

# **INDUSTRIAL DESIGN LAW**

## **Part One**

### **BASIC PROVISIONS**

#### **Content of the Law**

##### Article 1

This Law regulates the protection of product design, defines the requirements and procedure for acquiring industrial design rights, rights and obligations of the right holders, infringements of rights, duration, cancellation and termination of rights, and judicial protection.

#### **Subject Matter of the Protection**

##### Article 2

(1) Industrial design right shall protect the three-dimensional or two-dimensional design of the whole or a part of a product to the extent that it fulfils the requirements as to novelty and individual character.

(2) For the purpose of this Law the term design shall mean the appearance (outer look) of a product, or the part thereof, characterised by its visible features, in particular:  
e,

Article 4

(1) A product design shall be considered to have individual character if the overall impression it produces on the user of the product

6. contains, embodies or substantially imitates the figure of a famous person, unless with the consent of this person or the competent authority or a person empowered to care of the image of a deceased famous person

### **Protection Requirements – Relative Grounds for Exclusion**

#### Article 7

(1) An industrial design right may not protect a product design:

1. which is not new under Articles 3 and 5 of this Law;
2. which has no individual character under Articles 4 and 5 of this Law;
3. which is exclusively dictated by the type of that product or the product into



(4) Other components and supplements to the application shall be filed in the way and in the number of copies as provided by the Regulations whereby the implementation of this Law has been regulated (hereinafter: the Regulations).

### **Division of Industrial Design Application**

#### Article 13

(1) A multiple industrial design application at the applicant's request during the grant procedure of the industrial design may be divided into two or more applications, each of which refers to one or several designs.

(2) The divided applications maintain the same priority right as the divided multiple application.

### **Filing Priority**

#### Article 14

If an industrial design application has been filed in compliance with Article 12, paragraphs (1) and (2), the applicant shall acquire the priority right on the basis of the application filing date over any other applicant filing the industrial design application at a later date for the identical design within the meaning of Article 3 of this Law, or a design differing only in minor details within the meaning of Article 4 of this Law.

### **Union Priority Right**

#### Article 15

(1) If the applicant of industrial design has filed the application for the first time in the member state of the international union founded by the Paris Convention for the Protection of Industrial Property (hereinafter: the Paris Union), he may, when filing the application for the same industrial design in the Republic of Croatia, invoke the date of the first filing, provided that the application was filed in the Republic of Croatia within six months starting from that date.

(2) The applicant invoking the union priority right shall in the application filed to the Office, indicate the substantiality of the application he is invoking (State, date and number of the application) and shall at the latest, within three months from the filing date of the application to the Office, attach thereto a true copy of the first application certified by the competent authority of the Paris Union State member, as well as a Croatian translation thereof.

### **Exhibition Priority Right**

#### Article 16

(1) If the applicant has exhibited the products containing or embodying the industrial design at an official or officially recognized international exhibition in the Republic of Croatia or in any of the member states to the Paris Union, he may request that the date of the first exhibition day of the products be accorded as the date of the first application, provided that the application is filed in the Republic of Croatia within six months from that date.

(2) The applicant invoking the exhibition priority right shall furnish with the application filing to the Office a certificate issued by a competent authority of the Paris Union member state indicating the type of the exhibition, the venue thereof, its opening and closing dates and the first day of the exhibition of the products specified in the application and a certificate on identity of the product design as exhibited and as applied for.

### **Examination of the Correctness of Industrial Design Application**

#### Article 17

(1) The examination process of the correctness of industrial design application includes the examination of all the formal and legal requirements provided by this Law.

(2) An industrial design application shall be correct:

1. if a single or a multiple application has been filed under Article 11, paragraph (2) and paragraph (3) of this Law;

2. if the prescribed application fee and the proceeding fee have been paid, respectively the prescribed fee for the request of application publication deferment under Article 23, paragraph (1), and the evidence of payment thereof attached thereto,

3. if it is drafted in the manner as to contain all the necessary components and supplements under Article 12, paragraph (1), paragraph (2) and paragraph (4) of this Law,

4. if an orderly power of attorney is supplemented in case the application has been filed through a representative.

### **Correction of an Industrial Design Application**

#### Article 18

(1) If the application complies with the requirements under Article 12, paragraphs (1) and (2) of this Law, but has not been filed in a way as to contain all the necessary components and supplements in compliance with this Law and the Regulations, the Office shall invite the applicant to remedy it within 60 days from the date of the receipt of the invitation.

(2) If the applicant remedies the application within the prescribed term, it shall be deemed to be correct from the outset.

(3) If the application does not comply with the requirements under Article 12, paragraph (1) and paragraph (2) of this Law, it shall not be deemed an industrial design application and the Office shall invite the applicant to supplement the filed request within the term referred to in paragraph (1) of this Article.

(4) The date of receipt of the corrected application of industrial design under Article 12, paragraph 1 and paragraph 2 of this Law, shall be deemed as the day for establishing priority under Article 14 of this Law.

### **Extension of the Time Limit**

#### Article 19

At the reasoned applicant's request, the term under Article 18, paragraph (1) of this Law may be extended for not more than 60 days out of justified reasons.

## **Rejection of the Application**

Article 20

(2) In the case under paragraph (1) of this Article the Office shall upon the expiration of the term for deferment of the application publication, invite the applicant to furnish the photographs or the graphic representations of the two-dimensional designs from the application within a term of 30 days from the date of the invitation receipt.

(3) Should the applicant of the industrial design not comply with the invitation referred in the preceding paragraph of this Article, the protection shall cease on the expiration date of the deferment term of the application publication.

## **Opposition**

### Article 24

(1) An opposition relating to the published industrial design application may, within three months counting from the date of publication, be filed to the Office:

1. by the holder of an earlier industrial design, or by the applicant of an earlier industrial design application;

2. by a person who at the time of filing the industrial design application had a trade name provided that this trade name or the essential part thereof is identical to the published design or is substantially imitated by the published design;

3. by a natural person whose name and family name, or the image is identical to the published design or is essentially imitated by the published design;

4. by the holder of an earlier industrial property right, if the subject of such a right is identical to the published design or is essentially imitated by the published design;

5. by any person having a copyright in the work which is identical to the published design or is substantially imitated by the published design;

6. by any interested person who considers that the published design has not met the requirements as to novelty or individual character or is exclusively dictated by the kind or respectively by the functional features of the product under Article 7, paragraph (1) of this Law.

(2) The filing term for an opposition prescribed under paragraph (1) of this Article may not be extended.

(3) The opposition shall be filed in the manner as defined by the Regulations.

## **Opposition Procedure**

### Article 25

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#### Article 29

(1) Upon the entry in the register of an industrial design and the payment of the prescribed fee for the issuance of the industrial design certificate, the Office shall issue to the right holder the Industrial Design Certificate not later than within six months from the date of publication of the industrial design in the Office Official Gazette.

(2) The data contained in the Industrial Design Certificate shall be provided by the Regulations.

### **Part Three**

## Article 32

(1) The exclusive industrial design rights shall not affect the use of the products containing or constituting the protected product design:

1. for private and non-commercial purposes,
2. for experimental purposes;
3. for the purpose of informing the public or for the purpose of education, if this is in compliance with good business practices and shall not harm the interests of the right holder, and if it refers to the right holder and designer.

(2) The exclusive industrial design rights shall not relate to products containing the protected design or to which the protec

## **Part Four**

### **CHANGES TO AN INDUSTRIAL DESIGN**

#### **Entry of Changes**

##### Article 35

(1) At the request of the applicant or the industrial design holder, the Office shall enter in the register all the changes relating to the personal name or the residence, if a natural person is concerned, to the company name or the residence of the applicant, as well as other changes occurred after the filing of the industrial design application or after the grant of the industrial design, provided that these changes reflect the actual situation and shall have no effect on the industrial design itself.

(2) The changes entered in the register of industrial designs shall be published in the Office Official Gazette.

(3) The data to be contained in the request for the entry of any change incurred on the industrial design shall be prescribed by the Regulations.

#### **License**

##### Article 36

(1) The holder of an industrial design may transfer to third persons the right to use the industrial design, for the whole or a part of the territory of the Republic of Croatia.

(2) The right to use an industrial design shall be acquired on the basis of a licence contract, and such right shall have effect against third persons after the entry of the licence in the register. The entry of the licence shall be made at the request of the industrial design holder.

(3) The licence contract shall be drawn up in writing and signed by the contracting parties.

(4) The holder of the industrial design may exercise the industrial design rights against the licensee infringing any provision of the licence contract, particularly with regard to the duration, the registered scope of the industrial design use, the kind of products covered by the licence, the territory on which the industrial design may be used and in respect to the quality of the products manufactured.

(5) The licensee may institute a court proceeding in respect to the infringement of rights arising from the industrial design only if the holder of the industrial design shall approve it.

(6) The licensee shall be entitled to grant a sub-license only if expressly stipulated.

#### **Rights in Rem and Levy of Execution**

##### Article 37

(1) An industrial design may be the subject matter of the rights in rem and levy of execution.

(2) The rights referred to in paragraph (1) of this Article shall be effective against third persons only after the entry thereof in the register.

### **Assignment of Rights**

#### **Article 38**

(1) The applicant or holder of the industrial design may assign, in whole or in part, his right from the application or the industrial design to another person.

(2) In supplement to the request to assignment of rights shall be filed a true copy of the contract or a part of the contract featuring the assignment of rights, or a certificate on the assignment of rights signed by the prior or the actual right holder.

(3) The contract on the assignment of rights shall particularly contain the indication of the contracting parties, the industrial design registration number or the number of the industrial design application.

(4) The entry of the assignment of rights shall be made at the request of the prior or the latest holder of the industrial design right and shall be published in the Office Official Gazette.

### **Part Five**

#### **ACQUISITION, DURATION, MAINTENANCE AND TERMINATION OF AN INDUSTRIAL DESIGN VALIDITY**

##### **Acquisition of an Industrial Design Right**

#### **Article 39**

(1) An industrial design right shall be acquired by a decision on the grant of the right and by the entry of the industrial design in the register.

(2) The date of entry of the industrial design in the register shall be equal to the date of decision on the grant of the industrial design right.

##### **Duration and Maintenance of an Industrial Design Right**

#### **Article 40**

(1) An industrial design right shall be valid 10 years counting from the filing date of industrial design application.

(2) The industrial design validity may be renewed by periods of five years each up to the total term of 20 years of uninterrupted protection, provided that the industrial design holder, during the last year of protection or at the latest within six months upon the expiration of such a term files to the Office a request for the extension of the industrial design validity and pays of the appropriate fee and maintenance costs.

(3) The new period of protection shall begin with the day of expiration of the preceding term of protection.

(4) The data to be contained in the request for extension of the industrial design validity shall be prescribed by the Regulations.

### **Termination of an Industrial Design Validity**

#### **Article 41**

(1) An industrial design shall cease to be valid:

1. if the term of the industrial design validity under preceding Article of this Law has expired;

2. upon the written declaration by a right holder on the waiver of the industrial design, on the day following the day of filing the waiver to the Office; this waiver shall have no legal effect if a specific right has been entered into the register in favour of third persons and the industrial design holder had not before obtained a written consent from those persons:

3. after termination of the legal entity who is the industrial design holder or upon the death of the natural person who is the industrial design holder or on the day of termination or on the day of death, unless the right has been transferred to the legal successors or the legal entity or to the heirs of the natural person.

(2) The termination of an industrial design validity shall be entered in the register of industrial designs.

### **Declaration of the Decision on the Grant of an Industrial Design Right Null and Void**

#### **Article 42**

(1) The decision on the grant of an industrial design right shall be declared null and void by the Office if established that the conditions for the grant of that right, provided by this Law, did not exist.

(2) The decision on the grant of an industrial design right may be declared null and void during the whole period of protection,

## **COMMON PROVISIONS ON THE PROCEDURE BEFORE THE OFFICE**

### **Other Provisions Applied in the Procedure before the Office**

#### Article 43

The Law on the General Administrative Procedure shall apply to the specific matters of procedure which have not been regulated by this Law.

### **Payment of Procedure Fees and Costs**

#### Article 44

(1) The acquisition and maintenance of an industrial design right shall be subject to the payment of procedure fees and costs in compliance with special provisions.

(2) Should the fees and costs in the procedure for the grant of the industrial design not be paid, the application shall be rejected and in the case of non-payment of the fees and maintenance costs the right shall cease to be valid.

### **Registers**

#### Article 45

(1) The Office shall keep the register of applications, the register of industrial designs and the register of representatives.

(2) The registers referred to in paragraph (1) of this Article shall be open to the public.

(3) The Office shall enable any interested persons the inspection of data related to the published applications and the granted industrial design rights.

(4) The office shall issue at the request of any interested person an excerpt from the industrial design register.

(5) The data to be entered in the register under paragraph (1) of this Article shall be prescribed by the Regulations.

### **Office Official Gazette**

#### Article 46

(1) The Office shall issue the Official Gazette in which shall be published the industrial design applications, rights granted, extensions of industrial design validity, transfers of rights, cancellations of industrial designs from the register and other data related to the industrial designs prescribed by this Law.

(2) The content of the data to be published in the Office Official Gazette shall be prescribed by the Regulations.

### **Search**

#### Article 47

At the request of any interested person, the Office shall carry out the services of searches related to the identity and similarity of industrial designs filed and registered with effect in the Republic of Croatia.

### **Representation**

#### Article 48

General principles of representation and special requirements, on the basis of which the natural persons or legal entities not having residence or real and effective business seat on the territory of the Republic of Croatia may exercise the rights under this Law in the procedure at the law-courts and administrative authorities through their representatives, shall be regulated by special regulations.

### **International Registration**

#### Article 49

In the procedure for the grant of the industrial design rights under the provisions of the International treaties the Republic of Croatia is a member thereunder, the provisions of this Law shall apply to all the issues not regulated by these treaties.

## **Part Seven**

### **CIVIL PROTECTION**

#### **Legal Action related to the Infringement of Rights**

#### Article 50

(1) An industrial design holder may, if his rights under Article 31 of this Law have been infringed or threatened, institute a legal action in a law-court and request:

1. the establishment of the infringement of the industrial design rights;
2. the prohibition of committed or intended infringement of the industrial design right;
3. remedy of the state caused by the infringement of the industrial design right including the destruction of articles by which the industrial design right has been infringed;
4. payment for the damages;
5. publication of the law-court decision at the defendant's expense

(2) The procedure following the action under paragraph (1) of this Article shall be urgent.

#### **Limitation of an Action**

#### Article 51



A legal action related to the infringeme



## **TRANSITIONAL AND FINAL PROVISIONS**

### **Pending Procedures**

#### Article 56

(1) The procedures for the grant of industrial design, pending on the initial implementation day of this Law, shall continue under the provisions of this Law.

(2) The holder of a model or pattern right, the validity of which has not ceased by the day of entry into force of this Law, may, after a 10-year validity request the extension of the protection twice by a five-year period each under the same conditions and with the same rights as the holders of industrial design rights under this Law.

(3) In the case referred to in paragraph (2) of this Article, the Office shall rename a model or a pattern the validity of which is being extended, enter it in the register of industrial designs and publish the extension of the right in the Office Official Gazette.

(4) The procedures on the infringement of a model or a pattern or on the infringement of the rights deriving from the application of model or pattern, and the procedures declaring decisions on the grant of the right to a model and a pattern null and void, pending on the initial implementation day of this Law, shall be finished under the provision in force until the initial implementation day of this Law.

### **Termination of Validity of Other Regulations**

#### Article 57

On the day the application of this Law shall start, the provisions of the Industrial Property Law ("Narodne novine"- he ap1(f)4.c0[procl oy )TJ10435 0 TD.0002 Tc109889 Tw{thRed pubo

This Law shall enter into force on the eighth day following the date of its publication in “Narodne novine”- The Official Gazette of the Republic of Croatia, and shall be applied starting from January 1, 2000.