symbols, as well as their imitation, except at the approval of the competent body.”

Article 10 -  
(Deleted) -

Duration of Protection

Article 11

The industrial design right shall be acquired by entering into the Industrial Design Register and shall last for 5 years from the filing date of the the competent authority.

Industrial design protection may be renewed for periods of 5 years each, up to a total term of 25 years from the date of filing of the application, provided the prescribed fees have been paid.

Request for the extension of protection of industrial design, from paragraph 2 of this article contains in particular: the designation of the register number of the industrial design and the date until which the industrial design is considered valid; data on the holder of right of the industrial design, data on the fee paid for the extension of protection of industrial design.

The government shall prescribe the particulars of the request for renewal of industrial design protection.

### III. PROTECTION PROCEEDURE

Common provisions

Article 12

Legal protection of the industrial design shall be realized in the administrative proceedings administered by the competent authority.

An appeal against the decisions rendered by the competent authority under paragraph 1 of this Article may be filed with the Government within a term of 15 days from the date of receipt of the decision.

When the decision of the competent body from the paragraph 1 of this article refuses the grant of the industrial design for the reason that the conditions have not been fulfilled for protection as mentioned in articles 3-9 of this Law, the government in the decision following the appeal can grant the industrial design in the altered shape, if in that shape the industrial design fulfills the conditions for protection and if the individual character of the industrial design has been maintained.

Administrative dispute proceedings may be initiated against the decision rendered by the Government on the appeal, within a term of 30 days from the date of receipt of the Government decision.

### Registers Article 13

The competent authority shall maintain the Register of National Applications for Industrial Design Registration (hereinafter referred to as: the Register of Applications), and the Industrial Design Register (hereinafter referred to as: The Industrial Design Register).

The registers referred to in paragraph 1 of this Article shall be deemed as public books and interested parties may view them in the presence of an official.

The documents related to registered designs, except for parts that are confidential, may be viewed by an interested party only in the presence of an official.

At the written request of an interested party and following the payment of the prescribed fee, the competent authority shall issue copies of the documents and relevant certificates on the facts contained in the official records kept by the authority.

The Register of Applications shall contain, in particular: data about the applicant; the filing date of the application; the number of the application; the real and short name of the subject matter of protection; data about any changes referring to the application (status-related changes of the applicant, assignment, licence, pledge, franchise etc.).

The Industrial Design Register shall contain in particular: data about the industrial design holder; the industrial design registration number and registration date; name of the subject matter of protection; designation of the class of the International Classification prescribed by the Locarno Agreement on Establishing an International Classification of Industrial Designs (hereinafter referred to as: the International Classification of Industrial Designs); data about any changes relating to the registered industrial design (status-related changes of the holder of industrial design rights, assignment, licence, pledge, franchise and the like).

The Government shall prescribe the particulars of the Register under paragraph 1 of this Article.

### Availability of Documents - Article 14 -

The competent authority shall make its documents and information on designs available to interested parties.

## International Registration of Industrial Design

### Article 15

The right holder to the industrial design, or the applicant for design right registration, may file the application for international industrial design registration, in accordance with the Hague Agreement.

The application for international registration referred to in paragraph 1 of this Article, with the payment for the prescribed fee, may be filed through the competent authority.

The application for the international registration of an industrial design shall be subject to a prescribed fee.

The following shall also be filed with the application for the international registration of an industrial design:

- 1) a representation of the industrial design;
- 2) power of attorney, if the application is filed via a representative;
- 3) proof of payment of the application fee.

The application for the international registration of an industrial design shall contain in particular: data about the applicant; the application number and/or the industrial design registration number; the number of subject matters for which protection is sought if the application has been filed for several subject matters; the designation of the countries where protection is sought; the amount of the application fees paid and signature and seal of the applicant.

The Government shall prescribe the particulars of the application under paragraph 1 of this Article, and shall determine the annexes to be filed with the application, and their contents.

## Representation

### Article 16

In any proceedings before the competent authority, a foreign natural or legal person who has no seat or residence in the Republic of Serbia must be represented by a representative listed in the Register of Representatives kept by the competent authority or domestic attorney.

## Register of Representatives -

### Article 17 -

Natural or legal persons meeting the requirements specified by the law governing patents shall be entered into the Register of Representatives, maintained by the competent authority.

### Application for Industrial Design Right Registration Article 18

The proceedings for registration of the industrial design right shall be initiated by filing the application for the industrial design right registration (hereinafter: the application).

The application under paragraph 1 of this Article shall be filed with the competent authority in writing, in person or by mail.

Essential elements of the application shall be the following:

- 1) request for the registration of the industrial design;
- 2) description of the industrial design;
- 3) two-dimensional representation of the industrial design (hereinafter: the representation).

One application may contain the request for registration for one or several designs (up to 100).

When the application contain the request for registration for several industrial designs (hereinafter referred to as: multiple application), all products in which the industrial designs are intended to be incorporated or to which they are intended to be applied shall belong to the same class of the International Classification for Industrial Designs.

### Request for Industrial Design Registration Article 19

The request for the registration of the industrial design shall contain:

- 1) information on the applicant;
- 2) information on the designer or the statement by the designer that he/she has waived the right to be cited in the application;
- 3) indication whether the application is made for one or multiple industrial designs;
- 4) actual name and abbreviated name of the industrial design;
- 5) justification for filing of the application, if the designer is not the applicant;
- 6) the signature of the applicant.

Optionally, request for that the publication of the registered industrial design to be deferred for twelve months after the date of the issuing the decision on design registration (deferred publication).



During the course of the procedure for the grant of protection as well as during the whole period of validity of industrial design rights, the author of the industrial design may withdraw his statement of request for non-disclosure of his name in the application, registers and other documents specified by this Law.

The Government shall prescribe the particulars of the application under paragraph 1 of this Article and shall determine the annexes to be filed with the application, and their contents.

## Industrial Design Description

### Article 20

The industrial design description should be a precise and concise description of substantial characteristics of industrial design which make it new within the meaning of article 4 of this Law and different from the industrial designs which have become available to the public in the meaning of article 5 of this Law.

The industrial design description must be based on the submitted representation.

The industrial design description shall not include data relating to the structure, function or functional advantages and similar data regarding the body or its parts.

The Government shall prescribe the particulars of the description of an industrial design, as well as the number of copies of the description of an industrial design to be filed with the application for industrial design registration.

## The Representation

### Article 21

A representation shall represent external appearance of the product which is the subject matter of protection including the parts thereof which are visible at all times or in the process of its regular use.

The representation should provide clearly visible all elements of industrial design which make it new within the meaning of article 4 of this Law and different from the industrial designs which have become available to the public in the meaning of article 5 of this Law.

The representation may be submitted in the form of a photograph or drawing and shall fulfill the prescribed requirements with respect to quality and other technical conditions.

When filing the application for two-dimensional industrial design, the two-dimensional sample (specimen) of the design the application refers to

may be submitted, provided the depiction referred to in paragraph 1 of this Article is submitted to the competent authority not later than six months from the date of the filing of the application.

The Government shall prescribe the technical characteristics of the representation, as well as the number of copies of the representation to be filed with the application for the industrial design right registration.

## Procedural Fees and Costs

### Article 22

In the administrative procedure before the competent body, fees are paid and the compensations of the damages of the procedure, in accordance with the regulations prescribing the administrative fees or the compensations of the expenses of the procedure and the expenses for the supplying of the information services.

The fees are paid for the insight into the files of the documents, the issuing of the copies of the documents and certificates and the certificates about the facts from the official evidence, the publication of the data about the registered industrial designs and other information services offered by the competent body in compliance with this law.

The height and the manner of payment of the expenses from the paragraph 2 of this article is prescribed by the Government.

## Filing Date of an Application

### Article 23

The date when an application is filed with the competent authority shall be accorded as the date of filing the application if the application contains the following on that date:

- 1) an indication specifying that industrial design right registration is sought;
- 2) name and surname, and/or name and address of the applicant;
- 3) a representation.

Upon receipt of the application, the competent authority shall review it for conformity with the requirements under paragraph 1 of this Article.

On the application filed directly to the competent authority (national application) containing the elements referred to in paragraph 1 of this Article, competent authority shall make note of the number of the application and the date and an time of its receipt, and the applicant shall be issued the certificate.

If the application does not contain the parts specified in paragraph 1 of this Article, the competent authority shall invite the applicant to remedy the

deficiencies that make the application ineligible for registration in the relevant register, within a time limit of 30 days.

If the applicant remedies the deficiencies under paragraph 4 of this Article within the set time limit, the competent authority shall render a decision according as the filing date of the application the date when the applicant remedied the deficiencies noted.

An application accorded a date of filing shall be registered in the Register of Applications.

If the applicant fails to remedy the deficiencies within the time limit under paragraph 4 of this Article, the competent authority shall render a decision rejecting the application.

An appeal may be filed against the decision under paragraph 7 of this Article.

#### Priority Right Article 24

As of the filing date the applicant shall enjoy a priority right over all other persons who have subsequently filed an application for the same industrial design.

#### Union Priority Right Article 25

A legal or natural person having filed orderly industrial design right application effective in any member state of the Paris Union or the World Trade Organization shall enjoy the right of priority from the date of filing of such application in Republic of Serbia if the application for the same industrial design right has been filed in Republic of Serbia within six months of the date of filing the application effective in the concerned country, and if the application for industrial design right contains information on the date of filing, the filing number of application and the state for which such application has been filed.

An orderly application referred to in paragraph 1 of this Article shall be understood to mean any application that meets the standard requirements in accordance with the national legislation of any member state of the Paris union or the World trade Organization, or in accordance with an international agreement between these states, regardless of the subsequent legal status of such application.

The legal or natural person referred to in paragraph 1 of this Article shall submit to the competent authority the copy of such application certified by the competent authority of the member state of the Paris Union, the

World Trade Organization, or the international organization where the application was filed, not later than three months as of the date of filing the application in Republic of Serbia.

### Priority Certificate

#### Article 25a

On the request of the domestic or foreign natural or legal person which has filed the industrial design right application, the competent authority shall issue a priority certificate.

The request for issuing a priority certificate shall contain, in particular: a representation identical to the one in the application; a description identical to the one in the application; proof of payment of the fee for the certificate.

The priority certificate shall contain, in particular: data about the applicant; data about the author of the industrial design; the application number and the date of filing the application; a representation identical to the one in the application; a description identical to the one in the application.

The Government shall prescribe the particulars of the request under paragraph 2 of this Article and the content of the priority certificate under paragraph 3 of this Article.

### Exhibition Priority Right

#### Article 26

The applicant who has exhibited the design at the national fair or international exhibition or in any other member state of the Paris Union or the World Trade Organization within three months preceding the date of the filing of the application, may request in the application the registration of the design right from the date of the first exhibiting the industrial design.

The applicant referred to in paragraph 1 of this Article shall attach to the application the certificate by the competent authority of a member state of the Paris Union or the World Trade Organization that the fair or exhibition was international in its character, indicating data on the type of fair or exhibition, venue, date of opening and closing of the fair or exhibition and the date of the first exhibiting the design.

The certificate that an exhibition or a fair held in Republic of Serbia had a recognized international character shall be issued by the Chamber of Commerce of Republic of Serbia.

The registration of the priority right referred to in paragraph 1 of this Article shall not induce extension of the time limits referred to in the Article 25 of this Law.

### Modification of the Representation

#### Article 27

The representation of the industrial design may not be subsequently modified, in such a way that it significantly differs in its extent and contents from the one defined by the description submitted at the time of the filing of the application.

### Order of Application Examination

#### Article 28

The applications shall be examined in the order determined by the date and hour of their filing.

Notwithstanding the provision of paragraph 1 of this Article, the application shall be examined in an expedited procedure in case of the procedure initiated before a court or an inspection authority, at the request by the court or the competent inspectorate.

### Examination of the Application Orderliness

#### Article 29

The application shall be considered orderly if it contains all the elements referred to in Articles 19, 20 and 21 of this Law, the proof of payment of the application fee, and other elements laid down by this Law or the implementing regulations thereof.

Where the application has been found not to be orderly, the competent authority shall notify the applicant in writing (by way of the examination report), stating the grounds, and request the applicant to correct it within the period specified by the competent authority.

Upon the justified request of the applicant, and the payment of the prescribed fee, the competent authority may extend the time limit referred to in paragraph 2 of this Article for the time period considered appropriate, not exceeding three months.

Where the applicant fails to correct the application within the said time limit, or to pay the prescribed fees, the competent authority shall decide to reject the application.

An appeal may be filed against the decision under paragraph 4 of this Article.

In the case referred to in paragraph 4 of this Article, the applicant may, with the payment of the prescribed fee, file a motion and request the return into the status preceding the rejection, but not later than three months after the date of the receipt of the decision to reject the application.

### Examination of the Conditions for the Grant of an Industrial Design Right Registration Article 30

Where the application was found orderly within the meaning of the Article 29, paragraph 1 of this Law, the competent authority shall examine whether the requirements for the grant of the industrial design registration have been met.

### Decision Refusing the Grant of Industrial Design Right Registration Article 31

If the competent authority establishes that the application does not conform to the requirements for the grant of industrial design right registration, the competent authority shall notify the applicant in writing of the reasons due to which the industrial design cannot be granted and shall invite the applicant to submit his observations regarding such reasons within the time limit set by the competent authority.

Following the justified request of the applicant, along with the payment of the prescribed fee, the competent authority may extend the time period referred to in paragraph 1 of this Article for the time period considered to be appropriate, not exceeding three months.

Where the applicant fails to respond, or where he responds but the competent authority nevertheless considers that the industrial design right may not be registered, the competent authority shall issue a decision on refusal of industrial design registration.

### Withdrawal of the Application Article 32

An applicant may, at any time during the procedure, withdraw his application as a whole or in respect of some of the industrial designs.

If a certain right in favor of a third party has been registered in the Register of Applications, the applicant may not withdraw the application

without the written consent of the person in whose name that right has been registered.

Where an applicant withdraws his application as a whole, the competent authority shall render a decision staying the procedure.

An appeal may be filed against the decision under paragraph 3.

In the case referred to in paragraph 3 of this Article, the validity of the application shall cease as of the date immediately following the date of filing the statement of withdrawal with the competent authority.

### Division of Application

#### Article 33

The applicant filing an multiple application pursuant to Article 18, paragraph 5 of this Law, may, following the payment of the prescribed fee, file the request for division of the multiple application to several individual or multiple separated applications.

Each of the separated applications referred to in paragraph 1 of this Article shall be issued a new application number and registered in the relevant register, but shall retain the date of the filing of the original multiple application and the right of priority thereof.

A separated decision shall be issued with respect to the separation of the application, which shall indicate the number(s) of new applications, industrial designs from the original multiple application, as well as industrial designs remaining in the original application and the industrial designs to remain in the separate application(s).

The application under paragraph 1 of this Article shall contain, in particular: the number and the filing date of the original application the division of which is sought; a description and a representation of the industrial design; a designation of the class numbers in the International Classification of Industrial Designs remaining in the basic application, and the classes numbers in the International Classification of Industrial Designs which have been divided.

The Government shall prescribe the particulars of the application under paragraph 1 of this Article, and shall determine the annexes to be filed with the application, as well as their contents.

### Partial Refusal of Multiple Application

#### Article 34

If the competent authority establishes that a multiple application, in addition to containing industrial designs eligible for the grant of protection,

also contains one or several industrial designs not eligible for protection by virtue of this Law, the competent authority shall notify the applicant thereof and shall invite him to submit his observations about the reasons stated, within a time limit set by the competent authority.

Following the justified request by the applicant, the competent authority shall extend the time period referred to in paragraph 1 of this Article for the time period considered to be appropriate, not exceeding three months.

The competent authority shall adopt a decision partly granting a multiple application if the applicant submits no observations, or if the applicant submits his observations but the competent authority still deems the industrial designs in the multiple application are not eligible for protection.

#### Application for Industrial Design Registration to be Accepted as Application for Patent Registration or Petty Patent Registration

##### Article 35

Any time prior to the termination of the proceedings, the application for industrial design registration may be altered to become the application for patent or petty patent registration.

#### Decision on Fee Payment for Industrial Design Right Registration

##### Article 36

Where the application was found to meet the registration requirements, the competent authority shall issue a decision requesting the applicant to pay the fee for the first five years of registration, and the costs of industrial design publication, and to submit the proof of payments made.

Where the applicant fails to submit proof of the payments made, referred to in paragraph 1 of this Article in the time period specified, the competent authority shall issue a decision on refusing the application.

In the case referred to in paragraph 2 of this Article, the competent authority shall render a decision staying the proceedings, which may be appealed.

In the case referred to in paragraph 2 of this Article, the applicant may file the motion and request the return into the status preceding the decision on refusing the application, but not later than 3 months as of the date of the receipt of the decision on refusal of the application.



Registration of Industrial Design Rights in the Industrial Design Register  
Article 37

Where the applicant has submitted proof of payments made referred to in the Article 36, paragraph 1 of this Law, the competent authority shall issue the decision on the registration of the industrial design right, and the registered design right, along with the prescribed bibliographical data, shall be entered into the Industrial Design Register while the holder of the industrial design right shall be issued an industrial design certificate.

An industrial design certificate shall be in the form of a decision rendered in administrative proceedings.

An industrial design certificate shall contain, in particular: the registration number of the registered industrial design and the application number; data about the author of the design; a representation and a description of the industrial design; the date of entry in the Industrial Designs Register; the date of lapse of the registered industrial design.

The Government shall prescribe the particulars of the industrial design certificate under paragraph 1 of this Article.

Issuing the Industrial Design Certificate and Publication of the Registration  
Information  
Article 38

The grant of an industrial design shall be published in the Official Gazette of the competent authority.

The Official Gazette of the competent authority shall publish the following data in particular: data about the holder of the industrial design right; the registration number of the registered industrial design; the date of entry of the industrial design right in the Industrial Designs Register; the date of lapse of the registered industrial design; the name of the subject matter of protection; a representation; the class number under the International Classification of Industrial Designs.

The Government shall prescribe the data under paragraph 2 of this Article to be published in the official gazette of the competent authority.

IV CONTENT, SCOPE AND LIMITATIONS OF THE INDUSTRIAL -  
DESIGN RIGHT -

Content of the Design Right -

#### Article 39 -

The holder of right to industrial design has the exclusive right to use the protected industrial design and to deny that right to every third party.

The use from paragraph 1 of this article implies in particular the manufacture, offering, marketing, import, export or use of that product, implying that design is embedded there or applied for that or stored for the mentioned purposes.

#### Industrial Design Author Rights

##### Article 40

Author of the industrial design shall have moral and economic rights.

The moral right shall be understood to mean the right of the industrial design author to have his name indicated in the registration application, documents and certificate of the industrial design.

The economic right shall be understood to mean the right of the industrial design author to enjoy economic benefits from utilization of the protected industrial design.

Where the author of the design is not the holder of the industrial design right, the form of the economic benefit deriving from the utilization of the industrial design, enjoyed by the author of the protected industrial design shall be regulated by the contract between the holder of the industrial design right and the industrial design author.

#### Scope of the Industrial Design Right

##### Article 41

The scope of the protection conferred by a design right shall include any design which does not produce on the informed user a different overall impression.

The applicant may, at his own initiative or at the written request of the competent authority, or within the time limit set by such authority, state that he does not claim any exclusive rights on any element of the industrial design indicated in the description.

When determining the scope of the industrial design right, in any dispute that might arise, the court shall take into account freedom of the author in creating the industrial design.

#### Right of Prior Use -

##### Article 42 -

The industrial design right shall not have an effect on a person acting in good faith who, prior to the date the application was recognized the priority right in the domestic territory, has already commenced to use the protected industrial design in the production, or has made all necessary preparations to commence such use.

The person referred to in paragraph 1 of this Article shall be entitled to use the industrial design for the purpose of production only, in his own company or workshop, or in a third party's company or workshop for his own needs.

The person referred to in paragraph 1 of this Article may not transfer to a third person his right to use the industrial design, unless transferring such right together with the company or workshop, or a part of the company in which use of such industrial design has been prepared, or has commenced.

#### Limitation of Right

##### Article 43

The holder of industrial design right may not prohibit a third party from performing the following:

- 1) acts done privately and for non-commercial purposes;
- 1a) acts done for experimental purposes;
- 2) reproduction for the purpose of teaching or making citations, provided such activities are in line with the practices of fair competition and provided they do not unreasonably jeopardize the normal exploitation of the industrial design, as well as provided that the source from which the industrial design has been obtained is specified.

#### Limitation of Rights to Ensure Normal International Traffic

##### Article 44

The right acquired by the grant of the industrial design can be realized in connection with the:

- 1.) equipment of the ship or aircraft registered in another country, which is temporarily found on the territory of the Republic of Serbia;
- 2.) import into the Republic of Serbia of spare parts and inclusive parts intended for the repair of the vehicle from the paragraph 1 of this article;
- 3.) performance of repairs on the vehicle from the point 1 of this article.”

#### Exhaustion of Rights -

##### Article 45 -

If the holder of industrial design rights in the Republic of Serbia puts on the market a product comprising a protected industrial design and/or a product designed in accordance with a protected industrial design, or if the holder of the industrial design right authorizes another person in the Republic of Serbia to put such a product on the market, the right holder shall not be entitled to prohibit third parties from further disposing of that product which has been purchased in the course of legal trade.

#### Relationship with other Forms of Protection

##### Article 46

Provisions of this law shall not affect any existing rights with respect to trademarks, other distinctive signs, typefaces, unregistered design rights, patents, or petty patents, as well as civil liability or unfair competition. The industrial design protected pursuant to the provisions of this Law shall also enjoy protection based on the legislation governing the copyright as of the date of its creation, or as of the date it was expressed in a certain form.

#### V. PROTECTION OF THE INDUSTRIAL DESIGN CREATED IN THE - CONTEXT OF EMPLOYMENT -

##### Industrial Design Created in the Course of Employment

##### Article 47

The legal protection of industrial design made in the course of employment implies the implementation of the provisions of the law regulating patents.

#### VI. CHANGES IN THE INDUSTRIAL DESIGN APPLICATION AND/OR REGISTRATION

##### Change of name and address of the right holder

##### Article 48

Upon the request of a holder of industrial design rights and/or an industrial design applicant, the competent authority shall render a decision on entering in the appropriate register of the competent authority, changes in the name and address of the holder of the industrial design right and/or the applicant.

Entry of the change of name and address of the right holder may be requested on the basis of a single application referred to in paragraph 1 of

this Article referring to several registered industrial designs and/or several applications, provided their registration numbers and/or application numbers are specified in the application.

If the request for registering the change of name and address of the right holder does not contain the prescribed data, the competent authority shall invite the applicant in writing to remedy the deficiencies within the time limit set by the competent authority.

On the basis of a reasoned request by the applicant for entering the change of name and address, and upon payment of the prescribed fee, the competent authority shall extend the time limit under paragraph 3 of this Article by the period of time the competent authority deems appropriate.

If the applicant fails to proceed as requested within the set time limit, the competent authority shall render a decision rejecting the application.

An appeal may be filed against the decision under paragraph 5 of this Article.

The application for the registration of changes under paragraph 1 of this Article shall contain in particular: the registration number of the registered industrial design, and/or the application number; data about the holder of the industrial design right and/or applicant; a designation of the type of changes.

The Government shall prescribe the particulars of the request for entering the changes under paragraph 1 of this Article, as well as the content of the annexes and the annexes to be filed with the request.

#### Assignment - Article 49 -

Assignment of industrial design rights and/or rights arising from the application may be the consequence of an assignment agreement, change of status of the holder of the industrial design right and/or the applicant, or a court or administrative decision.

Assignment under paragraph 1 of this Article shall be recorded in the appropriate register of the competent authority upon the request of the holder of the industrial design right and/or applicant or assignee.

Registration of the assignment under paragraph 1 of this Article in the appropriate register of the competent authority shall produce legal effect in relation to third parties.

Registration of the assignment under paragraph 1 of this Article in the appropriate register of the competent authority shall be subject to a special decision.

## Assignment Agreement Article 50

On the basis of the assignment agreement under Article 49 paragraph 1 of this Law, the holder of the industrial design right, and/or the applicant may assign the right to the registered industrial design and/or the right arising from the application.

The assignment agreement under paragraph 1 of this Article shall be made in writing and it shall contain a designation of the contracting parties, the number of the registered industrial design, and/or the application number and the amount of remuneration, if stipulated.

Any issue relating to the assignment agreement not regulated by this Law shall be subject to regulations regulating obligations.

## License Article 51

The holder of the industrial design right and/or the applicant may grant license for the right to use the registered industrial design and/or for the rights arising from the application, on the basis of a license contract.

The license agreement, under paragraph 1 of this Article, shall be done in writing and shall contain indication of the contracting parties, industrial design registration number or application registration number, the term of validity of the license and the scope of the license.

The license agreement, under paragraph 1 of this Article, shall be recorded in the appropriate register with the competent authority at the request of the holder of the industrial design right and/or applicant or licensee.

The registration of the license agreement, under paragraph 1 of this Article, in the appropriate register of the competent authority shall produce effect in relation to the third parties

The registration of the license agreement, under paragraph 1 of this Article, in the appropriate register of the competent authority shall be subject to a special decision.

All issues relating to the cession of the right to use the registered industrial design, or the rights from the application, that are not regulated by this law, imply that the provisions regulating obligations are implemented.

## Pledge Article 52

A registered industrial design, and/or the right arising from the application may be the subject of a pledge agreement.

The pledge agreement under paragraph 1 of this Article shall be drawn up in writing and shall contain: the date of signing; name and surname or company title, domicile or residence, and/or the seat of the contractual parties, as well as the pledgee, if they are not the same person; the registration number of the registered industrial design and/or the number of the industrial design application and data about the claim secured by the right of pledge.

The pledge agreement, under paragraph 1 of this Article, shall be recorded in the appropriate register of the competent authority upon the request of the holder of the industrial design right and/or applicant or pledger.

The pledgee shall acquire the security interest, upon registration in the appropriate register of the competent authority.

The registration of the pledge agreement, under paragraph 1 of this Article, in the appropriate register of the competent authority shall be subject to a special decision.

Any issue relating to possessory lien in respect of industrial design which is not regulated by this Law shall be subject to regulations regulating non-possessory pledge, obligations, and proprietary right.

The following data shall be entered in the register of the competent authority, and in particular: data about the pledger and debtor, where they are not the same person, as well as data about the pledgee; the registration number of the registered industrial design, and/or the number of the industrial design application; data about the claim secured by right of pledge including a designation of the basic and the maximum amounts.

All changes of the data under paragraph 7 of this Article shall be recorded in the register of the competent authority.

The Government shall prescribe the data to be entered in the register of the competent authority.

### Procedure for the Registration of Assignment, License and Pledge Article 53

The procedure for the registration of assignment, license and pledge shall be initiated on the basis of a written request.

The request under paragraph 1 of this Article shall be filed with the following:

- 1) proof of legal title for the registration requested;
- 2) power of attorney, if the procedure for the registration of the assignment, license or pledge is initiated through an agent;
- 3) proof of payment of the fee for the decision passed on the basis of

the request for the registration of the assignment, license or pledge

Registration of the assignment of several registered industrial designs and/or applications may be demanded on the basis of a single request referred to in paragraph 1 of this Article provided the earlier right holder and the new right holder are the same in respect of every registered industrial design and/or application and that the registration numbers and/or application numbers are designated in the request.

Registration of a license and/or a pledge in respect of registered industrial designs and/or applications may be requested on the basis of a single request, referred to in paragraph 1 of this Article, provided that the right holder and the licensee and/or pledgee are the same of each registered industrial design and/or application, and that the registration numbers and/or application numbers are designated in the request.

The request under paragraph 1 of this Article shall include, in particular: the registration number of the registered industrial design, and/or the application number; data about the holder of the industrial design right, and/or the applicant; a designation of the type of change, and/or the registration of the right sought.

The Government shall prescribe the particulars of the request, under paragraph 1 of this Article, and shall determine the annexes to be filed with the request, and their contents.

#### Article 54

The request for the registration of an assignment, license and/or pledge shall be regular if it contains the data under Article 53 paragraph 2 of this Law and other prescribed data.

If the request for the registration of an assignment, license and/or pledge is not regular, the competent authority shall invite the applicant to remedy the deficiencies within a time limit of 30 days from the date of receipt of the invitation.

Upon a reasoned request by the applicant for the registration of the assignment, license and/or pledge and upon payment of the prescribed fee, the competent authority shall extend the time limit under paragraph 2 of this Article by the period of time the competent authority deems appropriate.

If the applicant fails to proceed as requested within the set time limit, the competent authority shall render a decision rejecting the application.

An appeal may be lodged against the decision under paragraph 4 of this Article.



## Article 55

If the request for the registration of an assignment, license and/or pledge is regular within the meaning of Article 54 of this Law, the competent authority shall examine if the legal title, the request is based on, is harmonized with the statutorily prescribed requirements for the registration of an assignment, license or pledge.

If the legal title constituting grounds for the request for the registration of an assignment, license and/or pledge does not comply with the statutorily prescribed conditions, the competent authority shall notify the applicant in writing about the reasons why the registration cannot be granted and shall invite the applicant to submit his observations regarding the reasons, within the time limit within a time limit of 30 days from the date of receipt of the invitation.

Upon a reasoned request by an applicant for the registration of the assignment, license and/or pledge, and upon payment of the prescribed fee, the competent authority shall extend the time limit referred to in paragraph 2 of this Article by the period of time the competent authority deems appropriate.

The competent authority shall issue a decision refusing the request for the registration of an assignment, license and/or pledge if the applicant fails to submit his observations, within the set time limit, regarding the reasons why the registration cannot be granted, or if the applicant submits his/her observations but the competent authority still considers that registration cannot be granted.

## VII CESSATION OF RIGHT

### Article 56

The industrial design right shall cease:

- 1) if the industrial design right holder fails to pay the prescribed fee for maintenance of the right;
- 2) if the right holder abandons the right, on the day following the day of filing the statement of abandonment;
- 3) based on a court decision, or a decision of a competent authority, in the events specified by this Law, on the day designated in such decision;
- 4) if the legal person has been dissolved, or if the natural person who is the holder of right has died, on the day of dissolution of legal person, or death of natural person, unless the design right has been transferred to legal successors of such persons.

Right of a Third Party Entered in Registers -  
Article 57 -

If a right in favor of a third person has been entered in the Industrial Design Register or the Register of Applications (license, lien, etc.), the industrial design right holder or applicant may not renounce the right without written consent of the person whose name has been entered in the Register.

If the holder of the industrial design right has failed to pay the fee for maintenance of the validity of the registered industrial design within the prescribed term, and the license, lien, or any other right in favor of a third person has been entered in the Industrial Design Register, the competent authority shall notify such person that the fee has not been paid and that he may make due payment within six months following the receipt of the notification and thus maintain validity of the entered right.

VIII. DECLARATION OF INVALIDITY OF AN INDUSTRIAL DESIGN -  
REGISTRATION -  
Article 58 -

Registered industrial design can be annulled if it is established that at the time of its registration, conditions have not been fulfilled for the grant of the industrial design, in particular at the proposal of the interested party or at the proposal of the public prosecutor (henceforward: proposer).

The registered industrial design can be announced as null and void also after the expiry of the duration right of protection or the renouncing of the right to the industrial design by the holder of right.

If the reason for the annulment is based on the article 9, paragraph 1, point 3 of this Law, the proposal for the annulment of the industrial design can be filed only by the person fulfilling the conditions to have granted the right to the industrial design.

If the reason for annulment of the is based on article 9, paragraph 1, points 4, 5 and 6 of this Law, the proposal for the annulment of industrial design can be filed only by the person filing the previous application or the holder of right confronting the right to the industrial design.

If the reason for the declaration of annulment is based on the article 9, paragraph 1, point 7 of this Law, the proposal for the annulment of the industrial design can be filed by the public prosecutor or the natural or legal person using the state emblem or other public crest, flag or symbol, title or abbreviation of the title of some country or international organization or religious or national symbol.

## Request for Invalidation Article 59

The procedure for a declaration of invalidity of a registered industrial design shall be initiated on the basis of a written request for a declaration of invalidity.

The request under paragraph 1 of this Article shall contain data about the petitioner and the holder of the industrial design right, an indication specifying that a declaration of invalidity of the registered industrial design is sought, the registration number of the registered industrial design, the reasons based on which the request for a declaration of invalidity is made, and the necessary evidence.

## Proceedings on the Orderly Request for Invalidation Article 60

If the request for a declaration of invalidity of a registered industrial design does not conform to the prescribed conditions referred to in Article 59 of this Law, the competent authority shall invite the petitioner in writing to remedy the deficiencies within a time limit of 30 days from the date of receipt of the invitation.

On the basis of a reasoned request by the petitioner, and upon payment of the prescribed fee, the competent authority shall extend the deadline under paragraph 1 of this Article by the period of time the competent authority deems appropriate.

If the petitioner fails to proceed as requested within the set time limit, the competent authority shall render a decision rejecting the request.

An appeal may be filed against the decision under paragraph 3 of this Article.

The competent authority shall forward a regular request referred to in Article 59 of this Law to the respondent, inviting him to submit his reply within a time limit of 30 days from the date of receipt of the invitation.

In the proceedings based on the request for a declaration of invalidation, the competent authority may schedule a hearing.

After the completion of the proceedings based on the request for a declaration of invalidity, the competent authority may render a decision declaring the registered industrial design invalid as a whole or in part.

After passing the decision on the publication of the partial annulment of the registered industrial design, the right to the industrial design can be maintained in the altered form if in such a form, it fulfills the conditions for protection from article 3-9 of this Law and if the individual character of the design has been maintained. In the procedure following the proposal for the

annulment of the registered industrial design, the holder of right to industrial design can partial renounce the right to the industrial design in order to maintain the right to industrial design in the changed form.

Within three months from the final decision declaring a registered industrial design invalid, the competent authority shall publish, in its official gazette, the data prescribed for the annulment of rights.

#### Article 61

A declaration of invalidity of a registered industrial design, shall have no retroactive effect on any final and enforceable court decisions with respect to determination of the infringement of right, or on the concluded contracts on transfer of right, or concession of license, to the extent in which such contracts have been realized, provided the plaintiff, or the holder of design right, was acting in good faith.

### IX CIVIL LAW PROTECTION -

#### Article 62 -

(Deleted) -

#### Infringement of Right -

#### Article 63

Any unauthorized exploitation of a registered industrial design within the meaning of Article 39 of this Law and unauthorized publication of the subject matter of the application shall constitute an infringement of right.

Imitation of a protected industrial design or the industrial design applied for registration shall also constitute an infringement referred to in paragraph 1 of this Article.

When determining the existence of the infringement of right, the court shall particularly take into consideration the provisions of Articles 8, 9, and 41 of this Law.

#### Right to Bring an Infringement Action

#### Article 64

Legal suit due to the infringement of right from paragraph 63 of this Law can be applied for by the applicant, holder of right to industrial design and the acquirer of the exclusive license.

Holder of an exclusive license can file an infringement action for the infringement of right if it has not been prescribed otherwise by a license contract.

## Infringement Claims Article 64a

In the event of infringement or right, the action may be filed and the plaintiff may request the following:

1) establishment of the existence of an infringement of right or acts representing serious threat that the right is about to be infringed; as well as the prohibition of the continuation of such or similar acts under the threat of penalty payment;

2) prohibition of acts infringing the right or acts representing serious threat that the right is about to be infringed as well as the prohibition of the continuation of such or similar acts under the threat of penalty payment;

3) compensation for damages caused by infringement;

4) publication of the court decision at the expense of the defendant;

5) exclusion from the channels of commerce, seizure or destruction of the infringing products without compensation of any sort;

6) prohibition of alienation, seizure or destruction of material or articles (equipment, tools) predominantly used in the creation of infringing products, without compensation of any sort;

7) supplying of information about third parties participating in the infringement of rights.

Any infringer shall be liable for damages appropriate to the actual prejudice suffered by the plaintiff as a result of the violation.

If the court established the violation of right, the legal suit against the person whose services have been used in the course of the violation of right (intermediary), imply that one can demand the prohibition of the repetition of action violating the right or similar actions threatening the payment of the fine.

The court shall, within the infringement claims under paragraph 1 item 4) of this Article, decide in which means of public communication the court decision will be published. If the court decides to publish the court decision in part it will determine, within the infringement claims, to publish the sentence and if necessary that part of the court decision which shows the nature of the infringement and who committed the infringement.

In considering the claims referred to in paragraph 1, items 5 and 6 of this Article, the court shall take into account the takes into account the proportionality between the seriousness of the infringement and the requested measures and the interests of the third parties.

When the court shall set the damage in the case when the infringer knowingly, or with reasonable grounds to know, was engaged in an infringing activity it shall take into account all appropriate aspects, such as

the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement.

The court may in appropriate cases as an alternative to compensation of damage referred to in par. 6 of this article, set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorization to use the intellectual property right in question.

## Court Procedure

### Article 65

An infringement action may be filed within a period of three years as from the day on which the plaintiff became aware of the infringement and the infringer, but not later than five years from the day of the first infringement.

Court procedure following the infringement action from paragraph 1 of this article is urgent.

Court procedure for the infringement of right arising from the application shall be suspended until the final decision of the competent body regarding the application.

If the procedure under Art. 58 and 71 of this Law has been initiated before the competent body or the court, the court which acts following the infringement action from article 64 and 64a shall suspend the procedure until the final decision of the competent body or the final decision of the court.

Procedure following the legal suit from paragraph 1 of this article is subject to the provisions of the law regulating the litigation procedure.

## Provisional measure

### Article 66

Upon request by person who has presented reasonable available evidence to support his/her claims that his/her right arising from the application or granted right has been infringed or is about to be infringed, the court may order a provisional measure of:

1) seizure or exclusion from the channels of commerce the infringing products;

2) seizure or prohibition of alienation of material or articles (equipment, tools) predominantly used in the creation of infringing products;

3) prohibition of acts infringing the right or acts representing serious threat that the right is about to be infringed.

Provisional measure from paragraph 1, item 3 of this article may be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe the right.

Upon request by person who has presented reasonable available evidence to support his/her claims that his/her right arising from the application or granted right has been infringed or is about to be infringed on a commercial scale, the court may order, apart from the provisional measures from paragraph 1 of this article, a provisional measure of:

1) prohibition of disposal movable property or seizure of such property;

2) prohibition of the payment of monetary funds from the account of the person against whom the provisional measure has been ordered.

For issuing a provisional measure from paragraph 3 of this article, the court may order the communication of banking, financing, business or other essential documents and data or access to such documents and data.

A person to whom a prohibition from paragraph 1, point 2 and 3 and paragraph 2, point 2 and order from paragraph 4 of this article has been issued and who has not acted in compliance with the prohibition or an order shall be fined in accordance with appropriate provisions of the law regulating enforcement and security procedure.

#### Procedure for the Determination of Provisional Measures

##### Article 66a

The court may order a provisional measure immediately after submission of the request for ordering a provisional without the defendant having been heard, in particular where any delay would cause irreparable harm to the applicant.

In the case from paragraph 1 of this article the parties shall be so informed without delay after the execution of the measures at the latest.

When a provisional measure has been ordered before commencement of proceeding leading to a decision on the merits of the case or other procedure, an infringement action, or a motion for commencement of other procedure to justify a provisional measure, must be submitted within thirty (30) days from the court decision ordering provisional measure.

#### Suspension of provisional measures and compensation for the damage -

##### Article 66b -

If the infringement action has not been submitted within the time limit referred to in article 66a, or if other procedure for justification of a provisional measure has not commenced, the court shall, upon request defended, suspend the procedure and revoke acts already taken.

If a provisional measure has been ordered without the defendant having been heard, the court shall hear defendant within a reasonable time, upon his/her request, and after that may suspend the procedure and revoke acts already taken or modify ordered measure.

If the procedure before the court is suspended and taken acts revoked or if the court found that there has been no infringement or serious threat that the right is about to be infringed the defended has a right to the compensation for any injury caused by those measures.

The court may make the provisional measure lodging adequate security intended to ensure compensation for any prejudice suffered in the case referred to in the paragraph 3 of this article.

#### Obtaining of evidence

##### Article 66c

When a party in processing before the court has specified evidence sufficient to support its claims which is in possession or lies in the control of the opposing party, the court shall order that such evidence be presented by the opposing party, subject to the protection of confidential information.

Under the same conditions from paragraph 1 of this article, in the case of an infringement committed on a commercial scale, on application by a party, the court shall order to opposite party the communication banking, financial or commercial documents which are in possession or under the control of the opposing party, subject to the protection of confidential information.

#### Secure of Evidence

##### Article 67

Upon request by a party who has presented reasonably available evidence to support his/her claims that his/her right arising from the published application or granted right has been infringed or is about to be infringed, the court may order, in the course of the court proceeding as well as before the commencement of proceeding on the merits of the case, preserving evidence, subject to the protection of confidential information.

Preserving evidence within this law implies:

1) taking the detailed description of the infringing products, with or without the taking of samples.



2) seizure or exclusion from the channels of commerce the infringing products and, in appropriate cases, the materials and implements (equipment, tools) principally used in the production and/or distribution of infringing products and the documents relating thereto.

Procedure for the Determination of the Securing of evidence  
Article 68

The court may order preserving evidence immediately after submission of the request for preserving evidence without the other party having been heard, in particular where any delay would cause irreparable harm to the applicant or where there is a demonstrable risk of evidence being destroyed.

In the case from paragraph 1 of this article the parties shall be given notice without delay after the execution of the measures at the latest.

When preserving evidence has been ordered before commencement of proceeding leading to a decision on the merits of the case an infringement action must be submitted within thirty (30) days from the court decision ordering evidence preservation.

Paragraph 1 of this article shall be applied on the person from whom the evidences are provided.

Suspension of preservation evidence  
and compensation for the damage  
Article 68a

If the infringement action has not been submitted within the time limit referred to in article 68 the court shall, upon request of the defendant, suspend the procedure and revoke acts already taken.

If preserving evidence has been ordered without the other party having been heard, the court shall hear other party within a reasonable time, upon his/her request, and after that may suspend the procedure and revoke acts already taken or modify ordered preserving evidence.

If the procedure before the court is suspended and taken acts revoked or if the court found that there has been no infringement or serious threat that the right is about to be infringed, defendant has a right to the compensation for any injury caused by those measures.

The court may order that preserving evidence may be subject to the lodging of adequate security intended to ensure compensation for any prejudice suffered in the case referred to in paragraph 3 of this article.

Paragraphs 2 and 4 of this article shall be applied on the person from whom the evidences are provided.

Security  
Article 69

At the request of the person against whom the infringement action has been brought or proceeding for provisional measures or secure of evidence have been initiated, the court may order appropriate cash deposit amount to ensure compensation in the case of ungrounded request, to be borne by the plaintiff or the person who has requested the provisional measures.

Duty to Provide Information  
Article 70

A court may order a person responsible for an infringement of right to provide information about any third parties who have participated in the infringement of rights and about their distribution channels.

The supply of information from paragraph 1 of this Article, the Court may order to another person:

- 1) with whom goods have been found that are present in the channels of commerce, infringing the right;
- 2) who provides services in the channels of commerce infringing the right
- 3) for whom it has been established to give services on a commercial basis used in the activities infringing the right;
- 4) who has been mentioned from the part of the person from items 1), 2) or 3) of this paragraph as the person included in the production or distribution of goods or offering services infringing the right.

The information from paragraph 1 of this article are particularly the information :

- 1) on the producers, distributors, supplier and other persons that were previously included in the production or distribution of goods and offering of services , as well as salesmen for whom the goods were intended;
- 2) data on the amounts of goods and services as produced, delivered or ordered as well as prices realized for such goods or services.

Persons referred to in paragraphs 1 and 2 of this Article who does not fulfill the obligation of providing information shall be held liable for any damages arising therefrom.

The provisions of this article shall be without prejudice to:

- 1) grant the person whose right has been infringed, rights to receive fuller information;
- 2) use in civil or criminal proceedings of the information communicated pursuant to this article;

3) the right to refuse providing information which would force admission of participation of his/her own or participation of close relatives in an infringement of right

4) applying the provisions which govern the protection of confidentiality of information sources or the processing of personal data.

#### Appropriate implementation of other laws

##### Article 70a

At the procedure following the legal suit, the proposal for the implementation of the temporary measure, the proposal for the securing of evidence and the legal remedy, the appropriate provisions of the law are aptly enforced in order to regulate the execution and security procedure.

The appropriate measures from the Law which regulates the obligation relations, regarding the questions considering the compensation of damages, are aptly applied.

#### Contesting the Industrial Design Right

##### Article 71

The design author or his legal successor may file a complaint to request that the court determines that he has the right to file an application rather than, or together with, the person who has filed the application.

The author of an industrial design or his legal successor may request the court on the basis of a complaint filed, to pronounce a ruling designating the author as the holder of the registered industrial design instead of the person, or together with the person, in whose name the industrial design has been registered with the competent authority.

The complaint referred to in paragraph 1 of this Article may be filed any time before conclusion of the proceedings for recognition of the design right, and the complaint referred to in paragraph 2 of this Article may be filed any time before expiry of the design right validity period.

#### Entering Court Decision in the Register

##### Article 72

Where the claim referred to in Article 71 was granted by a final and enforceable court decision, the competent authority shall, upon receipt of the final and enforceable decision or upon request of the plaintiff, enter the plaintiff in the appropriate Register as the applicant, or holder of the industrial design right.

## Rights of a Third Person Acting in Good Faith

### Article 73

The right which a third person acting in good faith has obtained from the former applicant, or holder of the industrial design right under Article 71 of this Law, shall cease on the day the new holder of right or the applicant is entered in an appropriate register.

## Dispute over Authorship

### Article 74

The design author or his legal successor may file a complaint to request that the court determines who is the author of the industrial design that is the subject of the application, or a recognized industrial design right, and to have such person indicated as the author in the application and all other documents, and in appropriate registers.

The plaintiff referred to in paragraph 1 of this Article may also request that the verdict be published at the expense of the defendant, and compensation for moral injury and material injury and all costs of the proceedings.

There shall be no time limit for filing the complaint referred to in paragraph 1 of this Article.

## Revision

### Article 74 a

Revision is allowed against the valid decisions passed in the second degree in the legal suits referring to the protection and use of industrial design or the rights from the application.

## X. PENAL PROVISIONS

### Article 75

A company or another legal person who has infringed an industrial design and/or the right arising from the application in the manner referred to in Article 63 of this Law shall be sanctioned on grounds of corporate offence by a fine of between RSD 100,000 and 3,000,000.

The responsible person in a company or another legal person shall be sanctioned for the acts under paragraph 1 of this Article on grounds of corporate offence by a fine of between RSD 50,000 and 200,000.

The infringing objects in the corporate offence and the objects used for the perpetration of the corporate offence under paragraph 1 of this Article shall be forfeited and the infringing objects in the corporate offence shall also be destroyed.

The judgment pronouncing punishment against the perpetrator on grounds of the corporate offence under paragraph 1 of this Article shall be published.

#### Article 76

An entrepreneur who has infringed an industrial design right or the right arising from the application in the manner referred to in Article 63 of this Law shall be sanctioned on grounds of misdemeanor by a fine of between RSD 50,000 and 500,000..

A natural person shall also be sanctioned for the acts under paragraph 1 of this Article by a fine of between RSD 10,000 and 50,000.

The infringing objects in the misdemeanor and the objects used for the perpetration of the misdemeanor under paragraph 1 of this Article shall be forfeited and the infringing objects in the misdemeanor shall also be destroyed.

#### Article 77

A legal person who acts as representative in the exercising of the rights under this Law (Art. 16) without a power of attorney shall be sanctioned on grounds of misdemeanor by a fine of between RSD 100,000 and 1,000,000.

The responsible person in a legal person shall be sanctioned for the acts under paragraph 1 of this Article on grounds of misdemeanor, by a fine of between RSD 10,000 and 50,000.

A natural person who acts as representative in the exercising of the rights under this Law (Art. 16) without a power of attorney, shall be sanctioned on grounds of misdemeanor, by a fine of between RSD 10,000 and 50,000.

### XI. TRANSITIONAL AND FINAL PROVISIONS

#### Article 78

The Register of Industrial Design Applications shall be renamed to the Register of Applications for the Grant of Industrial Design Rights, and the Register of Designs shall be renamed to the Register of Industrial Designs,

and they shall continue to be maintained starting from the relevant ordinal number.

The Register of Representatives established by the Law on Patents („Official Gazette of S&M”, No. 32/04 and 35/04 and „Official Gazette of the RS”, No. 115/06), shall continue to be maintained pursuant to the law based on which it has been established and pursuant to the present Law.

Registered industrial designs valid on the date of this Law taking effect shall remain in effect and they shall be subject to the provisions of this Law.

The provisions of this Law shall also apply to the applications for the grant of industrial design rights filed by the date of this Law taking effect in respect of which administrative proceedings have not been finalized, as well as to other proceedings instituted in respect of industrial designs still pending on the date of this Law taking effect.

#### Article 79

Pledges registered by the date of this Law taking effect in the Register of Possessory Lien on Movable Property and Rights at the Agency for Business Registers shall remain in effect and shall be registered in the relevant register with the competent authority.

The Agency for Business Registers shall, within 30 days from the date of this Law taking effect, forward to the competent authority the data and documentation based on which an industrial design pledge has been registered in the Register of Possessory Lien on Movable Property and Rights.

#### Article 80

Bylaws for the enforcement of this Law shall be adopted within four months from the date of this Law taking effect.

Until the adoption of the bylaws under paragraph 1 of this Article, the provisions of the regulations adopted on the basis of the Law on the Legal Protection of Designs („Official Gazette of S&M”, No. 61/04) shall apply, unless they are contrary to this Law.

#### Article 81

The following shall cease to be valid as of the date of this Law taking effect, namely:

- 1) The Law on the Legal Protection of Designs („Official Gazette of S&M” No. 61/04);
- 2) Provisions of Articles 37 and 38 and Article 44 paragraph 1 item 2)

of the Law on Special Powers for Enhancing the Efficiency of Intellectual Property Rights Protection („Official Gazette of the RS”, No. 46/06).

#### Article 82

This Law shall enter into force on the eighth day from the date of its publication in the “Official Gazette of the Republic of Serbia”.

### **Special Transitional Provisions of the Law on Amendments of the Law on the Legal Protection of Industrial Design** („Official Gazette of the RS”, No. 45/15)

#### Article 49

From the date of accession of the Republic of Serbia to the European Union, the provisions of the article 7, paragraph 1 of this Law about the accessibility to the general public of the industrial design shall be applied also in the case when in the standard course of doing business there was no reasonable possibility that the business circles specialized for the given field on the territory of the European Union or the European Economic Area find out about the disclosure of the industrial design.

From the date of the accession of the Republic of Serbia to the European Union, the provision of the article 9, paragraph 1, point 4 of this Law, it shall be applied also in the case when the industrial design is in contradiction with the earlier design that became available to the public after the date of the filing of the application for the protection of the industrial design or the date of the granted priority right, by registering the design of the European Union, or the design of the country member of the European Union from the date that precedes the date of the filing of the application for the protection of the industrial design in the Republic of Serbia or the date of the granted priority right for such an application.

From the date of the accession of the Republic of Serbia to the European Union, the provision of the article 44 of this Law shall be applied also in the case when the equipment of the vessel or the aircraft registered in the other country is temporarily found on the territory of the member state of the European Union, as well as when the import of the spare parts and belonging to the repair of the above mentioned vehicles and the mending of the same in the country member of the European Union.

From the date of the accession of the Republic of Serbia to the European Union, the regulation of the article 45 of this Law about the exception of rights shall be applied also in the case when the holder of rights to the industrial design, or the person authorized by him, has put into the channels of commerce on the territory of the European Union or European economic area the product that contains the protected industrial design, or the product that has been shaped according to the protected industrial design.

#### Article 50

Proceedings which have been initiated until the date of this Law taking effect shall be finalized according to the legislation that was on the effect on the date when they have been initiated.

#### Article 51

Bylaws for the enforcement of this Law shall be adopted within four months from the date of this Law taking effect.

Until the adoption of the bylaws provided for by this Law, the provisions of the regulations adopted on the basis of the Law on the Legal Protection of Industrial Design („Official Gazette RS”, No. 104/09) shall apply except for the provisions contrary to this Law.

#### Article 52

This Law shall enter into force on the eighth day from the date of its publication in the “Official Gazette of the Republic of Serbia”.