

PATENT LAW OF GEORGIA

CHAPTER I. GENERAL PROVISIONS

ARTICLE 1

This Law regulates property and personal non-property relations formed in connection with the creation, legal protection and usage of the industrial property objects - inventions, utility models and industrial designs.

ARTICLE 2

For the purposes of this Law, unless expressly stated otherwise:

- a) "Sakpatenti" means National Intellectual Property Center of Georgia;
- b) International Bureau - International Bureau of World Intellectual Property Organization;
- c) Paris Convention - the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended at Stockholm on July 14, 1967 and on September 28, 1979;

ARTICLE 3

For an invention, utility model and industrial design is granted a patent, which confirms the authorship and grants the patent owner the exclusive right on the invention, utility model, or industrial design.

ARTICLE 4

1. In the name of the foreign patent owner can be granted an importation patent.
2. The importation patent is granted for the invention patented abroad, examination on which was conducted pursuant to all the criteria of patentability.
3. The importation patent gives the patent owner the exclusive right to use, produce or sell production, but it does not give him the right to prohibit the third party to import the similar product from abroad.

ARTICLE 5

1. Patent validity term of the invention is 20 years as from the day application is filed with Sakpatenti.
2. The validity term of the importation patent is defined by the validity term of foreign basic patent, but no longer than 10 years as from the day of filing with Sakpatenti.
3. The patent validity term of utility model is 8 years as from the day the application is filed with Sakpatenti.
4. The patent validity term on industrial design is 15 years as from the day application is filed with Sakpatenti.

ARTICLE 6

1. The legal protection scope of the invention is defined by claims of the invention.
2. The legal protection scope of the utility model is defined by claims of the utility model.
3. The legal protection scope of the industrial design is defined by the unity of characteristic essential features of the design itself or by the characteristic essential features represented in its reproduction.

ARTICLE 7

1. A patent for an invention and utility model, which for the purposes of state defense classified as secret by the respective competent body, is granted only after their declassification on the basis of a decision taken by the competent body.
2. The patent may be undisclosed for 2 years term, which can be extended by every following 2 years.

3. The rules of legal protection and use of

1. By a patent shall be protected such an invention, which is patentable and satisfies the criteria of novelty, inventive step and industrial applicability.
2. The invention is novel, if it does not relate to the existing state of the art.
3. The invention involves the inventive step, if for the date of application filing or if the Convention priority is claimed, for the date of this priority it is not obvious from the

1. By a patent shall be protected an industrial design which represents a new artistic-constructive exterior of the article and complies the criteria of novelty and industrial applicability.

2. The industrial design is novel, if the unity of its essential features, which define aesthetic peculiarities of the article, is not commonly known in written or verbal description, public usage or in any other way before the application filing date with Sakpatenti, or if the Convention priority is claimed before the date of this priority.

3. At determination of industrial design novelty all the applications for the industrial designs filed with Sakpatenti shall be taken into account, provided that they have earlier priority.

4. The state of the art is defined by all those data that have become widely known by written, or verbal description, also by applying it in Georgia and which refer to devices, substances, or methods having similar applic

ARTICLE 17

A patent is not granted:

a) for the invention, utility model, or industrial design, which may cause or encourage inhuman, immoral and/or anti-social action;

ARTICLE 24

1. An application for granting of a patent for an invention, or utility model shall include:

- a) a request for acquiring of patent, wherein shall be indicated the author of the invention, or utility model and the person in whose name the patent is secured.
- b) a description of the invention, utility model;
- c) claims of invention or utility model;
- d) drawings, if they are necessary to explain the invention, utility model;
- e) the abstract, which is not used to define the state of the art and is only informative;
- f) other documents, if they are necessary to explain the invention, utility model.

2. An application for an industrial design for the purposes of granting a patent shall include:

- a) the request, in which the author of an industrial design and the person in whose name a patent is claimed shall be indicated;
- b) the reproduction of the industrial design, or item of the design;
- c) the description of an industrial design, drawings and other documents, if necessary.

ARTICLE 25

1. Each application, within one month from the filing date, shall be attached by the document confirming the payment of the established fee of the formal requirements examination.

2. If the application is filed by a patent attorney, then the application documents within one month from the date of application filing shall be attached by the power of attorney issued by an applicant.

3. If the application is filed by an assignee of the author, then the application documents within one month from the date of filing the application, shall be attached by a document confirming the assignment.

ARTICLE 26

1. An application for obtaining a patent shall be presented in the state language, other application documents - in any other language.

2. The applicant in case of filing an application documents in other language, within two months from the date of their presentation to Sakpatenti, must provide the Georgian translation.

3. The description of the invention and utility model shall be filed in respect to the established rule and in full form as to enable the skilled person of the corresponding sphere to realize it.

4. If the application concerns the biological reproducible material, which cannot be described in the application completely as to enable the skilled person to realize it or, if this biological material is not commonly available, the application shall be completed by the document confirming the deposit of the biological material issued by the Depository.

the date of filing of the earlier application with state party to the Paris Convention, and for an industrial design - within six months.

2. An applicant, who wants to enjoy the exhibition priority is obliged to file an application for an invention, utility model or industrial design with Sakpatenti during six months from the date of exposition of the invention, utility model or industrial design at official, or considered as such, exhibition held in the state party to the Paris Convention.

3. If the applicant for some reason fails to file the application with Sakpatenti claiming the Convention priority or exhibition priority within the indicated term, the term indicated in paragraph 1 of this Article can be extended no longer than for two months.

4. The applicant, who wants to enjoy the Convention or exhibition priority right, must indicate about it at filing the application with Sakpatenti or within two months term from filing date, and must attach it with the document confirming the right of such claim, or present it to Sakpatenti no later than three months from the filing claiming of Convention priority or exhibition priority.

5. The priority shall be established:

a) by the date of presenting the additional documents, if the applicant has drawn them as an independent application and has presented to Sakpatenti during three months from the receipt of the notification saying, that the additional documents shall not be taken into account as they change the essence of the claimed object;

b) by the earlier application filing date with Sakpatenti by the same applicant, in which the essence of this invention, utility model, industrial design is disclosed, provided that the application, on the basis of which such priority is claimed, was filed within twelve months from the filing date of the earlier application for an invention, utility model, or industrial design within six months from the filing date of earlier application. Hereto, the earlier application is considered withdrawn;

c) on the basis of several applications filed earlier under the observance of the

1. Sakpatenti sends the applicant the documentary conclusion on state of the art. The applicant within two months from the receipt of the conclusion and present a new wording of invention claims, which must not exceed the essential scope of the patent description, or can send a written response.

ARTICLE 45

The applicant has a right to recall his application before its publication.

ARTICLE 46

From the day of publishing of the application for granting of the patent the applicant is entitled conditionally to the rights, which would be granted to him by the patent. If the patent is not granted, then said rights will not be considered as exercised.

ARTICLE 52

Proceeding from the patent, under the infringement of the exclusive right shall not be considered:

- a) putting of the product in the civil circulation by the patent owner or with his consent;
- b) the use of an invention, utility model and industrial design under private rule for personal benefit, where such action is not taken for commercial purposes;
- c) the use of an invention, utility model and industrial design on marine, air and land transport facilities of any country, at their temporary or casual presence within the territory of Georgia. In this case, the invention, utility model and industrial design shall be applied only to vehicles of similar type and not for production purposes;
- d) the use of an invention, utility model and industrial design at natural calamity, catastrophe, epidemic and other emergency situations.

ARTICLE 53

If any person before the date of filing the application for an invention, utility model and industrial design or before the filing date of the first application, which is the basis to claim the priority established by the Paris Convention, used an invention, utility model and industrial design in good faith, or carried out preparatory works for its utilization, he has the right to use it individually irrespective of patent validity (the right of prior use).

ARTICLE 54

1. Non-payment of the annual fee by the patent owner causes the termination of the patent validity term.
2. If the patent owner has not paid annual fee for some valid reasons, he has the right to apply to Sakpatenti for reinstatement of the patent validity.
3. The petition is drawn within six months from the date of expiration of the preferential period and the decision of reinstatement shall be recorded in patent register.
4. In the case of taking a favorable decision on patent validity reinstatement, the patent shall be considered reinstated, if within three months from the date the mentioned decision is taken and the annual fees paid.

ARTICLE 55

exploitation of an invention, utility model and industrial design, which is the subject matter of patent, has the right to continue its usage for business. Assignment of the right is possible only together with the enterprise.

ARTICLE 56

The patent shall be considered invalid in the case of submitting by the patent owner at Sakpatenti a written refusal on patent.

ARTICLE 57

1. A patent shall be considered invalid if the following is ascertained:

- a) the subject matter of patent is not patentable;
- b) the patent does not describe an invention, utility model and industrial design completely as to make its realization possible;
- c) the subject of a patent relates to such objects on which under this Law patent is not granted;
- d) the subject matter of patent is beyond the scope of the contents, in respect of which the priority was established, or the patent is granted on the basis of a division application and its subject matter is beyond the scope of the contents of the first application;
- e) if the patent owner had no right to the patent in accordance with Articles 20 or 21 of the Law.

2. Non-use by the patent owner of the invention protected by the importation patent within the territory of Georgia during three years from the date of patent issuance causes the cancellation of the importation patent. Whereas, the import of the product in Georgia produced on basis of the invention protected by the importation patent shall not be considered as use.

ARTICLE 58

Complete or partial nullity of a patent has retroactive force from the date of filing an application for patent.

CHAPTER VIII. LICENSE FOR USE OF THE ■

ARTICLE 60

1. The patent owner or his assignee has the right to announce an open licensing mode and request Sakpatenti to enter the corresponding record in the register, if for the patent on which open licensing is announced has not been issued the exclusive license.

2. The open license can be only simple.

3. The open licensing mode confers any person the right to the use of patent by the conditions agreed upon with the patent owner. If the agreement is not achieved the conditions of the use are defined by the court.

4. In the case of announcement of open licensing the amount of a patent fee is reduced twice.

5. The patent owner can apply to Sakpatenti for cancellation of an open licensing at

1. The license shall be legalized in a written form. Upon agreement the contract shall be registered within no later than two months from the date of its conclusion.

2. The substantial changes in the license, if there is a wish of the parties, can be registered at Sakpatenti regarding the establ3 no later thana nth()5.1afater ndmmtis ade.

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ARTICLE 68

An applicant, an interested party, within three months from the date of taking the decision by Sakpatenti has the right to oppose the patent examination decision at Sakpatenti Chamber of Appeals.

ARTICLE 69

1. The patent owner has the right to appeal against the infringement of the rights proceeded from a patent can be drawn by a patent owner.

2. The holder of the exclusive license has the right to appeal against the infringement of the rights proceeded from the patent, if a patent owner himself, during the reasonable time from receipt of the notification on infringement does not present the appeal to the Court.

ARTICLE 70

Production, utilization, or including in civil circulation or other use of a patented

2. The international application with the indication of Georgia and which has been published in respect with the Article 21 of PCT, has equal rights provided by the Article 51 of this Law.

ARTICLE 74

1. For the citizens, or residents of Georgia Sakpatenti acts as a “receiving office” for international applications.

2. With Sakpatenti as a “receiving office” the international application shall be filed in English or Russian language. Whereas, the postage fee for sending it to the authorized international organizations or offices shall be paid to Sakpatenti within a month from the filing date of the international application.

ARTICLE 75

1. Sakpatenti acts as “designated office” regarding those international applications in which Georgia is indicated for securing a national patent for an invention or utility model.

2. Sakpatenti acts as an “elected office” regarding those international applications in

15, 1992 “On Approving and Enacting of the Statute on Industrial Designs” shall be considered as invalid.

3. The Commission for Compulsory Licensing shall be established at the Ministry for Economy.