

Law on Patents and Utility Models Registration

Promulgated in State Gazette No. 27/02.04.1993, in force as from 01.06.1993, supplemented by No. 83/01.10.1996, in force as from 01.11.1996, amended by No. 11/29.01.1998, amended by No. 81/14.09.1999, in force as from 15.12.1999, amended by No. 45/30.04.2002, amended by No. 66/09.07.2002, in force as from 09.07.2002.

Chapter One

GENERAL PROVISIONS

Subject Matter

Art. 1. (1) This Law governs relationships occurring in the process of creation, protection or use of patentable inventions and utility models.

(2) The provisions of this Law shall equally apply to foreign natural and legal persons of States party to international treaties to which the Republic of Bulgaria is a party. This Law shall apply to foreign natural and legal persons of other States subject to reciprocity to be determined by the Patent Office. In the case of a bilateral treaty,

the provisions laid down therein shall apply.

Inventor

Art. 2. The person who has made an invention or a utility model shall be deemed to be the inventor thereof. If the invention or the utility model was made by two or more persons, the latter shall be recognized as joint inventors.

Right of the Inventor to be Mentioned

Art. 2a.(1) The author of an invention or utility model shall have the right to be mentioned as such in the application, the patent and any publications concerning the invention or utility model. This right shall be personal and non-transferable.

(2) The Patent Office shall *ex officio* see to it that the inventor (joint inventors) is mentioned in the application and the patent for invention or utility model.

Representation

Art. 3. (1) The applicant, the patent owner or any person entitled under this Law to act in proceedings before the Patent Office may do so either in person or through a local industrial property representative. The Council of Ministers shall issue rules governing

the admittance of such representatives and shall lay down the requirements that must be satisfied.

(2) **Applicants with no permanent address or main-office in the Republic of Bulgaria** shall be required to act in proceedings before the Patent Office through industrial property representatives in accordance with the preceding paragraph.

(3) The provisions of the Code of Civil Procedure shall apply to representation in court disputes arising from this Law.

Transfer of Rights

Art. 4. All rights afforded by this Law shall be transferable, unless otherwise provided.

Fees

Art. 5 (1) All acts relating to the filing of patent applications, proceedings before the Patent Office, grant, publication and maintenance of patents shall be subject to fees payable in accordance with a tariff established by the Council of Ministers. **Fees for filing, examination and appeals against examination decisions shall be paid at a reduced rate according to the tariff, provided that the applicants are the inventors themselves, micro- or small enterprises under the Law on the Small and Medium-Sized**

Enterprises, state schools or academic research organizations financed by the state budget.

(2) Where a patent application is filed together with a written statement of willingness to license, the fees payable under the preceding paragraph shall be reduced by 50 percent.

(3) Where fees under the preceding paragraphs are paid partially, payment shall be deemed not to have been made. The Patent Office may give the applicant, or the patentee respectively, the opportunity to pay the remainder of the due fee only where payment can be made within the term as prescribed by the law. On expiry of the term of payment, the amount paid shall be refunded at the request of the payer.

Chapter Two

PATENTABILITY OF INVENTIONS

Patentable Inventions

Art. 6. (1) Patents shall be granted for inventions in any field of technology, which are new, involve an inventive step and are susceptible of industrial application.

(2) The following shall not be regarded as inventions:

1. discoveries, scientific theories and mathematical methods;

2. artistic work results;

3. schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;

4. presentation of information.

(3) The provisions of paragraph 2 shall apply to the subject matter referred to only to the extent that legal protection is sought for the subject matter as such.

Exceptions to Patentability

Art. 7. Patents shall not be granted for:

1. inventions **the commercial use of which would be contrary to social order or morality**, provided that the exploitation shall not be deemed to be so contrary merely because it is prohibited by legislation;

2. **methods for treatment of the human or animal body by therapy or surgery, as well as diagnostic methods practised on the human or animal body. This shall not apply to products, in particular substances or compositions, for use in any of these methods;**

3. plant or animal varieties or essentially biological processes for obtaining them. This provision shall not apply to microbiological methods and the products thereof.

Novelty

Art. 8. (1) An invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, anywhere in the world, before the filing date or the priority date, as appropriate, of the application.

(3) The state of the art shall comprise also the content of all national, European and international patent applications designating the Republic of Bulgaria, of which the filing date or priority date, as appropriate, are prior to the date referred to in paragraph 2 and which are published in the Official Bulletin of the Patent Office after that date.

(4) Substances or compositions, comprised in the state of the art under paragraphs 2 and 3, for use in the methods referred to in Article 7, item 2, shall be considered as new, provided that their use is not comprised in the state of the art.

Inventive Step

Art. 9. An invention shall be considered to involve an **inventive step** if, having regard to the state of the art in accordance with Article 8(2),

at the filing date or the priority date, respectively, it is not obvious to a person skilled in the art.

Industrial Application

Art. 10. An invention shall be considered susceptible of industrial application if it can be made or used repeatedly in any branch of industry or agriculture.

Disclosure Which is not Prejudicial to Novelty

Art.11. (1) A disclosure of the invention shall not be prejudicial to novelty if it occurred within six months preceding the filing date or the priority date, as appropriate, of the patent application and if it was in consequence of:

- 1. an evident abuse in relation to the applicant or his legal predecessor;**
- 2. the fact that the applicant or his legal predecessor has displayed the invention at an official, or officially recognized, international exhibition.**

(2) The disclosure referred to in paragraph 1, item 2 shall not be prejudicial to novelty, if the applicant states, when filing the application, that the invention has been so displayed and presents evidence of that within three months following the

filing date of the application.

Chapter Three

PATENT

Legal Protection

Art. 12. (1) Legal protection for an invention shall be afforded by means of a patent.

(2) A patent shall attest to the existence of a patentable invention, to its priority, to **the inventor** and to the exclusive right of the patent owner in the invention.

(3) A patent shall have effect with respect to third parties as from the date when a mention of the grant thereof appears in the Official Bulletin of the Patent Office.

Right to File an Application

Art. 13. (1) The right to file an application shall belong to the inventor or to his successor in title. Where the right to file belongs to two or more persons it shall be exercised by them jointly. The refusal of one or more such persons to participate in the filing procedure or in the patent granting procedure shall not prevent the others from

carrying out the acts set out in this Law.

(2) The applicant shall be considered to have the right to file unless otherwise decided in court proceedings.

(3) The right to file an application in respect of an invention made in accordance with Article 15 shall belong to the employer if he files an application within three months of the date of being notified of the invention by the inventor. If he does not do so, the right to file shall devolve on the inventor. The right to file may belong jointly to the employer and the inventor if contractually agreed.

(4) Where an invention is made on a contractual basis, the right to file shall belong to the commissioning person, unless otherwise provided in the contract.

(5) The employees of the Patent Office shall not be entitled to file applications for inventions and utility models or to be mentioned as inventors or joint inventors during their period of employment and for one year thereafter.

Right to a Patent

Art. 14. (1) The right to a patent shall belong to the person who has the right to file an application in accordance with Article 13.

(2) If two or more persons file applications for the same invention at different times, the right to the patent shall belong to the person who was first to file.

(3) If two or more persons file independently of each other patent applications for the same invention and with the same filing date or priority date, as appropriate, the right to a patent shall belong to each of them.

Service Inventions

Art. 15. (1) An invention shall constitute a service invention if it has been made in the performance of duties under an employment relationship or other legal relationship of the inventor, unless otherwise provided by contract.

(2) An invention shall constitute a service invention in accordance with the preceding paragraph if, in making it:

1. the inventor has performed duties included in his employment tasks;
2. the inventor has performed duties beyond those referred to in item 1, but which have been specifically commissioned from him in anticipation of an invention;
3. the inventor has made use of material or financial (monetary) resources provided by the employer or the commissioning person or of knowledge and experience acquired in the course of his work.

(3) Where an invention constitutes a service invention in relation to one or some only of several inventors or executants, as

appropriate, the provisions of the preceding paragraphs and of Article 13 shall apply in respect of such inventors, their employers and commissioning persons only.

(4) The inventor or executant, as appropriate, shall be required, for the purposes of this Article, to notify the employer or commissioning person, as appropriate, in writing within three months that the invention has been made.

(5) An inventor who has made a service invention shall have **the right to be mentioned** and the right to equitable remuneration, unless otherwise provided by contract.

The amount of remuneration shall be determined on the basis of the following elements:

1. the profit obtained from any use of the invention during the term of validity of the patent;
2. the value of the invention;
3. the contribution of the employer in terms of capital investments for the creation of the invention, equipment, materials, knowledge, experience, personnel and other assistance.

The remuneration shall be paid by the employer or, where the employer is not the patent owner, by the employer and the patent owner jointly.

(6) If the remuneration referred to in the preceding paragraph is not considered equitable in view of the real profit obtained and the

value of the invention, whether on a contractual basis or determined in accordance with the applicable regulations, it may be increased at the request of the inventor.

(7) The employer, the commissioning person, the inventor and the executant shall refrain from any action which infringes the rights referred to in this Article and in Article 13.

Term of Patent

Art. 16. The term of validity of a patent shall be 20 years from the date of filing of the application.

Extent of Legal Protection

Art. 17. (1) The extent of legal protection shall be determined by the claims. The description and the drawings shall be used to interpret the claims.

(2) The claims shall cover not only the elements as expressed in the claims but also their equivalents. An element shall be considered equivalent to an element expressed in the claims where:

1. the element has in essence the same function realized in the same manner and gives essentially the same result;
2. it is quite obvious to persons skilled in the art that, by the priority date, the result obtained by the element, as expressed in

the claims, could be obtained by the equivalent element.

(3) In determining the extent of legal protection due account shall be taken of any statement limiting the scope of the claims made by the applicant or by the owner of the patent during the examination procedure for grant of a patent or during nullity proceedings.

(4) The interpretation of the claims shall not be limited to the examples of embodiment of the invention included in the description.

(5) The abstract shall not be taken into account for the purpose of determining the extent of legal protection conferred by the patent.

Provisional Protection

Art. 18. (1) **Provisional protection shall subsist for the period from the publication of a mention of the application up to the publication of a mention of the grant of a patent;** the scope of such protection shall be defined by the claims as formulated in the application.

(2) **The protection referred to in paragraph 1 shall have a retroactive effect as from the publication of the mention of the patent grant, in so far as the patent does not extend it.**

(3) The applicant shall have the right to equitable remuneration to be paid by any person who without his authorization has performed any of the acts referred to in Article 19(3) during the period of

provisional protection, provided that a patent is granted for the invention concerned.

Contents of the Exclusive Right in an Invention

Art. 19. (1) The exclusive right in an invention shall comprise the right to use the invention, the right to prohibit other persons from using it without the consent of the owner of the patent and the right to dispose of the patent.

(2) Where the patent was granted to more than one person, and if not agreed otherwise between them, the invention may be fully used by each joint owner, whereas the right to grant licenses, to file statements of preparedness for licensing and to perform any act of disposal of the patent, shall be exercised with the consent of all joint owners. Where not otherwise provided in this Law with regard to patent ownership, the ownership rules under the Ownership Law shall apply correspondingly.

(3) The right to use an invention shall comprise the making, offering for sale, putting on the market of the subject matter of the invention, **import included**, the intended use of the subject matter of the invention as well as the application of the patented method.

(4) Where the subject matter of the patent is a product (article, device, machine, equipment, substance, etc.), the owner of the patent shall have the right to prohibit others from performing the following

acts:

1. making the product;
2. **offering for sale, putting on the market, import included, proper use or warehousing of the product for the purpose of offering, putting on the market or use thereof.**

(5) Where the subject matter of the patent is a method, the patent owner shall have the right to prohibit others from performing the following acts:

1. application of the method;
2. performance of any act referred to in paragraph (4), item 2, in respect of the product obtained directly by the method.

Limitations on the Effect of a Patent

Art 20. The effect of a patent shall not extend to:

1. use of the patented invention for non-commercial purposes with a view to private needs, where such use does not cause significant material prejudice to the owner of the patent;
2. use of the invention for experimental or research and development purposes relating to the subject matter of the patented invention;
3. extemporaneous preparation for individual cases in a pharmacy of a medicine in accordance with a medical prescription;

4. use of the patented invention on board any foreign land vehicle, vessel or aircraft, which temporarily or accidentally enters the territory, waters or airspace of the country, provided that the patented invention is used exclusively for the needs of such means of transport.

Exhaustion of Rights

Art. 20a. The exclusive patent right in an invention shall not extend to acts relating to a product enjoying patent protection, where that product has been put on the market in the territory of the Republic of Bulgaria by the patent owner or with his consent.

Right of Prior Use

Art. 21. A person who, prior to the filing date of the patent application, has used the invention in good faith or has made the necessary preparations for its use may continue to use the invention after such date on condition that the volume remains the same.

Right of Subsequent Use

Art. 22. A person who, after the lapse of a patent, has used the patented invention or has made the necessary preparations for such

use may continue to use the invention in the same volume after renewal of the patent under Article 26(2).

Assignment of the Right of Prior Use and the Right of Subsequent Use

Art. 23. The right of prior use and the right of subsequent use may be transferred only together with the enterprise or that part of the enterprise in which such rights have arisen and may be exercised, subject to there being no increase in the volume of such use outside the enterprise.

Secret Patents

Art. 24. (1) Secret patents shall be granted for inventions, which contain classified information representing a state secret within the meaning of Article 25 of the Law on the Protection of Classified Information.

(2) When filing a secret patent application, the applicant must declare that the invention represents a state secret.

(3) The level of security classification of an invention, which is the subject matter of an invention referred to in paragraph 2, shall be determined by the respective competent authority whose activity the invention relates to on coordination with the State Information Security Commission.

(4) The competent authority referred to in Article 3 shall, within 3 months following the date when the matter was referred to it, pass judgement and inform the Patent Office respectively. A secrecy grading shall be placed to the secret patent application with a determined security classification level, and the applicant shall be notified thereof.

(5) If, within the time limit specified in paragraph 4, no information is received at the Patent Office concerning the security classification level of the invention, it shall be considered that the application does not contain classified information that represents a state secret. The Patent Office shall inform the applicant that the subject matter of the secret patent application contains no classified information representing a state secret, and shall ask for his special agreement for the application to be examined in accordance with the ordinary provisions. In case of lack of such an agreement, the application shall be deemed to be withdrawn and the materials shall be sent back.

(6) The provisions of paragraphs 4 and 5 shall not apply in cases where the competent authority referred to in paragraph 3 is an applicant and, following coordination with the State Information Security Commission, a security grading is put to the application in accordance with the invention security classification level.

(7) The Patent Office shall publish free of charge the numbers only of secret patent grants.

Patenting Abroad

Art. 25. (1) **Applicants with a permanent address or main-office in the Republic of Bulgaria** shall have the right to seek patents for their inventions abroad on the expiry of three months from the date of filing of a patent application for the same invention with the Bulgarian Patent Office, provided that no prohibition under paragraph (2) has been imposed within that period.

(2) The Ministry of Defense or the Ministry of Internal Affairs may prohibit patenting abroad of inventions containing classified information that represents a state secret.

Lapse of Patent

Art. 26. (1) A patent shall lapse:

1. on expiry of the term for which it has been granted;
2. on relinquishment by the patent owner -- as from the date of receipt at the Patent Office of a written statement by the patent owner. The relinquishment of a patent by one joint owner shall not entail lapse of the patent, which shall continue to belong to the other joint owners;
3. failure to pay the fees for keeping the patent in force -- as from the expiry date of the time limit in accordance with **Article**

33(3).

(2) A patent that has lapsed due to non-payment of the patent fee may be renewed within a six-month period following expiry of the time limit referred to in Article 33(3) after payment of the patent renewal fee.

(3) A patent shall be revoked in cases where:

1. the invention is not patentable;
2. the disclosure of the essential elements of the invention is incomplete and unclear;
3. the patent owner did not have the right to the patent where established by virtue of a court decision;
4. the subject matter of the patent extends beyond the content of the application as filed or, if the patent was granted on a divisional application, beyond the content of the earlier application as filed.

(4) At the request of the person who has the right thereto, the patent shall be transferred to him without lapse.

(5) If the grounds for revocation refer to a part only of the claims, revocation shall be partial. The patent shall remain valid in respect of the other claims only where these claims are patentable.

(6) On declaration of revocation, the effect of the patent shall cease as of the filing date of the application.

(7) The unscrupulous owner of a revoked patent shall be liable for damages.

(8) Revocation of a patent shall have no effect on:

1. final decisions on patent infringement insofar as they have been enforced;
2. licensing contracts concluded and executed prior to the revocation, unless otherwise agreed.

Infringement of Patent Rights

Art. 27. (1) Any use of an invention protected by a patent made without the consent of the patent owner shall constitute an infringement of the patent.

(2) Any person who offers for sale products subject to a patent which have been made by other persons in infringement of the patent or who puts on the market or stocks such products with the aim of using them or who makes an intended use of the products shall be liable for infringement if he has acted intentionally.

(3) The patent owner and the holder of an exclusive license may institute patent infringement proceedings, unless otherwise agreed. Where the patent belongs to more than one person, each joint owner shall have the right to independently institute patent infringement proceedings.

(4) The holder of a license of right in accordance with Article 30 and of a compulsory license in accordance with Article 32 may institute patent infringement proceedings if the patent owner does not

exercise his own right to institute such proceedings within six months of the receipt of a written invitation to do so from the licensee.

(5) Any licensee may join patent infringement proceedings instituted by the patent owner. The same shall apply to the patent owner when proceedings have been instituted by the licensee in accordance with paragraphs (3) and (4).

(6) Patent infringement proceedings may also be instituted by the applicant prior to grant of a patent, after the application has been published.

Patent Infringement Proceedings

Art. 28. (1) Patent infringement proceedings may include:

1. action to ascertain the fact of infringement;
2. action for compensation of the damages suffered and profits lost;
3. action to enjoin the infringer from performing all infringing acts.

(2) Where proceedings under the preceding paragraph lead to a conviction, the court may order, at the plaintiff's request:

1. publication of the sentence in two daily newspapers at the expense of the infringer;
2. reprocessing or destruction of the infringing articles and also, if the infringement was intentional, of the means with which the

infringement was carried out.

Burden of Proof

Art. 29. Where the rights of the patent owner under Article 19(5) are infringed, the burden of proving that a product is not produced by the patented method shall be on the infringer, if the product is new.

Preparedness for Licensing (License of Right)

Art. 30. (1) At the request of the applicant or patent owner, and provided that the latter has not yet granted an exclusive license with respect to his invention, the invention may **only once** be offered for public use.

(2) The request by the applicant or patent owner shall contain a written statement that he authorizes any person to use the invention under the conditions of a non-exclusive license in return for equitable remuneration.

(3) The written statement under the preceding paragraph shall be published in the Official Bulletin of the Patent Office.

(4) The licensee may at any time renounce the license by written notification to the patent owner.

(5) Where an offer of license is made in respect of the patented invention (license of right), the annual patent fees shall be reduced by

50 percent, but excluding fees already paid.

(6) The patent owner may at any time request in writing that the offer of license (license of right) be terminated. Withdrawal of the offer of license shall be published in the Official Bulletin of the Patent Office and shall entail loss of the rights referred to in the preceding paragraph.

(7) Withdrawal of the offer of license shall have no effect on licenses already granted or requested.

Contractual License

Art. 31. (1) An invention for which a patent is sought or has been obtained may be the subject of a licensing contract.

(2) Exclusive, non-exclusive, full or limited licenses may be granted under a licensing contract.

(3) (suppl. State Gazette No. 83/1996). An exclusive license shall be expressly agreed on. The licensor under an exclusive licensing contract shall not be entitled to grant licenses for the same subject matter to other persons. He himself shall have the right to use the licensed invention only if explicitly stated in the contract.

(4) The licensing contract shall have effect with respect to others as from the date it is recorded in the register at the Patent Office.

(5) Contracts for licensing or for the sale of secret patents shall be concluded in accordance with the procedure and conditions as laid

down in of the Law on the Protection of Classified Information.

Compulsory License

Art. 32. (1) Any person concerned may request the Patent Office for grant of a compulsory license to work a patented invention, provided that at least one of the following conditions is met:

1. failure to use the invention for a period of four years from filing of the application for a patent or of three years from the grant of a patent, the time limit which expires last being applicable;
2. insufficient working of the invention to satisfy the needs of the national market, within the time limits set out in item 1, above, unless the patent owner gives valid reasons therefor;
3. a declared national state of emergency -- for its duration.

(2) The person requesting a license under the preceding paragraph shall be required to prove that he is in a position to work the invention within the limits of the compulsory license requested.

(3) A compulsory license may be granted to a patent owner, whose invention is included in the scope of another patent, if the owner of that patent refuses to grant a license under fair conditions.

(4) A compulsory license may only be non-exclusive. It may only be assigned together with the enterprise in which the licensed invention is being worked.

(5) A compulsory license may be terminated if within one year of its grant the licensee has made no preparation for working the invention. A compulsory license shall be terminated in all cases if the licensee fails to start working the invention within two years of grant.

(6) A compulsory license shall not be granted to an infringer of the patent.

(7) Bilateral and multilateral treaties to which the Republic of Bulgaria is a party may lay down further conditions for the grant of a compulsory license to patent owners from States party to such treaties.

(8) A compulsory license for a secret patent may be granted by the State Information Security Commission.

Fees for Maintaining Patent

Art. 33. (1) Annual maintenance fees shall be paid in respect of a patent, each patent year starting from the filing date of the patent application, the first patent year starting from that date too.

(2) Advance payment of the patent annuity for each subsequent patent year shall be effected no later than on the last day of the month, in which the preceding patent year expires. Payment may not be effected for more than one patent year.

(3) In case of failure to observe the term referred to in paragraph 2, the patent shall still remain in force, provided that the patent owner pays the due fee at twice the rate within six months following expiration of that term.

(4) Patent annuities until such time as a decision is taken to grant a patent, as well as the current patent annuity, shall be paid together with the patent grant fee and the fee for publishing the mention of the patent grant in correspondence with and subject to the provisions of Article 53.

Chapter Four

PROCEEDINGS BEFORE THE PATENT OFFICE

Filing of Patent Application

Art.34. (1) Patent applications shall be filed with the Patent Office in the manner and form as laid down by the President of the Office. They shall be recorded in the State Register.

(2) The filing date of the application shall be the date of receipt by the Patent Office of the following documents:

1. a request for the grant of a patent containing the title of the invention and the data identifying the applicant, in the Bulgarian language;

2. a description of the invention, disclosing at least its essential elements.

Contents of Patent Application

Art. 35. (1) In addition to the compulsory documents referred to in Article 34(2), the patent application shall contain:

1. one or more claims;
2. drawings, if needed to understand the invention;
3. an abstract;
4. a written statement and a priority certificate where a priority is claimed;

(2) The application shall be accompanied by a document certifying payment of the fees for filing, examination, patent claims, priority claims and for publication of a mention of the application.

(3) The documents in the application shall be submitted in the Bulgarian language; the description, claims, drawings and abstract shall be filed in **three** copies. If the documents referred to in Article 34(2)2 and items 1, 2 and 3 of the preceding paragraph are filed in a language other than Bulgarian, the filing date may be maintained if they are furnished in the Bulgarian language within three months of that date.

(4) If the applicant files the application through an

industrial property representative, powers of attorney shall also be attached to the application.

Request for Grant of Patent

Art. 36. The request for the grant of a patent shall contain the name and address of the applicant and of his industrial property representative, where appropriate; the name and address of the inventor; a written statement as to the true inventor; the title of the invention and the particulars of any claimed priority -- number, date and country of the priority document, as also a written statement of preparedness for licensing, if the applicant so wishes.

Description of Invention

Art. 37. (1) The description shall contain the title and the technical field to which the invention belongs; the prior art, as far as known to the applicant, with citation of the documents in which it is described; clear and adequate disclosure of the essential technical features of the invention and its advantages, in such manner that the invention may be carried out by a person skilled in the art; brief explanations of the drawings and at least one example of an embodiment of the invention in support of its industrial applicability.

(2) Where the patent application refers to **biological** material

which cannot be disclosed in such a way as to enable the invention to be carried out by a person skilled in the art, and such material is not available to the public, the description shall contain a statement that a deposit has been made, giving the number and date of the deposit and the name and address of the international depositary authority. The deposit shall be made no later than the priority date.

Claims

Art. 38. The claim or claims shall define the matter for which protection is sought. They shall be clear and precise and be supported by the description.

Abstract

Art. 39. The abstract shall briefly summarize the nature of the invention and shall serve for information purposes only.

Unity

Art. 40. (1) The application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

(2) Where the application relates to a group of inventions, the

requirement of unity shall be satisfied if there is a technical relationship between the inventions involving one or more identical or similar specific technical features.

(3) Specific technical features shall mean the technical features, which define the contribution which each invention, considered as a whole, makes to the state of the art.

(4) The fact that a patent has been granted for an application that did not comply with the requirement referred to in paragraph (1) shall not be grounds for invalidating the patent.

Division of Application

Art. 41. (1) If the requirements of Article 40 are not satisfied, the Examination Department shall propose to the applicant that he divide the application within a three-month time limit. If, within this time limit, the applicant files individual applications for the divided parts, **the date of filing or the priority date, as appropriate, of the initially filed application shall be regarded as the filing date of those applications or their priority date, as appropriate,** provided that the provisions of Article 34(2) are complied with.

(2) An applicant may divide his application of his own volition up to such time as a decision is taken on it. **If, within three months following the division request of the applicant, the divided parts are filed as independent applications, the date of filing or priority**

date, as appropriate, of the original application shall be regarded as the date of filing or priority date, as appropriate, of the resulting independent applications, provided that the requirements of Article 34(2) are met.

Amendments to Applications or Patents

Art. 42. (1) An application or a patent may be amended during the proceedings in the application until such time as a decision is taken or during patent revocation proceedings.

(2) The applicant may amend the application of his own volition up to the publication under Article 50 or, if no publication has been made, until such time as a decision is taken, subject to the payment of the prescribed fee.

(3) The amendments referred to in paragraphs 1 and 2 may not extend beyond the content of the application as filed. During revocation proceedings, no amendments may be made to the patent claims, which would extend the scope of protection.

Withdrawal of Application

Art. 43. A patent application may be withdrawn on a written request from the applicant, provided that no patent has yet been granted. In such case, the application shall not be comprised in the state of

the art referred to in Article 8(3).

Priority Right

Art. 44. (1) The priority right afforded to the applicant shall be the filing date of the application in accordance with Article 34.

(2) A priority right in application of international treaties to which the Republic of Bulgaria is party shall be afforded if, within two months of the filing date of the application with the Patent Office, the applicant submits a declaration of priority containing the number, date and country of the initial application, and pays a fee for the claimed priority. The priority right shall be established within a three-month time limit from the filing date of the application with the Patent Office. Failure to comply with the above time limits or to pay the fees for the claimed priority shall result in the loss of the priority right. The priority data may be changed within these time limits.

(3) At the request of the applicant, any patent application may enjoy the priority of earlier applications filed by that applicant. Each such application shall have been filed with the Patent Office in compliance with this Law and shall have a filing date no earlier than 12 months before the filing date of the patent application and no national or international priority may have been requested for it. The time limits beginning with a priority date shall start from the earliest such date.

(4) The priority of earlier applications filed with the Patent Office, in accordance with the preceding paragraph, may be requested within two months of the filing date of the patent application and the applicant shall specify in the declaration the number and filing date of the earlier applications.

Confidentiality of Application

Art. 45. (1) There shall be no access at the Patent Office to patent application documents prior to publication of an application, except where the applicant gives his consent.

(2) Only the Ministry of Defense or the Ministry of Internal Affairs shall have access at the Patent Office to the documents of secret patent applications and patents under Article 24.

(3) The priority of secret applications and patents may be invoked against subsequently filed identical secret applications only by the written consent of the competent authorities referred to in Art. 24(3) on coordination with the State Information Security Commission.

(4) The provision by the Patent Office of the bibliographic data of unpublished applications shall not infringe the confidentiality requirements.

Examination

Art. 46. (1) Where the patent application does not satisfy the requirements of Articles 35(1), (3) and (4), 36, 37, 38, 39, 40 and 42, the Examination Department shall inform the applicant of the deficiencies ascertained and shall give him a three-month time limit to correct them. If the applicant fails to respond or to make the corrections within the above time limit, the relevant procedure shall be terminated.

(2) Where the patent application is not accompanied by a document certifying payment of the fees referred to in Article 35(2), the applicant shall be given three months to pay them. If the applicant fails to do so, the application shall be deemed to be withdrawn.

(3) If legal protection cannot be granted on the grounds set out in Article 6(2) or Article 7, the Examination Department shall inform the applicant thereof, together with the reasons, and shall give him a three-month time limit for submitting his comments. If the applicant fails to respond or if the Examination Department does not accept his arguments, **a decision shall be taken to refuse grant.**

Examination as to Substance

Art. 47. (1) The Examination Department shall investigate the state of the art in accordance with Article 8(2), (3) and (4) in respect of

each application, on the basis of the claims, description and drawings, and shall draw up a search report.

(2) The Examination Department shall determine the patentability of an invention for which protection is sought in accordance with Articles 6(1), 8, 9 and 10.

(3) At any time, the Examination Department may invite an applicant or his representative, as also consultants, and hear their explanations on the documents relating to the application. The discussions shall be recorded in minutes to be kept with the application documents. Until such time as a decision is taken on grant of a patent, the Examination Department may hear the applicant or his representative, on request, if considered expedient and if the relevant fees have been paid.

(4) Until such time as a patent is granted, the Examination Department may further investigate the state of the art and may also take into consideration written opposition by other parties, supported by evidence, to the patentability of an invention, submitted after publication of the application. Persons who have entered an opposition shall not become participants in the application proceedings.

(5) If the Examination Department determines in accordance with paragraph (2) that the invention or a part of it is not patentable, the Department shall inform the applicant thereof in writing, giving the grounds for its decision, and shall invite him to comment and to

make corrections to the application within a three-month time limit. If the applicant fails to submit comments within the time limit specified or fails to correct the application, and there are no reasons to keep the application valid, the Examination Department **shall take a decision to refuse grant of a patent.**

(6) If the examination reveals that the invention applied for is patentable, but the specification and/or the patent claims do not comply with Article 37(1) and/or Article 38, the examining department shall invite the applicant to rectify them within a three-month time limit. If the applicant fails to do so, or fails to reply or files a groundless objection, the examining division shall take a decision to terminate the proceedings in the application.

(7) If the examination as to substance reveals that the invention applied for is patentable and the requirements of paragraphs 5 and 6 are met, the examining department shall invite the applicant to pay the fees referred to in Article 33(4) and Article 53.

(8) The examining department shall take a decision to grant a patent, provided that the fees referred to in paragraph 7 are paid. If the applicant fails to pay the fees, the application shall be deemed to be withdrawn.

Extension of Time Limits

Art. 48. At the applicant's request, submitted before expiration of the time limits as laid down in **Article 46(1) and (3), Article 47(5) and (6),** and Article 58(2), such time limits may be extended by three months, but not more than twice, on payment of the prescribed fees.

Renewal of Time Limits

Art. 49. If time limits are not complied with due to special unforeseen circumstances, such time limits may be renewed at the applicant's request. The request shall be submitted within three months of the reason for failure to comply with the time limit ceasing to apply, but no later than one year after the expiration of the exceeded time limit. The decision on renewal of the time limit shall be taken by the President of the Patent Office.

Publication or Mention of Application

Art. 50. (1) The Patent Office shall publish a mention of the application in the Official Bulletin that follows expiration of the eighteenth month after the date of filing or the priority date, as appropriate, except in those cases where:

1. the application is withdrawn, considered **withdrawn, refused, or the proceeding therein are terminated;**
2. at the applicant's request, the mention of the application is

published before expiration of such time limit;

3. the application relates to a secret patent for an invention, which contains classified information representing a state secret;

4. a patent has been granted on the basis of the application and has been published.

(2) At the same time as publishing a mention of the application, the Patent Office shall provide access to its description, claims and drawings.

(3) The Patent Office shall effect publication if, by virtue of Article 34 of the Law on the Protection of Classified Information, the legal grounds no longer apply for classification as a state secret of the information contained in the invention.

Publication of Mention of Grant of a Patent

Art. 51. A mention of the grant of a patent shall be published in the Official Bulletin of the Patent Office right after the expiration of three months following the decision taking date. A patent shall be granted and the description, claims and any drawings shall be published within one month following publication.

Other Publications

Art. 52. The Official Bulletin of the Patent Office shall publish data on the legal status of applications and patents granted, fee rates,

instructions, and the like.

Fees for Grant and Publication of Patents

Art. 53. The publications referred to in Article 51 and the grant of a patent shall be subject to the payment of fees within a term of three months following receipt of the invitation referred to in Article 47(7). If the applicant fails to pay the fees within the prescribed time limits, he may do that subsequently, within a one-month period, at twice the normal rate.

Chapter Five

DISPUTES

Disputes Procedure

Art. 54. Disputes arising from the creation, protection or use of inventions and utility models shall be heard and settled under administrative, court or arbitration procedures.

Administrative Procedure

Art. 55. (1) The following decisions of the Examination Departments

may be appealed before the Disputes Department of the Patent Office:

1. complete or partial refusal to grant a patent under **Article 46(3)** and Article 47(5);
 2. suspension of the patent application procedure under Article 46(1) **and Article 47(6)**;
 3. determination of priority under Article 44;
 4. refusal to renew time limits under Article 26(2).
- (2) The Disputes Department shall also consider:
1. requests for invalidation of granted patents for inventions or for utility models;
 2. requests for the grant or termination of a compulsory license.

Time Limits for Appeal

Art. 56. (1) Appeals under Article 55(1) and (2)2 shall be filed by the persons concerned with the Disputes Department within three months of receipt of the decision, accompanied by proof of payment of the fee.

(2) Requests under Article 55(2)1 shall be admissible during the whole term of the patent and they shall be accompanied by proof of payment of the fee.

(3) The procedure under the preceding paragraph may also be instituted ex officio by the President of the Patent Office.

(4) In the event of failure to comply with time limits or to pay

fees, the appeal and the requests shall not be considered.

Appeals Authority

Art.57. (1) Appeals shall be heard by specialized boards of the Disputes Department appointed ad hoc by the President of the Patent Office.

(2) Decisions on appeals under Article 55(1) shall be taken by a board of three experts, of which one shall be a legal expert. Decisions on appeals under Article 55(2) shall be taken by a board of five experts, of which two shall be legal experts.

Proceedings Before the Disputes Department

Art. 58. (1) The Disputes Department shall begin proceedings within three months of receipt of the appeals or requests referred to in Article 55.

(2) The parties to the proceedings shall be heard. Written and oral evidence shall be admissible. In the cases referred to in Article 55(2), the Disputes Department shall send a copy of the request to the patent owner or to the parties concerned and give them a three-month time limit to make their comments.

(3) After hearing an appeal under Article 55(1), the Disputes Department shall:

1. uphold the decision of the Examination Department;
 2. reverse completely or partially the decision of the Examination Department, and
 - (a) take a decision to grant a patent, to resume the procedure, to acknowledge the right of priority, to renew the patent, or
 - (b) refer the application back to the Examination Department for renewed consideration.
- (4) A decision of the Examination Department taken after the second consideration of the application under paragraph (3)2(b) may be appealed before the Disputes Department, which shall take a decision as to substance.
- (5) After hearing a request under Article 55(2), the Appeals Department shall:
1. reject the request as being unjustified;
 2. declare full or partial invalidation of the patent granted, or grant or terminate a compulsory license.
- (6) In the event of a declaration of partial invalidation under item 2 of the preceding paragraph, the patent granted shall be replaced by a new patent.
- (7) The decisions of the Disputes Department shall be reasoned and shall be notified to the parties to the appeal within seven days.

Review by Court

Art. 59. Any party adversely affected by the decision of the Disputes Department under Article 58(3)1 and Article 58(5) may, within three months following receipt of the decision, bring an appeal before the Sofia City Court under the Administrative Procedure Act.

Disputes as to the True Inventor

Art. 60. (1) Disputes to determine the true inventor shall be heard by the Sofia City Court.

(2) Where claims **under paragraph 1** have been lodged before the grant of a patent, the court shall pass judgment on the dispute after the Patent Office has taken a decision on the patentability of the invention or the utility model.

(3) The Patent Office shall enter the name of the inventor or inventors on the granted patent in accordance with the final court order.

Disputes Concerning the Service Nature of Inventions and Utility Models and Remuneration for Them

Art. 61. (1) Disputes on the service nature of an invention or utility model within the meaning of Article 15 of this Law shall be heard by

the Sofia City Court.

(2) Once the court decision has become final, the entitled person may request, within a three-month time limit, that a patent be granted to him.

(3) Claims under paragraph (1) shall be asserted not later than one year after the date on which the grant of the patent is published.

(4) Disputes concerning the remuneration referred to in Article 15(5) and (6) shall also be heard as provided in paragraph (1).

Disputes Concerning the Right to File an Application

Art. 62. (1) Disputes concerning the right to file an application under Article 13 shall be heard in court proceedings or in arbitration proceedings.

(2) The Sofia City Court shall be competent to hear those disputes that are submitted to court.

Disputes Concerning the Right of Prior Use and of Subsequent Use

Art. 63. (1) Disputes concerning the right of prior use under Article 21 and the right of subsequent use under Article 22 shall be heard in court proceedings or in arbitration proceedings.

(2) The Sofia City Court shall be competent to hear those disputes that are submitted to court.

Disputes Concerning Infringement of Exclusive Rights

Art. 64. (1) Disputes concerning infringement of exclusive rights under Article 27(3), (4), (5) and (6) and Article 28 shall be heard by the Sofia City Court.

(2) Where an appeal is filed by the applicant prior to grant of a patent, the court proceedings shall be suspended until a decision is taken by the Patent Office.

(3) In the cases referred to in the preceding paragraph, the Patent Office shall be required to reach a decision within one year of the date of notification of suspension of the court proceedings.

Disputes to Ascertain the Fact of Implementation

Art. 65. Disputes to ascertain the fact of implementation of a patented invention or utility model shall be heard under the ordinary judicial procedure.

Disputes Concerning Remuneration for Compulsory Licenses

Art. 66. Disputes concerning the amount of remuneration for the grant of a compulsory license shall be heard by the Sofia City Court.

Chapter Six

INTERNATIONAL APPLICATIONS FILED UNDER THE PATENT COOPERATION TREATY

Receiving Office

Art. 67. (1) The Patent Office shall act as a receiving Office as defined in Article 2(xv) of the Patent Cooperation Treaty, hereinafter referred to as the Treaty, for international applications filed by nationals of the Republic of Bulgaria or by applicants having their **permanent address** or head-quarters in the country.

(2) **An international application shall be filed in three identical copies in the English or Russian language. The application may be filed also in Bulgarian, and a translation thereof shall be supplied within a one-month period. The document certifying payment of fees and the priority document shall be filed in one copy each.**

(3) A fee shall be due to the Patent Office for conducting the international correspondence in addition to the fees due for the international filing under the Treaty. The fee shall be paid within one month of the date of filing. **Failing that, the proceedings in the application shall be terminated.**

(4) Where an application is filed in less than three copies, the

Patent Office shall make the missing copies against appropriate payment. Failure to effect that payment shall not be a reason to terminate the procedure but the extract from the accounts of the receiving Office shall constitute an extrajudicial executive reason under Article 237(c) of the Code of Civil Procedure.

(5) Where the Republic of Bulgaria is itself designated in an international application in accordance with Article 8(2)(b) of the Treaty, the procedure in earlier national applications for the same invention shall be terminated. If the national phase is entered into for an international application, the procedure for the earlier national application shall be terminated. Where a patent has been granted in such cases on the earlier national application, the patent shall lapse as of the date of entry into force of the patent granted on the international application, to the extent that they are the same.

(6) Where the Republic of Bulgaria is itself designated in accordance with Article 8(2)(b) of the Treaty, the Patent Office shall refer the international application to the competent authorities, whose activity the invention relates to, for the purpose of determining its security classification level. The security classification level of the invention applied for shall be determined in accordance with the procedure and conditions laid down in the Law on the Protection of Classified Information and within the term specified in Article 24(4) of this Law. If the international application is found to contain information that is classified as a state secret, it shall not be treated as

an international application, shall not be disseminated ex officio and shall not be published.

International Searching Authority and International Preliminary Examining Authority

Art. 68. (1) The Patent Office of the Republic of Bulgaria shall determine the International Searching Authority and the International Preliminary Examining Authority.

(2) Any applicant, as also the Patent Office, may ask for a search to be carried out by an International Searching Authority on a national application. In such case, the description and the claims contained in the application shall be presented in the languages specified by the International Searching Authority, and the search fees shall be paid.

Designated Office

Art. 69. (1) The Patent Office of the Republic of Bulgaria shall act as a designated Office as defined in Article 2(xiii) of the Treaty where the Republic of Bulgaria is a designated State in an international application.

(2) In order to enter the national phase, the applicant shall file the international application with the Patent Office within thirty-one months following the date of priority, subject to the

requirements of Article 35. Applications in which the Patent Office is a receiving office shall not be subject to the payment of filing fees when designating it.

(3) Applications which have entered the national phase shall be required to comply with the provisions of Articles 35, 36, 37, 38 and 39, within the time limits laid down in Article 46(1).

(4) The Patent Office shall carry out an additional search on the international application in cases when the search made by the International Searching Authority has been made for a part only of the invention. The prescribed fees for the additional search shall be paid within the time limits laid down in Article 46(1).

Elected Office

Art. 70. (1) The Patent Office shall be the elected Office as defined in Article 2(xiv) of the Treaty where the Republic of Bulgaria is a State elected by the applicant in which he intends to use the results of the international preliminary examination.

(2) Where the election of the Republic of Bulgaria has been effected prior to the expiration of 19 months from the priority date, the applicant shall file the documents under Article 69(2) within 31 months of such date, for entry into the national phase.

(3) If the applicant withdraws the election of the Republic of Bulgaria after the expiration of 21 months from the priority date, the

international application shall be considered withdrawn with respect to the Republic of Bulgaria.

(4) The international preliminary examination report shall be translated into English in accordance with Article 36(2) of the Treaty if it is in a language other than those laid down in Article 67(2).

Conversion of an International Application into a National Application

Art. 71. Where a foreign receiving Office has refused to give a filing date to an international application or the foreign receiving Office has declared that the international application is considered withdrawn or the designation of the Republic of Bulgaria is considered withdrawn, and the applicant files with the Patent Office a Bulgarian translation of the application and pays **the fees referred to in Article 35(2)**, the international application shall be treated as a national patent application in accordance with the provisions of this Law. This procedure shall equally apply in respect of an international application incorrectly declared by the International Bureau of the World Intellectual Property Organization (WIPO) to have been withdrawn.

Publications

Art. 72. (1) International applications published by the International

Bureau of the World Intellectual Property Organization - (WIPO) and in which the Republic of Bulgaria is a designated State shall be included in the state of the art from the date of their publication, if such applications have not entered into the national phase.

(2) The publication of an international application in the Bulgarian language shall have the same legal effects as the publication of a mention of a national application in accordance with Articles 50 and 52.

Chapter Six “a”

EUROPEAN PATENT APPLICATIONS AND EUROPEAN PATENTS UNDER THE EUROPEAN PATENT CONVENTION

Filing of European Patent Applications

Art. 72a. (1) European Patent Applications may be filed at the Patent Office of the Republic of Bulgaria or at the European Patent Office at Munich or its branch at The Hague, and they shall be filed in one of the languages referred to in Article 14 of the European Patent Convention, hereinafter referred to as “the Convention”. Divisional applications shall be filed at the European Patent Office only.

(2) Applicants having a permanent address or headquarters

in the Republic of Bulgaria shall file European patent applications with the Patent Office, unless the application enjoys the priority of an earlier application filed with the Office.

(3) The Patent Office shall forward the European patent application to the European Patent Office.

Equivalence of European Filing with National Filing

Art. 72b. (1) A European patent application designating the Republic of Bulgaria, which has been accorded a date of filing and, where priority is claimed, a date of priority, shall be equivalent to a regular national filing with the Patent Office.

(2) Where the European patent application has been published by the European Patent Office, and after the applicant supplies a Bulgarian translation of the patent claims in triplicate together with the application bibliographic data and pays the publication fee, the Patent Office shall make the translation available to the public and shall publish a mention of the translation in the Official Bulletin.

(3) The applicant shall enjoy the rights under Article 18 from the date of the mention of the translation referred to in paragraph 2, subject to the provisions of Article 72b.

Effect of the European Patent

Art. 72c. (1) A European patent designating the Republic of Bulgaria shall confer on its proprietor from the date of publication of the mention of its grant in the European Patent Bulletin the rights under this Law, provided that a Bulgarian translation of the description and the claims is supplied in triplicate and the publication fee is paid within three months following that date.

(2) The translation referred to in paragraph 1 shall comprise the title of the invention, the description, any drawings, and the patent claims.

(3) The translation shall be supplied together with data identifying the proprietor of the patent, the number of the European patent application, the publication number of the European patent, the number and date of the European Patent Bulletin, in which the mention of the grant of the patent was published.

(4) The Patent Office shall publish in the Official Bulletin a mention of the Bulgarian translation of the European patent and the translation itself.

(5) The provisions of this Article shall apply also to the European patent description and claims as amended during opposition proceedings under Article 102(3) of the Convention.

(6) The European patent shall have no effect in the territory of the Republic of Bulgaria from the filing date of the application if, within the term referred to in paragraph 1, the translation under

paragraphs 1 and 5 is not supplied and/or the publication fee is not paid, or the requirements of paragraphs 2 and 3 are not met and the shortcomings are not removed within two months following the notification of the Patent Office.

**Authentic Text of European Patent Application or European Patent.
Making Corrections in the Translation**

Art. 72d. (1) Where the Bulgarian translation referred to in Article 72b and 72c confers protection, which is narrower than that conferred by the European patent application or European patent in the language of the proceedings before the European Patent Office, the text of the translation shall be the authentic text.

(2) Paragraph 1 shall not apply in European patent revocation proceedings.

(3) The applicant for or proprietor of a European patent may at any time supply a corrected translation, subject to the payment of the prescribed publication fee. The translated text shall be filed in triplicate. The Patent Office shall publish in the Official Bulletin a mention of the corrected translation received. Where the corrections concern the European patent claims, the corrected translation shall be made available to the public at the same time as the mention in the Bulletin is published, and if the corrections relate to the translation of the European patent, the latter shall be published

again with the corrections made therein.

(4) The corrected translation shall have effect with respect to third parties as of the publication date of the mention.

(5) Any person who in good faith is using or has made the necessary preparations for using the invention, and such use would not constitute infringement of the application or patent in the original translation may, after the corrected text takes effect, continue such use in the course of his business or for the needs thereof without payment.

Maintenance fees for European patents

Art. 72e. European patent annuities shall be paid to the Patent Office of the Republic of Bulgaria in accordance with Article 33 for each patent year following the year, in which the European Patent Office publishes the mention of the grant of the European patent.

Conversion into a national patent application

Art. 72f. (1) A European patent application designating the Republic of Bulgaria may, at the request of the applicant, be converted into a national patent application for an invention or utility model in the following circumstances:

1. when the application is deemed to be withdrawn pursuant

to Article 77(5) of the Convention;

2. the application is deemed to be withdrawn pursuant to Article 90(3) of the Convention for failure to supply a translation of the application in the language of the proceedings referred to in Article 14(2) of the Convention.

(2) The request for conversion shall be filed within the terms referred to in Article 135(2) of the Convention.

(3) Within three months following the date of receipt of the request at the Patent Office, the applicant shall do the following:

1. pay the fees referred to in Article 35(2), and

2. supply a Bulgarian translation of the European patent application as originally filed and, where appropriate, a corrected translation of the application as amended during proceedings before the European Patent Office.

Prohibition against simultaneous protection

Art. 72g. (1) In the case of an invention disclosed in both a national patent and a European patent designating the Republic of Bulgaria, both patents having the same date of filing or, where priority is claimed, the same date of priority, and belonging to the same person or his successor in title, the national patent effect shall cease.

(2) Subject to the provisions of paragraph 1, the effect of the

national patent shall seize to the extent to which it is identical with the European patent from the date, on which the term for giving notice of opposition to the European patent expires without any opposition having been filed, or from the date of entry into effect of the decision to keep the European patent in the opposition proceedings.

Revocation of the European patent

Art. 72h. The decisions of the European Patent Office in proceedings for revocation of a European patent designating the Republic of Bulgaria shall be valid in the territory of the Republic of Bulgaria.

Register of European patent applications and European patents

Art. 72i. The Patent Office shall keep a register, which shall contain data on all European patent applications and European patents having effect in the territory of the Republic of Bulgaria, entries of any changes in their legal status being effected in accordance with the ordinary procedure.

UTILITY MODELS

Patentable Utility Models

Art. 73. (1) Patents shall be granted for utility models, which are new and are industrially applicable.

(2) Utility model protection shall be available to objects with structural and technical features related to the improvement of the design, shape or layout of the elements of products, tools, devices, apparatus or their parts, materials, etc., designed for use in production or in everyday life, and that satisfy the requirements of the preceding paragraph.

Exceptions

Art. 74. Utility model patents shall not be granted for the methods and the objects referred to in Articles 6(2) and 7.

Novelty and Industrial Applicability

Art. 75. The novelty and industrial applicability of utility models shall be determined in accordance with the provisions of Articles 8 and 10.

Legal Protection

Art. 76. Legal protection for utility models shall be provided by patents having a term of 10 years as of the filing date.

Conversion

Art. 77. At the applicant's request, an application for a patent of invention may be converted into an application for a utility model patent up to such time as a decision is taken on the application.

Provisions Applicable to Utility Models

Art. 78. The provisions on inventions shall equally apply to utility models, unless otherwise provided in this Chapter.

Chapter Eight

PATENT OFFICE

Status

Art. 79. (1) The Patent Office of the Republic of Bulgaria shall constitute the national State authority for the legal protection of the

subject matter of industrial property, with headquarters in Sofia.

(2) The Patent Office shall be independent in its activities, and its final decisions on the protection of the subject matter of industrial property may be appealed before the courts in accordance with the relevant procedure.

(3) The Patent Office shall comprise a President, at least one vice-president, State examiners and employees.

(4) The President and his vice-presidents shall possess the following compulsory qualifications: over 10 years' experience in the industrial property field, higher technical or legal education. The First Vice-President shall have competency and experience in patent examination and shall possess patent qualifications.

(5) The President of the Patent Office shall be appointed by the Prime Minister.

Principal Tasks

Art. 80. The Patent Office shall carry out the following principal tasks:

1. examination and decisions in relation to the protection of the subject matter of industrial property;
2. grant patents for inventions and for utility models, certificates for industrial designs, trademarks, service marks, appellations of origin and other documents for the protection of the subject

- matter of industrial property;
3. consider disputes on examination decisions, requests for invalidation of protection documents and grant and termination of compulsory licenses;
 4. invalidation, grant and termination of compulsory licenses and dependence of protection documents;
 5. represent the country in the relevant intergovernmental industrial property organizations, ensure fulfillment of the country's obligations, in compliance with the Patent Office's status, regulated by the international agreements, and pursue international cooperation in this field;
 6. effect publications and issue a bulletin in accordance with this Law and the international agreements; conduct the international exchange of patent documents; maintain patent files and provide services in the field of patent information and patent searches;
 7. issue regulations and instructions within the competence of the Patent Office and propose schedules of fees for the activities and services provided by the Office;
 8. maintain the State registers of protected industrial property;
 9. manage the Industrial Property Fund to be raised from donations, own finances and other revenue;
 10. hold training courses in the field of industrial property and patent activities.

President

Art. 81. (1) The President shall direct the Patent Office and shall be responsible for carrying out the tasks of the Office; he shall issue the internal organizational regulations of the Office; he shall appoint the staff and exercise official supervision over them; he shall represent the Patent Office in the international organizations and unions; he shall sign bilateral and regional treaties with foreign patent offices.

(2) The President of the Patent Office shall pursue cooperation with the management of non-profit-making organizations in the field of inventiveness.

Structure

Art. 82. (1) To assume the tasks set out in this Law, the Patent Office shall be required to establish main departments:

1. for the examination of the subject matter of industrial property;
2. for appeals;
3. for legal matters;
4. for patent information and publishing activity.

(2) The Patent Office shall compile, maintain and store a central patent file, for the purposes of examination, services to industry and international patent documentation exchange, known as the

Central Patent Library.

(3) The President of the Patent Office shall determine the structure and staffing of the Office.

Employees

Art. 83. (1) Only persons of Bulgarian citizenship may be appointed employees of the Patent Office.

(2) Only persons with higher education and with a patent law specialization, with not less than five years' experience in their speciality, with not less than three years' experience in patent examination, and who have passed an examination in the Patent Office may be appointed State examiners entitled to take decisions on the grant of titles of protection and final decisions on disputes.

(3) The employees of the Patent Office and consultants in accordance with Article 47(3) shall be obliged to maintain secrecy in respect of the materials related to an application, as set out in Article 45, and shall be required to sign a corresponding declaration.

Chapter Nine

ADMINISTRATIVE PENAL PROVISIONS

Penalties

Art. 84. (1) (amend. State Gazette No. 11/1998) A person who publishes the essential features of a secret application in accordance with Article 24 or who files an application abroad contrary to the provisions of Article 25 or who concludes a license or commits acts contrary to Article 31(5) shall be liable to a fine of between 1000 and 20000 levs.

(2) An organ of the Patent Office shall draw up a statement concerning any offense. The penalty shall be ordered by the President of the Patent Office and may be appealed under the provisions of the Law on Administrative Offenses and Penalties.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. (1) This Law shall apply to applications for patents for inventions and utility models filed after its entry into force and to pending requests for patents filed with the Patent Office prior to the date of its entry into force.

(2) Pending applications for inventors' certificates filed with the Patent Office prior to the entry into force of this Law may be converted, with the same priority, into applications for patents for inventions or utility models at the request of the person entitled to file

an application under Article 13 of this Law. The request shall be filed with the Patent Office within three months of the date on which the Patent Office notified the applicant, but no later than six months of the date of entry into force of this Law.

(3) Applications for inventors' certificates for which no requests for conversion have been submitted under the preceding paragraph shall be deemed to have been withdrawn and the procedures concerning them shall be terminated.

§ 2. (1) Inventors' certificates granted prior to the date of entry into force of this Law should have a term of 15 years, starting from the application date. The same term of validity shall also apply to unpublished inventors' certificates.

(2) During the term of validity in accordance with the preceding paragraph, inventors' certificates may be converted into patents for inventions at the request of the inventor, subject to the provisions of Article 7. For inventors' certificates granted for service inventions, conversion may be requested by:

1. the user of the invention;
2. the author of the invention;
3. the organization in which the invention has been made where such organization is not the user.

(3) Requests under the preceding paragraph shall be submitted to the Patent Office within six months of the date of entry into force of this Law.

(4) The Patent Office shall grant a patent to one only of the applicants, observing the order of the entitled persons as laid down in paragraph (2).

(5) If, within the time limit under paragraph (3), no request for conversion is submitted, any person concerned, but excluding foreigners, may request the grant of a patent in his favor. The request shall be submitted no later than one year after the expiration of the time limit referred to in paragraph (3), and a patent shall be granted to the person submitting the first request.

(6) The rights deriving from patents under paragraphs (4) and (5) shall become effective as from the date of the decision on conversion. Persons who have made use of the invention before the date of conversion of the inventor's certificate, but after the filing date of the application for the inventor's certificate shall not enjoy the right of prior use under Article 21.

(7) Inventors' certificates which have not been converted into patents under the preceding paragraphs shall lapse.

(8) Property and non-property rights of discoverers, authors of accepted and implemented inventions and innovations, and of persons who have made accepted and implemented economically efficient proposals, which originated prior to the entry into force of this Law, shall be subject to the provision applicable hitherto.

(9) The decisions of the Patent Office on conversion of applications and inventors' certificates into patents may be

and 3 of the preceding paragraph;

3. a Bulgarian translation of the patent or the application and of the abstract in two copies;

4. a copy of the patent or a certified copy of the application issued by the Patent Office of the country concerned;

5. proof of payment of the fees;

6. power of attorney.

(3) The applicant or the patentee shall submit the documents referred to in the preceding paragraph within three months of the filing date of the application.

(4) A patent granted in the Republic of Bulgaria shall take effect:

1. on the filing date of the application in accordance with paragraph (2), where a patent has been granted abroad;

2. on the date of receiving a notification on the grant of a patent for an application filed abroad.

(5) A patent granted in accordance with the procedure and conditions laid down in the preceding paragraph shall lapse upon expiration of the term of the patent granted in the country concerned, or on the date of a declaration of invalidity of the patent.

(6) Exceeded time limits under paragraphs (2) and (3) may not be renewed.

(7) Patent renewal fees shall be paid in accordance with the year of the patent in the country in which it was granted.

appealed in accordance with the Law on Administrative Procedure.

§ 3. Where inventors' certificates are converted into patents, fees shall be due for the grant of a patent and for the publication of the conversion. The annual fees for maintaining the patent shall become due as from the date of the patent grant.

§ 4. (1) For patents granted or applications filed abroad prior to the entry into force of this Law, and which relate to chemically or microbiologically obtained products, or to curative, cosmetic, food or flavoring substances, obtained by chemical or other method, including genetic engineering, the Patent Office shall grant a patent at the request of the patentee or the applicant, provided that:

1. the product has not been put on sale on the territory of the Republic of Bulgaria up to the date of filing the patent application with the Patent Office;
2. no inventor's certificate has been issued in the Republic of Bulgaria for subject matter identical to that for which the grant of a patent is requested;
3. the applicant or the patentee is engaged in active commercial activities in the country of origin of the invention.

(2) A patent application in accordance with the preceding paragraph shall be filed with the Patent Office within nine months of the date of entry into force of this Law and shall contain:

1. the standard request form;
2. a standard declaration concerning the requirements of items 1

§ 5. Patents for invention and additional patents grant before this Law entered into force shall maintain the term of validity afforded by the Law applicable at the time they were granted.

§ 6. (1) In Article 48 of the Law on Trademarks and Industrial Designs (promulgated in State Gazette No. 95 1967; amended by No. 55 of 1975 and No. 56 of 1986) the words "Bulgarian Chamber of Commerce" shall be amended to read "industrial property representative."

(2) The Bulgarian Chamber of Commerce and Industry shall continue to act as an industrial property representative for up to six months after this Law has entered in force. Within that same period, foreign applicants shall appoint a representative from the Register of Industrial Property Representatives. Upon the expiration of this period, the Bulgarian Chamber of Commerce and Industry shall hand to the Patent Office all those files on industrial property for which there is no authorized representative. The President of the Patent Office shall distribute those files to authorized industrial property representatives.

§ 7. The time limit for the submission of invalidation actions under Article 55(2) shall also be valid for inventors' certificates granted before this Law entered in force.

§ 8. The conditions for the making and use of useful proposals which do not enjoy special legal protection shall be determined by a contract concluded by the parties involved.

§ 9. The name of the Institute of Inventions and Rationalizations (INRA) shall be changed to the Patent Office of the Republic of Bulgaria.

§ 10. (suppl. State Gazette No. 81/1999) The Council of Ministers shall issue the regulations under Article 3 of this Law, the Secret Patents Regulations and the Regulations on Service Inventions, Utility Models and Industrial Designs.

§ 11. This Law supersedes:

1. the Inventions and Rationalizations Law (promulgated in State Gazette, No. 81 of 1968; amended No. 92 of 1969; No. 28 of 1982 and No. 56 of 1986);
2. the Law on Discoveries, Inventions and Innovation Proposals (promulgated in Izvestiya, No. 10 of 19(amended in State Gazette No. 81 of 1968).

§ 12. This Law shall enter into force on June 1, 1993, except for Article 3.

§ 13. This Law shall be executed by the President of the Patent Office.

ADDITIONAL PROVISION

“Official or officially recognized exhibition” is an exhibition within the meaning of the Convention relating to international exhibitions, signed on 22 November 1928 in Paris and revised on 30

November 1972.

TRANSITIONAL AND FINAL PROVISIONS
of the Law on the Amendment of the Patent Law
(State Gazette No. 66/2002, in force as from 9 July 2002)

§ 42. (1) This Law shall apply to patent applications for inventions and utility models filed after entry into effect of the Law, as well as to pending applications.

(2) Requests for revocation of patents for inventions relating to methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body, regardless of when the patents were granted, shall be considered with a view to the provisions of the law applicable during the time of examination of the application until such time as the final decision was taken.

§ 43. Legal protection granted by patents for inventions relating to methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body shall reserve its effect until expiration of the lifetime of the patents with the restraint provided by the law, under which the decision to grant a patent was taken.

§ 44. Applicants having filed applications for inventions or utility models prior to the entry into effect of this Law shall enjoy

the privilege referred to in the wording of Art. 11 prevailing hitherto.

§ 45. Any proceedings in declarations for discoveries under the abrogated § 2(7) of the Transitional and Final Provisions shall be terminated. The Patent Office shall, at the request of the authors, publish in its Official Bulletin the bibliographic data as contained in the declarations and shall make all declaration materials available to the public.

§ 46. The Law shall enter into force on the day of its promulgation in the State Gazette, except for § 19, item 1 (concerning Art. 33(1), (2) and (3)) that shall take effect six months after the entry into force of this Law.

The Law was passed by the XXXIX National Assembly on 26 June 2002, and the official seal of the National Assembly was put to it.

Ognyan Gerdzikov

Chairman of the National Assembly