

# THE LAW ON OPTICAL DISCS

## I. GENERAL PROVISIONS

### Subject-matter of the Law Article 1

This Law shall regulate the manufacturing, commercial duplication, circulation and exports of optical discs, and imports and exports of production parts, raw materials and equipment used for manufacturing of optical discs.

### Definitions Article 2

The terms used in this Law, shall have the following meaning:

- 1) **Optical Disc** shall mean any medium or device, other than a production part, on which data in digital form, readable by means of an optical scanning mechanism employing a high-density light source (a laser), has been stored or is capable of being stored, including all the formats, notably:
  - CD (compact disc)
  - CD-DA (compact disc digital audio)
  - CD-I (compact disc – interactive)
  - CD-P (compact disc – photo)
  - CD-ROM (compact disc read-only memory)
  - CD-R (compact disc recordable)
  - CD-RW (compact disc rewritable)
  - CD-WO (compact disc write once)
  - DVD (digital versatile disc)
  - DVD-RAM (digital versatile disc random access memory)
  - DVD-ROM (digital versatile disc read-only memory)
  - LD (laserdisc)
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- 4) **Production equipment** shall mean machinery, equipment or devices, including Mastering Equipment, that is used or that may be used for production of Optical Discs or Production Parts.
- 5) **Mastering Equipment** shall mean any machine, equipment or device consisting of a signal processor and laser beam recorder or any other recorder that may be used to record data onto the Master Disc or to record data directly on a Production Part, including but not limited to:
- Laser Beam Recorder;
  - Signal processing system for the Laser Beam Recorder;
  - Equipment for spin coating glass masters with a photo resistant layer;
  - Equipment for making Production Part;
  - Integrated optical disc replication lines;
  - Injection moulding machinery for the manufacture of optical discs
  - Moulds, and components thereof, for the manufacture of optical discs;

16) **Professional organization** shall mean an organization whose membership consists wholly or substantially of intellectual property right holders, and which is mandated by those members to enforce or protect their intellectual property rights.

**Responsible Authorities**  
**Article 3**

The state authority responsible for culture, the state authority responsible for foreign trade and the state authority responsible for internal trade shall be responsible for enforcement of this Law.

The state authority responsible for culture shall be responsible to administer all matters related to manufacturer's codes, production licenses and approvals for commercial duplication of optical discs.

The state authority responsible for foreign trade shall be responsible to administer all matters related to exports of optical discs and exports or imports of production parts, raw materials and the equipment for production of optical discs.

The state authority responsible for internal trade, through market inspectorate, shall administer supervision of activities related to production, commercial duplication and circulation of optical discs.

**II. LICENSING, APPROVAL AND A LICENSE**

1. MANUFACTURER'S LICENSE

**Requirements for Manufacturing of Optical Discs and Production Parts**  
**Article 4**

Optical discs or production parts shall be manufactured by a person to whom a manufacturer's license and a manufacturer's code have been issued

Manufacturing referred to in paragraph 1 of this Article shall be performed in the licensed premises only.

**Manufacturer's Code**  
**Article 5**

Any person intending to engage in manufacturing of optical discs must obtain a SID code.

Any person intending to engage in manufacturing of production parts must obtain a LBR SID code.



The license shall be issued for the period not exceeding three years.

The license may be extended upon the written request of the licensee filed before the expiration of a period referred to in paragraph 3 of this Article, under conditions identical to those for the issuance of a license.

**Obligations of the Licensee**  
**Article 8**

Any licensee shall:

- 1) display the license in a conspicuous location in every licensed premises;
- 2) notify the licensing authority without de

- 3) has furnished false information in his application or accompanying documentation; or
- 4) the applicant is the holder of a license that has been terminated, or suspended in accordance with the provisions of Article 10 of this Law, in the period preceding the filing of the application.

### **Suspension of a License Article 10**

The license shall be suspended if:

- 1) the licensee or any director or any other responsible person of the licensee has been charged with any economic offence or criminal offence involving an infringement of an intellectual property right;
- 2) a procedure has been initiated with respect to an economic offence or criminal offence involving an infringement of an intellectual property right, committed in the licensed premises, regardless of who is a perpetrator.

The license shall be suspended for as long as it takes for the appropriate court proceedings to be completed.

### **Termination and Revocation of a License Article 11**

The license shall be terminated if:

- 1) the licensee or any director or any other responsible person of the licensee has been convicted of an economic offence or criminal offence involving an infringement of an intellectual property right;
- 2) any person has been convicted for an economic offence or criminal offence involving an infringement of an intellectual property right committed in the licensed premises, regardless of who is a perpetrator.

The license shall be revoked upon the request of the licensee or when the licensee ceases permanently to manufacture optical discs or production parts.

### **Record Keeping Article 12**

Any licensee shall keep records and samples of optical discs and production parts manufactured for a period of five years, and shall make them available for inspection at the request of the licensing authority or a market inspector.

Samples referred to in paragraph 1 of this Article shall be:

- 1) a sample of each optical disc manufactured;
- 2) a copy in a retrievable form of the content of each production part.

The authority referred to in Article 3, paragraph 2 of this Law shall set out content

and the manner of record keeping referred to in paragraph 1 of this Article.

## 2. APPROVAL FOR COMMERCIAL DUPLICATION OF OPTICAL DISCS

### **Application for the Activity Approval**

#### **Article 13**

Any person registered to commercially duplicate optical discs must, prior to commencing such business activity, obtain activity approval from the competent authority.

The application for the activity approval shall be accompanied by:

- 1) The Certificate from the Central Register of the Commercial Court confirming the registration for the activity for which the activity approval is required;
- 2) An information on responsible persons (personal data and address)
- 3) An information on the premises (address, square footage, title) where the commercial duplication of optical discs is to take place;
- 4) A declaration, signed by the applicant, to the effect that neither the applicant, nor a director or any other responsible person of the applicant has, in the three years preceding the date of filing of the application, been convicted of any economic offence or criminal offence involving the infringement of an intellectual property right, that none of them is under investigation for any such offence and that the prohibition of conducting the activity for which the activity approval is required, is not effective with respect to any of them.

Commercial duplication of optical discs outside of premises specified in the activity approval shall be prohibited.

### **Obligations of the Holder of Activity Approval**

#### **Article 14**

Provisions of Article 8, paragraphs 1 and 2 of this Law shall apply *mutatis mutandis* to the obligations of a holder of an activity approval.

Holder of an activity approval shall keep records and samples of duplicated optical discs and the media from which the duplication has been carried out, for a period of five years beginning from the date of duplication, and shall make them available for inspection at request of the authority that has issued activity approval or a market inspector.

Provision of Article 12, paragraph 3 of this Law shall apply *mutatis mutandis* to the records of duplicated optical discs.

### 3. EXPORT AND IMPORT LICENSE

#### **Export and Import Requirements**

##### **Article 15**

Exports of optical discs and imports or exports of production parts, raw materials or equipment for production of optical discs may be conducted solely pursuant to a license issued by the responsible authority.

#### **Application for an Export/Import License**

##### **Article 16**

An application for an export or import license shall be made using the form prescribed by the authority referred in Article 3, paragraph 3 of this Law.

The application referred to paragraph 1 of this Law shall be accompanied by the following:

- 1) The Certificate from the Central Register if the Commercial Court confirming the registration of the foreign trade activity;
- 2) The proof that the manufacturer's code has been allocated to the applicant or to the person performing exports or imports;
- 3) When circumstances of the case so warrant, the proof that the intellectual property right related to exported or imported goods has been acquired.

#### **Export and Import License**

##### **Article 17**

If the applicant meets the requirements prescribed in Article 16 of this Law, import or export license shall be issued within 15 days from the date of filing the application..

A separate license shall be required in respect of each shipment of optical discs, equal





- license;
- 6) Verify that optical discs and production parts have had the necessary manufacturer's codes applied to them;
  - 7) Verify that full records as required under this Law and any by-laws based on this Law have been kept;
  - 8) Verify that the quantity of optical discs produced corresponds to the quantity of raw materials consumed and to the quantity of raw materials held in stock;
  - 9) Seize optical discs, production parts, raw materials, or equipments for production or duplication of optical discs, where there are reasonable grounds to suspect that an offence under this Law, or an economic offence or criminal offence under any other law involving an infringement of an intellectual property right has taken place, until the competent authority issues the decision, and to inform the holder of the intellectual property right or professional organization thereof;
  - 10) Under the circumstances referred to in subparagraph 9 of this paragraph, temporarily, until identified irregularities are corrected, ban the manufacturing of optical discs or production parts, or duplication of optical discs and to seal the licensed premises, or premises specified in the activity approval;
  - 11) Enable appropriate sampling of optical discs or production parts necessary as evidence in the procedure before the competent court, upon the request of the holder of the intellectual property right, professional organization or person under the supervision;
  - 12) Order destruction of seized optical discs or production parts when, regardless of the measures undertaken, the owner or holder thereof remains unknown.

Provision of paragraph 1 of this Article shall be applicable *mutatis mutandis* to any other premises or any means of transport where there are reasonable grounds to suspect that any offence under this Law or any offence under other law regulating protection of intellectual property right took place or is taking place in such premises or means of transport.

### **Obligations of the Person Under Supervision**

#### **Article 23**

In addition to responsibilities provided for in the Law on Inspectorial Supervision, the licensee or a holder of an activity approval must, at request of the market inspector, take the following measures:

- 1) enable promptly inspectorial supervision of licensed premises and premises specified in the activity approval, as well as, in other premises and means of transport in which optical discs, production parts, raw material or equipment for production or duplication of optical discs are kept;
- 2) submit at least two copies of an optical disc manufactured in each production part;
- 3) submit at least two copies of each duplicated optical disc, and the media from which duplication has been carried out.

## **V. PENAL PROVISIONS**

### **Offences**

#### **Article 24**

Any company, entrepreneur, other form of a commercial entity or other legal entity that:

- 1) manufactures optical discs or production parts without a license (Article 4, paragraph 1);
- 2) fails to undertake prescribed measures for the purpose of determining if the customer ordering optical discs or production parts has been authorized to reproduce material protected by the intellectual property right on the ordered optical discs or production parts (Article 8, paragraph 1, subparagraph 3);
- 3) engages in commercial duplication of optical disc without the approval of the competent authority (Article 13, paragraph 1);
- 4) exports optical discs, or imports or exports production part, production equipment or raw materials for production of optical discs, without a license of the competent authority (Article 15);
- 5) fails to mark the manufactured optical discs or production parts with the manufacturer's code endorsed in the license (Article 19, paragraph 1);
- 6) applies forged manufacturer's code, falsely applies manufacturer's code or any mark resembling a manufacturer's code, to an optical disc or production parts, or makes, possesses or disposes of any instrument for the purpose of forging a manufacturer's code (Article 19, paragraph 2);
- 7) possesses or operates production equipment or a production part that has not been adapted to apply the appropriate manufacturer's code (Article 20, paragraph 1);
- 8) produces, adapts or possesses a mould for production of optical discs for the purpose of applying to an optical disc a forged manufacturer's code, or any similar mark (Article 20, paragraph 2);
- 9) places into circulation optical discs or production parts that are not marked with the manufacturer's code endorsed in the license (Article 21).

shall be fined for the offence in the amount equal to 30-300 times the minimal salary in the Republic.

If the offence referred to in paragraph 1 of this Article resulted in the damage to the holder of the intellectual property right, or in financial gain, the person referred to in paragraph 1 of this Article shall be fined up to 10 times the amount of the caused damage, or the amount of the financial gain, if such amount exceeds the maximum prescribed fine.

Any natural person and any responsible person in the company, other form of commercial entity and a legal entity shall



- 4) fails to promptly enable market inspector to perform inspectoral supervision in licensed premises and premises specified in the activity approval, as well as, in other premises or means of transport in which optical discs, production parts, raw material or equipment for production or duplication of optical discs are kept (Article 23, paragraph 1, subparagraph 1);
- 5) fails to submit to the market inspector required number of optical discs produced in each production part (Article 23, paragraph 1, subparagraph 2);
- 6) fails to submit to the market inspector required number of duplicated optical discs or the media from which duplication has been carried out (Article 23, paragraph 1, subparagraph 3).

shall be fined in the amount equal to 10-100 times the minimal salary in the Republic for the offence.

Any natural person and any responsible person in the company, other form of commercial entity and legal entity shall be fined for an offence referred to in paragraph 1 of this Article in the amount equal to 0.5-20 times the minimal salary in the Republic.

## **VI. TRANSITIONAL AND FINAL PROVISION**

### **Article 29**

By-laws under this Law shall be adopted not later than 6 months as of the date this Law comes into force.

### **Article 30**

This Law shall come into force on the eight day after its publication in the Official TD-.00005 Tc to4i6o4i6o4i6o4i6o4i6o4i6oltte05 -1.15