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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

**BULGARIA**

The present document reproduces the text<sup>1</sup> of the Law on Industrial Designs, as notified by Bulgaria under Article 63.2 of the Agreement (see document IP/N/1/BGR/1/Add.1).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**BULGARIE**

Le présent document contient le texte<sup>1</sup> de la Loi sur les dessins et modèles industriels, notifiée par la Bulgarie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/BGR/1/Add.1).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**BULGARIA**

En el presente documento se reproduce el texto<sup>1</sup> de la Ley de Dibujos y Modelos Industriales, notificada por Bulgaria de conformidad con el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/BGR/1/Add.1).

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<sup>1</sup> In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

## **LAW ON INDUSTRIAL DESIGNS**

(Published in State Gazette No.81 of 14 September 1999,  
in force as of 15 December 1999)

### **Chapter one GENERAL PROVISIONS**

#### *Subject Matter*

**Art.1.** This law governs the provisions and the procedure for the registration of industrial designs, the rights resulting therefore and the protection of these rights.

#### *Scope of Application*

**Art.2.** (1) This Law shall apply to Bulgarian natural persons and legal entities, as well as to foreign natural persons and legal entities of States party to international treaties to which the Republic of Bulgaria is party.

(2) This law shall apply to foreign natural persons and legal entities of other States subject to reciprocity to be determined by the Patent office.

#### *Industrial Design*

**Art.3.** (1) For the purpose of this Law industrial design, further referred to as “design”, means the appearance of the whole or a part of a product resulting from the specific features of the shape, lines, contours, ornamentation, colours or combination of such.

(2) For the purpose of this Law product shall mean any industrial or handicraft item, including parts intended to be assembled into a complex item, sets or composition of items, packaging, graphic symbols and typographic typefaces, but excluding computer programs.

#### *Right of Authorship*

**Art.4.** (1) The person who has created a design shall have the right of authorship under this Law. This right shall be unlimited in time and shall not be transferable and it shall enjoy the protection afforded by this Law irrespective to the protection afforded by other Laws.

(2) If the design has been created by two or more persons, the right of authorship shall belong to all of them and they shall be joint authors. Joint authors shall not be considered the persons that have assisted the creator technically, materially or otherwise.

(3) The author or the joint authors shall be cited in the certificate for the registration and in the publication thereof. The Patent Office shall execute ex officio the entry.

(4) The Patent Office shall enter in the State Register of Industrial Designs the real creator of the design that has been established with a court decision on dispute of authorship and joint authorship.

#### *Representation*

**Art.5.** (1) 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.

(2) Persons with their permanent residence or headquarters outside of the Republic of Bulgaria shall act in proceedings before the Patent Office through a local industrial property representative.

*Fees*

**Art.6.** The Patent Office shall collect fees for: filing; examination; priority; registration; issuing a certificate, renewal of registration; entries; corrections of errors; cancellation of a registration; extension of time limits; publication; international registration; information about filed or registered industrial designs; check ups or extracts from the State Register of Industrial Designs, payable in accordance with the tariff established by the Council of Ministers.

*File*

**Art.7.** (1) The Patent Office shall create and maintain for each design a file that shall consist of all the registration documentation.

(2) The Patent Office shall provide upon request from third party information about filed designs in order established by the President.

(3) The information referred to in para 2 shall consist of the data that shall be published if the design shall be registered.

*State Register of Industrial Designs*

**Art.8.** The State Register of Industrial Designs shall contain all the data of all the registered designs and of all subsequent changes in respect of them.

*Access to the State Register of Industrial Designs*

**Art.9.** The State Register of Industrial Designs shall be open to the public. Any person may ask for a check up or extract from its contents.

**Chapter two**  
**LEGAL PROTECTION**

**Part I**  
**Registration**

*Accomplishing the Right of a Design*

**Art.10.**(1) The right of a design shall be accomplished by its registration at the Patent Office as from the date of filing an application for registration.

(2) The right to the design shall be exclusive.

*Grounds for Registration*

**Art.11.**(1) A design shall be registered if it is new and has an individual character.

(2) The design shall be not registered if:

1. the design is contrary to public order and to the accepted principles of morality.
2. the specific features of the design are solely determined by the technical or functional features of the product
3. the specific features of the design are solely determined by the necessity the product in which the design is incorporated or to which it is applied to be mechanically assembled or put in, around or against another product, so that both products realize their technical function , with the exception of a design serving the purpose of allowing the multiple assembly or connection of interchangeable products within a modular system.

*Novelty*

**Art.12.** (1) The design shall be considered new, if before the date of filing the application, respectively before the priority date, no identical design has been made available to the public by means publication, use, registration or otherwise disclosed anywhere around the world.

(2) The designs shall be considered to be identical if their specific features differ only in immaterial details that do not influence the overall perception of the design.

*Individual Character*

**Art.13.** The design shall be considered to have an individual character if the overall impression it produces on the consumer differs from the overall impression produced by a design that has been made available to the public before the date of filing, respectively before the priority date.

*Non-prejudicial Disclosures*

**Art.14.** The disclosure of a design subject of an application for registration, shall not be taken into account, if such disclosure has been made within six months period before the date of filing the application, respectively the priority date by:

1. The creator or his successor in title or by a third person as a result of information provided or action taken by the creator or his successor in title;
2. Third person in abuse to the creator.

*Term of Protection by the Registration*

**Art.15.** (1) The term of protection of the registered design shall be 10 years as from the date of filing the application.

(2) The registration may be renewed for three successive periods each of 5 years.

*Right of Filing and Right of Registration*

**Art.16.** (1) The right of filing of a design belongs to the creator. Where the right of filing belongs to several persons they shall execute that right jointly. If one of such persons refuses to execute that right that does not constitute an obstacle for the rest of them to file an application. That refusal shall be explicit and in writing.

(2) If the design is an employee's design as referred to in Art.17, para 1, the right of filing belongs to the employer or to the commissioning person.

(3) The right of filing, in the case referred to in para 2, shall pass over to the creator, if the employer, respectively the commissioning person, do not file an application, in three months period from a communication in writing from the creator, unless otherwise contracted.

(4) The right of filing may belong jointly to the creator and the employer, respectively the commissioning person, if contracted.

(5) It shall be considered that the applicant has the right of filing until otherwise stated in a court decision.

(6) The right of registration shall belong to the first applicant.

*Employee's Design*

**Art.17.** (1) The design shall be considered employee's design if it has been made in the performance of duties under an employment relationship or other relationship upon contract, unless otherwise provided by a contract.

(2) A creator who has made an employee's design shall have the right of complementary remuneration.

(3) The remuneration to the creator may be determined as a part of the revenues received as a result from the use of the design, as an one time payment or otherwise.

(4) If the remuneration, determined as one time payment, proves to be obviously not equivalent to the revenues received as a result from the use of the design, the creator may ask for the increase of the remuneration. If no agreement has been achieved, the dispute shall be fairly decided by the court.

#### *Scope of Legal Protection*

**Art.18.** The scope of the legal protection shall be defined from the graphical representation, respectively graphical representations of the registered designs including each design that does not produce to the customer an overall different impression.

#### *Rights conferred by a Design*

**Art.19.** (1) A registered design shall confer to its holder the right to use and transfer the design as well as to prevent any third party not having his consent from copying the design or commercially using the design included within the scope of protection.

(2) Using the design under para (1) covers the making, offering, putting on the market or using of a product in which the design is incorporated or to which a design included in the scope of protection is applied, as well as the importing, exporting or stocking of such a product for those purposes.

(3) The right conferred shall have validity to third parties acting in good faith as from the date of publication of the registration of the design in the Official Bulletin of the Patent Office.

#### *Limitation of the Rights conferred by a Design*

**Art.20.** The right as referred to in Art.19 shall not extend to:

1. Using the design for private or for experimental purpose;
2. Using the design for the purpose of making citations or teaching, provided that such use is compatible with fair trade practice and do not unduly prejudice the normal exploitation of the design and that citing is made to the source.
3. Using the design on foreign land, aircraft and naval transportation means when such temporarily or by chance enter the territory of the country and in which the said design is used exclusively for their own needs as well as the importation of spare parts and accessories for the purpose of repairing the said transportation means.

#### *Exhaustion of the Right conferred by a Design*

**Art. 21.** (1) The holder of the right of the design shall not prohibit the use of the products cited in the registration, in which the design is incorporated or to which the registered design is applied to, when the products are put on the market in the Republic of Bulgaria himself or with his consent.

(2) The referred to in para (1) shall not apply when the holder of the right of the design may oppose to subsequent sales if the products have been changed or falsified.

*Entitlement to the Right of the Design*

**Art. 22** (1) The right of the design may vest in one or more persons.

(2) If the right of the design vests in two or more persons each joint holder can use the design without the consent of the rest of them and without rendering a report therefore, unless otherwise stated in writing.

*Prior Use*

**Art. 23.** A person that has used the design acting in good faith on the territory of the Republic of Bulgaria before the date of filing of the application or has made serious preparations thereto shall have the right to continue exploiting it in the same scope and after that date.

**Part II**  
**Disposition**

*Transfer*

**Art. 24** (1) All rights provided by that Law shall be transferable, if not otherwise provided for in the same Law.

(2) If the right of the design vests in several persons the right shall be transferred by the consent in writing of each joint holder.

(3) The transfer shall be entered in the State Register of Industrial Designs upon a written request from one of the parties; to the request shall be enclosed the document for the transfer and the transfer shall be applicable to third parties as from the date of entry.

*Transfer of the Right deriving from Prior Use*

**Art. 25.** The right deriving from prior use shall be transferred only with the undertaking in which it has originated.

*Licensing Contract*

**Art. 26.** (1) The holder of the right of the design may permit the use of the design with a licensing contract. The allowance to use a design that is owned by two or more persons shall be given upon the written consent of all joint holders, if not otherwise contracted.

(2) The license may be exclusive or non-exclusive. If not otherwise stated the license shall be considered non-exclusive.

(3) The licensor of exclusive license shall not have the right to grant a license with the same subject to other persons. He shall have solely the right to exploit the design himself if that has been explicitly stipulated.

(4) The licensing contract shall be entered in the State Register of Industrial Designs upon request from the licensee. To that request shall be enclosed an excerpt from the licensing contract. To the licensee shall be issued a certificate.

(5) The excerpt from the licensing contract shall contain the identification data of the licensor, the registration number of the design, the term of the contract and the signatures and/or the seals of the parties.

(6) The licensing contract shall be valid as to third parties from its entry in the State Register of Industrial Designs.

### **Part III** **Lapse and Invalidity of the Registration**

#### *Lapse of the Registration*

**Art. 27** (1) The registration shall lapse:

1. On expiry of the time period referred to in Art.15;
2. On relinquishment by the holder of the right;
3. On the termination of the functions of the legal person holder of the design right if there is no successor in title.

(2) The lapse referred to in para 1, item 3 shall be carried out upon request from an interested party.

(3) With the lapse of the registration extinguishes the right of the design.

#### *Surrender of a Right on a Design*

**Art. 28.** (1) The holder of the design right may surrender his right of the design.

(2) The surrender of one or several of the joint holders shall not lead to the lapse of the legal protection.

(3) The surrender may refer to all or to some of the designs, for which the registration has been effected.

(4) If there is an entry of licensing contract, the surrender of the right of the design shall be entered only after the holder of the design right has delivered evidence that he has informed the licensee of his intention to surrender the right of the design. The entry shall be done after the expiry of two months period from the date on which the evidence was delivered.

(5) The surrender of the design right shall be done in writing to the President of the Patent Office.

(6) The surrender shall have effect as from the date of its entry in the State Register of Industrial Designs.

#### *Invalidation of Registration*

**Art. 29.** (1) The registration shall be declared invalid upon request of any person, if the design:

1. has been registered contrary to Art. 3 or Art. 11, para 1;
2. is excluded from protection as referred to in Art.11, para 2;
3. is identical as referred to in Art. 12, para 2 to a design – object of national or international application for which the Republic of Bulgaria is a designated country and with an earlier date of filing, respectively priority under the condition that such an application shall be registered.
4. includes an object of an earlier right of a third person under the Copyright and Related Rights Law and there is no consent for using it.
5. has been registered contrary to the requirements referred to in Art. 2.

(2) If the grounds for the invalidation concern some of the designs, included in a multiple application, the registration shall be invalidated only in this part.

(3) The registration shall be declared invalid also when a court decision states that the entered holder is not one of the persons referred to in Art. 16 and in one month period from the date of entry into force of the court decision there is no request for entering the real holder.

(4) The registration may also be declared invalid upon request from the President of the Patent Office under the conditions provided for in para 1 and 2.

*Legal Consequences of the Invalidation*

**Art. 30.** (1) The invalidation of a registration shall have effect as from the date of the request thereto.

(2) The invalidation shall not extend over:

1. the legal actions entered into force as far as they have been executed before the invalidation.
2. The licensing contracts as far as they have been executed before the invalidation if not otherwise contracted.

**Chapter three**  
**PROCEDURE WITH THE PATENT OFFICE**

*Filing of an Application*

**Art. 31.** (1) The application for the registration of a design shall be filed with the Patent Office:

(2) For a filing date of the application shall be considered the date on which the Patent Office has received:

1. request for registration;
2. the name and the address of the applicant;
3. one or several graphical or photographic representations that clearly and fully reveal the design, for which protection is sought.

*Contents of the Application*

**Art. 32.** (1) The application shall contain the data referred to in Art. 31, para 1 and also the following:

1. the name of the State of which the applicant is national, of which he is resident or in which he has a real and effective commercial or industrial establishment;
2. the name and address of the industrial property representative, if such has been appointed, and power of attorney;
3. priority claim if such;
4. reproductions of the representation of the design;
5. number of the designs for which protection is sought;
6. designation of the products in which the design is incorporated or to which it is applied;
7. classification index of the products according to the International Classification of Industrial Designs under the Locarno Agreement;
8. list of the accompanying representations;
9. name and address of the creator;
10. document for paid fees for application, examination and priority.

(2) The application may be accompanied by a brief description of the specific features of the design upon the initiative of the applicant.

(3) The documents and the data they consist shall be in the Bulgarian language. If they have been presented in another language, the date of filing shall be preserved if in three months period the documents are submitted in the Bulgarian language.



*Multiple Application*

**Art. 33.** (1) Several designs may be filed in one multiple application upon the condition that the products in which they are intended to be incorporated or to which they are intended to be applied belong to one and the same class of the International Classification, or to one and the same set or composition of items.

(2) For each subsequent design after the first included in the multiple application shall be paid additional fees.

*Division of the Application*

**Art. 34.**(1) The applicant shall have the right to divide the application up to the moment of taking decision on it. The divided applications shall enjoy the priority of the initially filed application if they are filed within three months from the division.

(2) The Patent Office shall invite the applicant to divide the application filed upon the national procedure in three months period, if the application does not comply with the provisions of Art. 33. The applications deriving from the divided application shall enjoy the priority of the first filing of the application if they are filed in the said period.

*Right of Priority*

**Art. 35.** (1) From the date of filing the application as referred to in Art. 31, para 2 the applicant shall be afforded the right of priority as to applications of identical designs filed after that date.

(2) The right of priority shall be acknowledged to the applicant from the date of an earlier application if:

1. the earlier application has been dully filed in the Republic of Bulgaria, in a country member of The Paris Convention or of the World Trade Organization;
2. the earlier application is the first application as referred to in Art. 4 of the Paris Convention and in that application has been disclosed the same design;
3. the application has been filed with the Patent Office within six months period from the date of the filing of the first application;
4. the priority claim shall be submitted within two months period from the date of filing the application as referred to in Art.31, para 2 with designation of the date and state of the earlier application, and
5. within three months period from the date of filing the applicant pays the priority fee and submits the priority certificate, issued by the competent authority of the country, in which the first application has been filed.

(3) A dully filed application as referred to in para 2, item 1 shall be considered the application with established date of filing notwithstanding its further proceeding.

(4) By multiple application the priority may be claimed on the basis of more than one earlier application under the conditions of para 2.

*Examination as to formal Requirements*

**Art. 36.** (1) Each application shall be examined whether it complies with the requirements laid down in Art. 31, para 2 for establishing the date of filing. If these requirements are not complied with the materials shall be returned to the applicant.

(2) Each application with established date of filing shall undergo the formal examination that proves whether the application complies with the requirements laid down in Art.31, para 1, Art. 32, 33, Art. 34 para 2 and Art. 35, para 2, 3 and 4. When deficiencies are established the applicant shall be invited in three months period to remedy them.

(3) If in the time limit under para 2 the applicant does not remedy the deficiencies, the procedure shall be terminated.

*Examination as to Substance*

**Art. 37.** (1) Each application that complies with the formal requirements shall be examined in one year period whether the design applied for is:

1. design under the conditions laid down in Art. 3;
2. not excluded from protection under the conditions laid down in Art. 11, para 2;
3. new under the conditions laid down in Art. 12 in respect to designs that have been already registered under the national or international procedure;
4. not identical as referred to in Art. 12, para 2 to a design – subject of a national application with an earlier date of filing, respectively priority, which later shall be granted registration.
5. not identical as referred to in Art. 12, para 2 to a design – subject of an international application with an earlier date of filing, respectively priority, for which the Republic of Bulgaria is a designated country and for which no decision for refusal has been taken.

(2) If there are grounds for the refusal of the registration of the applied object or part of it, the applicant shall be informed in writing for all the grounds thereto and shall be invited in three months to submit an opposition.

(3) If in the time limit under para 2 the applicant does not submit reasonable objections and/or does not limit the filed object, a decision for refusal of the registration shall be taken.

(4) If it has been established that the filed object or part of it may be registered, a decision for the registration shall be taken.

*Withdrawal, Limitation and Changes in the Application*

**Art. 38.** (1) Up to the moment of taking a decision upon the application the applicant may withdraw it in respect to all or to some of the designs.

(2) In the application shall not be entered changes with the exception to changes concerning the name and the address of the applicant or in the case of errors in the name and address of the applicant and by obvious errors upon the condition that such errors do not concern the design itself.

(3) The changes referred to in para 2 shall be carried out upon request of the applicant.

*Renewal of the Registration*

**Art. 39.** (1) The registration shall be renewed upon request of the holder of the right of the design. The request shall contain the registration number and a document for the payment of the due fees.

(2) The request for the renewal may be lodged within the last year of the term provided under Art.15 , para 1 or on payment of a complementary fee up to six months after expiry of the said term.

(3) If the requirements under para 2 are not complied with the President of the Patent Office shall refuse the renewal of the registration.

(4) The holder may request the renewal of the registration only in respect to some of the designs. In the request for the renewal he shall designate only the said designs.

(5) The renewal shall enter into force as from the date following the date of expiry of the preceding registration.

*Changes in the Name and Address of the Holder*

**Art. 40.** (1) The holder of the right of a design shall notify in three months period the Patent Office for any change in his name and address.

(2) The changes shall be entered in the State Register of Industrial Designs upon request of the holder.

(3) All documents for which the holder of the right of the design shall be notified shall be sent to him on the last address entered in the State Register of Industrial Designs.

*Appeals Procedure*

**Art. 41.** (1) The Appeals Department of the Patent Office shall consider:

1. appeals against decisions under Art.37, para 3 for refusal of registration;
2. appeals against decisions under Art.36, para 3 for termination of the procedure;
3. requests for the invalidation of the registration.

(2) The ad hoc boards of the Disputes Department of the Patent Office for considering the appeals shall consist of three state examiners, one of them jurist and the ad hoc boards for considering the requests - of five state examiners, two of them jurists.

(3) The Boards under para 2 shall be appointed by the President of the Patent Office.

*Time Limits*

**Art. 42.** (1) The appeals shall be filed in three months period from the notification for the decision.

(2) The request may be filed throughout the whole term of the registration and after that term- only from the defendant in an action for infringement of rights.

(3) Procedure shall not be set up for requests that have not been filed in due time or for appeals and requests, for which the due fees have not been paid.

*Contents of the Appeals and the Requests*

**Art. 43.** (1) The appeal shall contain data of the appellant, data of the application and the opposition against the decision of refusal.

(2) The request shall contain data of the petitioner, data of the registration of the design and the grounds for the grounds for the invalidation as referred to in Art.29, para 1, 2 and 3.

(3) If deficiencies are established the appellant shall be invited in one month period to remedy them. If the deficiencies are not remedied in the said period, the procedure shall be terminated.

*Appeals Authority*

**Art. 44.** (1) If the appeal is not well grounded the decision for refusal shall be confirmed by the President of the Patent Office.

(2) If the appeal is grounded the decision shall be canceled by the President of the Patent Office and he shall take decision either for registration or to return the application for a second consideration.

(3) If there is a cancellation of a decision for refusal by the second consideration of the application, the decision as to substance shall be taken by the President of the Patent Office.

*Proceedings of the Requests*

**Art. 45.** (1) A copy of the request shall be sent to the holder of the right of the design and he shall be invited to file an opposition in three months period.

(2) If the request is not well grounded a decision for rejection shall be taken by the President of the Patent Office.

(3) If the decision is grounded a decision for the full or partial invalidation of the registration shall be taken by the President of the Patent Office.

(4) In the cases of partial invalidation the registration certificate that has been issued shall be replaced by a new one.

*Extension of Time Limits*

**Art. 46.** Upon request of the applicant that has been submitted before the expiration of the terms provided under Art. 36, para 2, Art. 37, para 2 and Art. 45, para 1 the said time limits may be extended by three months, but not more than twice, on payment of the prescribed fees. The request shall not be considered if the prescribed fees have not been paid at the moment of its submission.

*Renewal of Time Limits*

**Art. 47.** If the time limits are not complied with due to special unforeseen circumstances, such time limits may be renewed on request of the applicant or the holder of the right of the design. The request shall be submitted within three months after the cause for missing the terms has been eliminated but not later than one year from the expiry of the said term. The decision for the renewal of the term shall be taken by the President of the Patent Office.

*Publications in the Official Bulletin*

**Art. 48.** The Patent Office shall publish in its Official Bulletin all the registered industrial designs and the subsequent changes in them.

*Review by Court*

**Art. 49.** The decisions of the President of the Patent Office under Art. 44, para 1 and 3 and Art. 45, para 2 and 3 may be appealed before the Sofia City Court within three months from the date of receiving the notification for the decision.

**Chapter four**  
**REGISTRATION OF INDUSTRIAL DESIGN UNDER THE HAGUE**  
**AGREEMENT**

*International Registration of Industrial Designs*

**Art. 50.** (1) An international registration shall be considered the registration by the Bureau of the International Union for the Protection of Industrial Property, further referred to as "The International Bureau," under the Hague Agreement, further referred to as "The Agreement".

(2) In respect to third parties the international registration shall have effect on the territory of the Republic of Bulgaria as from the date of the expiration of the 6-months period under Art. 8, para 1 of the Agreement.

*Duration of Protection of the International Registration*

**Art. 51.** The term of validity of the international registration on the territory of the Republic of Bulgaria shall be as provided in this Law.

*Procedure at the Patent Office*

**Art. 52.** (1) International application for which the Republic of Bulgaria is a designated country shall be treated at the Patent Office as provided for in Art. 37.

(2) The Patent Office shall require from the applicant a declaration as to the real creator/s of the design, if such have not been mentioned in the international application and shall invite him in two months period from the dispatch of such request to submit the declaration. If the applicant does not answer to the request in the said period, the application shall be considered surrendered in respect of the Republic of Bulgaria.

(3) If established that the object or part of it applied for cannot be registered a decision for refusal shall be taken and the International Bureau shall be informed thereto as referred to in Art. 8, para 1 and 2 of the Agreement.

*Filing of an International Application*

**Art. 53.** Natural persons and legal entities who have citizenship or have a real and effective commercial or industrial establishment in the Republic of Bulgaria may file an international application under the Agreement through the Patent Office of the Republic of Bulgaria.

*International Application for which the Republic of Bulgaria is country of origin*

**Art. 54.** An international Application for which the Republic of Bulgaria is country of origin shall have no effect on the territory of the Republic of Bulgaria.

**Chapter five**  
**PROTECTION UNDER THE CIVIL LAW**

*Infringement of the Right of the Design*

**Art. 55.** Any use under Art.19, para 2 of a registered design in commercial activities without the consent of the holder of the right of the design constitutes an infringement of the right of the design.

*Right of Action*

**Art. 56.** (1) The holder of the right of the design may file an action against infringement.

(2) The licensee of an exclusive license may file an action, if the holder of the right of the design does not execute his right in one month period from the date of receiving notification for the infringement from the licensee.

(3) The licensee of non-exclusive license may file an action only with the consent of the holder, if not otherwise provided by the contract.

*Infringement Action*

**Art. 57.** (1) The actions of infringement of the rights provided by that Law are:

1. action for establishing the fact of infringement;
2. action for suspension of infringement;
3. action for compensation of damages.

(2) Simultaneously with the action under para 1 may be also demanded:

1. the remaking or the destroying of the subject of the infringement, or by intentional infringement the means through which it has been made.
2. The publication of the court decision in two daily papers on the expenses of the infringer.

*Actions for Employees Design*

**Art. 58.** (1) Any interested person may file an action for establishing employee's design.

(2) The action shall be filed at latest within one year after coming to know of the registration.

(3) By disputes under Art.17, para 1 the party not agreeing with the established remuneration may file an action as to its amount.

*Actions for Prior Use*

**Art. 59.** Any interested person may file an action for establishing the fact of the prior use.

*Actions for Authorship and joint Authorship*

**Art. 60.** (1) A person claiming authorship or joint authorship of a design may file an action within the whole term of the registration.

(2) On the basis of a court decision entered into force the Patent Office shall enter the creator in the State Register of Industrial Designs.

*Jurisdiction*

**Art. 61.** The actions under this Law shall be heard by the Sofia City Court.

**Chapter six**  
**BORDER CONTROL**

*Grounds and Field of Application*

**Art. 62.** (1) Goods, passing through the state border of the Republic of Bulgaria, manufactured by means of copying or using a design, included in the scope of protection under Art. 18, without the consent of its holder, shall be detained by the customs officials upon a written request from the holder.

(2) The request for detaining shall contain a detailed description of the goods. To the request shall be enclosed a copy from the registration certificate of the design and a certificate ascertaining that the registration is in force.

(3) When the holder of the right has his residence or headquarters outside the country he shall give a court address in the Republic of Bulgaria.

(4) Small quantities of goods for non-commercial and for non-manufacturing purpose shall not be detained as well as transit goods.

*Acts upon Initiative of the Customs Authorities*

**Art. 63.** The customs officials may upon their own initiative detain goods that they consider that infringe rights of a registered design.

*Complementary Regulation*

**Art. 64.** The rules for applying this chapter shall be determined in Regulations, adopted from the Council of Ministers.

## **Chapter seven** **ADMINISTRATIVE PENAL PROVISIONS**

### *Sanctions*

**Art. 65.** (1) Any person that produces, offers, puts on the market or stocks for that purpose products, manufactured through copying or using a design, included in the scope of protection under Art. 18, without the consent of its holder, shall be imposed a fine or property sanctions from 500 up to 5000 BGL.

(2) The products shall be confiscated and shall go to the state notwithstanding whose property they are and shall be destroyed and the holder or authorized person may be present by the act of destruction.

(3) The provision in para 2 shall not apply in the cases when products in which the design, subject of the infringement, is incorporated or applied to, may be reprocessed so that the right of the holder shall not be infringed.

(4) By a repeated infringement or by any subsequent infringement the provisions of para 3 shall not be applied.

(5) The infringement under para 1 shall be determined by an act of an official appointed by the President of the Patent Office.

(6) The penal injunctions shall be issued by the President of the Patent Office.

(7) The acts and the penal injunctions shall be issued, appealed and executed under the provisions of the Administrative Penal Law.

### **COMPLEMENTARY PROVISION**

**§ 1.** Under this Law :

1. “Hague Agreement” shall mean The Hague Agreement Concerning the International Deposit of Industrial Designs , of November 6, 1925, Revised at the Hague on November 28, 1960

2. “Paris Convention” shall mean The Paris Convention for the protection of Industrial Property , concluded on March 20, 1883, with its revisions and amendments.

3. “Locarno Agreement” shall mean Locarno Agreement establishing an International Classification for Industrial Designs of October 8, 1968, as amended on October 2, 1979 and thereafter.

4. “Local industrial property representative” shall be the representative as referred to in Art. 3, para 2 of the Patents Law.

5. “State examiner” shall be the examiner as referred to in Art. 83, para 3 of the Patent Law.

### **TRANSITIONAL AND FINAL PROVISIONS**

**§ 2** The legal protection of a design as provided for in this Law shall not exclude the cumulative protection under The Copyright and Related Rights Law.

**§ 3.** This Law shall apply to the applications for registration of designs that have already been filed and there is no final decision upon them up to the moment of the entry into force of this Law.

**§ 4.** The term of protection, deriving from the registration of an industrial design under the Law on Trademarks and Industrial Designs, that shall not expire up to the entry into force of this Law, shall be determined as referred to in Art. 15.

**§ 5.** This Law shall suspend Part II of the Law on Trademarks and Industrial Designs (published in State Gazette N 95 from 1967; amendments N 55 from 1975, N 56 from 1986 and N 27 1993) and Art. 1, 46, 47, 48, 49, 50, 51 and 52 from the same Law from its part concerning Industrial Designs).

**§ 6.** In the Patents Law (published SG, N 27 from 1993; am. N 83 from 1996; am. N 11 from 1998) shall be entered the following amendments and supplements:

1. In Art. 80. item 2 the words “industrial designs” shall be replaced by industrial designs’

2. In § 10 from the final and transitional provisions after the words “employee “s inventions” shall be added “utility models and industrial design”

**§ 7.** In the Penal Code (published SG. N 26 from 1968; corr., N 29 from 1968; am. N 92 from 1969, N 26 and 27 from 1973, N 89 from 1974, N 95 from 1975, N 3 from 1977, N 54 from 1978, N 89 from 1979, N 28 from 1982; am. N 31 from 1982, am. N 44 from 1984, N 41 and 79 from 1985; corr. N 80 from 1985; am. N 89 from 1986; corr. N 90 from 1986; N 37, 91 and 99 from 1989, NN 10, 31, and 81 from 1990, N 1 and 86 from 1991; corr. N 90 from 1991; am. N 105 from 1991; am. N 105 from 1991, N 54 from 1992, N 10 from 1993, N 50 from 1995, N 97 from 1995 - Decision N 19 of the Constitutional Court from 1995; am. N 102 from 1995, N 107 from 1996, NN 62 and 85 from 1997; N 120 from 1997 - Decision N 19 of the Constitutional Court from 1997; am. NN 83, 85, 132, 133 and 153 from 1998, NN 7 and 51 from 1999) shall be made the following amendments:

1. In Art. 173, para 2 the words “industrial design” shall be replaced by “industrial design” and the word “rationalization” with “utility model”.

2. In Art. 174 the wording “industrial design” shall be replaced by “industrial design” and the word “rationalization” with “utility model”.

**§ 8.** In the Commercial Law (published SG, N 48 from 1991; am. N 25 from 1992, NN 61 and 103 from 1993, N 63 from 1994, 63 from 1995, NN 42, 59, 83, 86 and 104 from 1996, NN 58, 100 and 124 from 1997, NN 52 and 70 from 1998, NN 33, 42 and 64 from 1999) shall be made the following amendments:

1. In Art. 587, para 1 the words “industrial design” shall be replaced by “industrial design.”

2. In Art. 588 the words “industrial design” shall be replaced by “industrial design.”

**§ 9.** In § 1 item 8 of the complementary provisions of the Law on Corporate Income Taxation (published SG N 115 from 1997; corr. N 19 from 1998; am. NN 21 and 153 from 1998, NN 12, 50 and 51 from 1999) the words “industrial design” shall be replaced by “industrial design.”

**§ 10.** In Art. 31, para 1 from the Cooperative Society Law (published in SG, N 63 from 1991, am. NN 34 and 55 from 1992, N 63 from 1994, NN 59 and 103 from 1996, N 52 from 1997, N 52 from 1998) the words “industrial design” shall be replaced by “industrial design.”

**§ 11.** In Art. 19, para 2, item 2 from the Book - keeping Law (published SG, N 4 from 1991, am. N 26 from 1992, N 55 from 1993, NN 21, 33 and 59 from 1996, N 52 from 1997, N 21 from 1998, N 57 from 1999) after the “marks” shall be placed the wording “industrial designs”.

**§ 12.** The Council of Ministers shall adopt Regulations for the drafting, filing and examination of industrial designs.

**§ 13.** The President of the Patent Office shall issue instructions and indications on the implementation of this Law.

**§ 14.** The enforcement of this Law shall be assigned to the President of the Patent Office.



**§. 15.** This Law shall enter into force three months after its publication in the State Gazette.

The Law is adopted by the XXXVIII Parliament on the 2 of September 1999 and is sealed with the seal of the Parliament

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