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# Ctable

# Article 1

This law regulates the acquisition, exercising and protection of industrial property rights.

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- "invention" is a solution of a technical problem in the context of Article 19 of this Law referring to a product, process or substance per se which came as a result of specific process;
- "design" is a new form of a body, picture, contours, composition of colors, texture or combination of these features within the meaning of Article 82 of this Law;
- "trade sign" is a sign that can be presented graphically and fulfils the conditions under Article 124 of this Law;
- "geographical name" within the meaning of this Law is a name and/or indication of the country, region or place marking the product which originates

(3) The existence of reciprocity under paragraph (2) of this Article shall be determined by the Minister of Justice, under conditions and in procedure determined by law.

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#### Article 6

- (1) The inventor of patent or author of industrial design has moral and economic rights on his creations determined by law.
- (2) The subjects referred to in paragraph (1) of this Article, the owner of trademark, the authorized user of appellation of origin and the authorized user of the geographical indication also have other rights under international agreements and conventions, other laws, general acts and agreement.

# Мb

### Article 7

- (1) The inventor and the designer shall have the moral right to be mentioned in the application and the documents referring to the patent and the industrial design.
- (2) If the invention or the design comes as a result of the creative work of more than one person, they all shall have the right under paragraph (1) of this Article.

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## Article 8

- (1) The economic right of the owner of patent, industrial design and trademark includes the right for using, disposing, right for compensation and prohibition of unauthorized use by third person(s) in the cases and in a manner provided for by international agreements and conventions, this Law, other law and agreement.
- (2) The owner of collective mark and the authorized users of appellation of origin and geographical indication shall have the rights under paragraph (1) of this Article, apart from the right for disposal.



## Article 9

(1) The administrative procedure for acquisition and protection of industrial property rights shall be performed by the Industrial Property Protection Office (hereinafter: "the Office").

(2) The Office is a body under the Ministry of Economy having capacity of legal entity.

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#### Article 10

- (1) The Office keeps registers of applications, registers of recognized industrial property rights and registers of representatives in the field of industrial property.
- (2) The registers referred to in paragraph (1) of this Article shall be open to the public.
- (3) The data on the applied for protection and recognized industrial property rights shall be published in the Official Gazette issued by the Office under the provisions of this Law.

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#### Article 11

- (1) Protection of industrial property rights in the Republic of Macedonia shall be sought by filing the adequate application to the Office.
- (2) The Office shall also accept applications requiring protection of industrial property rights abroad if that is in accordance with the international agreements and conventions ratified by the Republic of Macedonia.
- (3) Protection of industrial property rights may also be required in the Republic of Macedonia with an application filed abroad, if that is in accordance with the international agreements and conventions, which have been ratified by the Republic of Macedonia.
- (4) The applicant referred to in paragraph (3) of this Article shall have the same rights as the national applicants, unless provided otherwise by the respective agreement or convention.

# Fb

- (1) Application for recognition of industrial property right shall be filed in writing, personally, by mail or by electronic means.
- (2) Application for recognition of industrial property right may be filed in foreign language provided that it includes indication of the requested right and information for contact with the applicant in Macedonian language.
- (3) If the application is filed in a foreign language, within 90 days from the date of filing the application in a foreign language, the applicant must submit

translation of the application in Macedonian language. Otherwise, the application shall be deemed to be withdrawn.

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# Article 13

(1) In the administration procedure for acquisition, exercising, maintenance and protection of industrial property rights the Office shall decide in first instance.

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### Article 17

- (1) The Office is obliged to make available to all interested legal and natural persons its documentation and information for applied for protection and protected industrial property rights, apart from the documentation which has not been published in the Official Gazette issued by the Office.
- (2) Only information from the register of applications shall be available for the applications for industrial property right.
- (3) Unpublished application may be made available only with consent of the applicant.
- (4) The documentation and information referred to in paragraph (1) of this Article, as well as the other services related to protection of industrial property, shall be made available after paying specified expenses.

# Feed

#### Article 18

- (1) For acquisition and maintenance of industrial property right fees shall be paid under the Law on administrative fees, as well as specific expenses in the procedure for recognizing the right.
- (2) The Government of the Republic of Macedonia shall determine the amount of the specific expenses in the procedure referred to in paragraph (1) of this Article and the expenses for giving information services referred to in Article 17 paragraph (4) of this Law.

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- (1) Patent shall be granted for invention in all fields of technique and technology which is new, involves inventive step and is susceptible of industrial application.
- (2) The following in particular shall not be considered to be inventions within the meaning of paragraph (1) of this Article:
  - 1. discovery, scientific theory and mathematical method;
  - 2. esthetic creation;
  - 3. plan, rule and procedure for performing intellectual activity, playing games or doing business, as well as computer program;
  - 4. presentation of information.



20 paragraph (1) item 2 of this Law, provided that such use is not comprised in the state of the art.



#### Article 22

- (1) While estimating whether the invention is new under Article 21 of this Law, the fact that the invention was available to the public six months prior to the filing of the application shall not be taken into consideration if it was due to or in consequence of:
  - evident abuse in relation to the applicant or his legal predecessor, or
- the fact that the applicant or his legal predecessor had exhibited the invention at an official or officially recognized exhibition falling within the terms of the Convention on International Exhibitions signed at Paris on November 22, 1928 and last revised on May 31,1988.
- (2) The provision under paragraph (1) item 2 of this Article shall be applied only if while filing the application the applicant indicates that the invention had been exhibited and submits written certificate issued by the competent authority of the state where it was exhibited.



- (1) Invention shall be considered to involve an inventive step if, having regard to the state of the art within the meaning of Article 21 paragraph (2) and (3) of this Law, it is not obvious to a person skilled in the art.
- (2) The applicant may renounce the initial application and file a new application for the same invention and, in that case, the first application shall not

- (1) The right to a patent shall belong to the inventor or his successor in title.
- (2) If the invention has been created jointly, by several inventors, the right to patent shall belong to all inventors or their successors in title.

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### Article 26

- (1) Inventor shall be the person who had created the invention in the course of his creative work.
- (2) The person who has contributed to the creation of an invention by providing only technical assistance shall not be deemed to be inventor.

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#### Article 27

- (1) Inventor's successor in title shall be legal or natural person entitled to acquire a patent right by virtue of law, legal business, inheritance or court decision.
- (2) The employer shall be considered to be inventor's successor in title where by virtue of law or employment contract he has the right to acquire patent for invention created under inventor's employment.

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#### Article 28

- (1) Patent granting procedure shall be initiated by filing a patent application to the Office.
- (2) Patent granting procedure may also be initiated by filing European patent application and application filed in accordance to the Patent Cooperation Treaty (PCT).
- (3) Patent granting procedure on applications referred to in paragraph (2) of this Article shall be prescribed by regulations issued by the Minister of Economy.

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- (1) Each invention shall be filed as separate patent application.
- (2) One patent application may contain more than one invention linked in such a way as to form a single inventive concept.



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#### Article 33

(1) The applicant who intends to use the priority right referred to in Article 32 of this Law shall be obliged in the application filed in the Republic of Macedonia to give all information on the application the priority to which is claimed and, no later than 90 days from the date of filing the application, to submit a priority document certified by the competent authority of the state member of the Paris Union in which the first application was filed.

# MHO

#### Article 34

- (1) The applicant may file a claim for grant of multiple priority right on the basis of several earlier applications filed in one or more states member of the Paris Union.
- (2) Where multiple priority right is claimed, the time limits under this Law shall run from the date of granted priority right starting from the earliest date of multiple priority right.



- (1) The priority claim shall relate only to such characteristics of the invention which are contained in the first application or applications for which priority is claimed.
- (2) If certain characteristics of the invention do not appear among the patent claims contained in the first application or applications for which priority is claimed, itod(o)5.4,9.1(n)-5.0e92(i)5(Tc .22-5.1(oLaw )5 TD -( )5.1(rilicatio)-4.9(.5(ion, t)-21)-4.

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#### Article 37

(1) Patent application with accorded filing date may not be additionally amended by extending the object for which protection is required.

## Cttb

#### Article 38

- (1) Patent application shall contain:
- 1. request for grant of patent;
- 2. description of the invention;
- 3. one or more patent claims;
- 4. brief contents of the essence of the invention (abstract);
- 5. drawing (if necessary) referred to in the description and the patent claim;
- 6. evidence for paid application fee;
- 7. translation in Macedonian language if the application was filed in foreign language.
- (2) The other elements and supplements of the application shall be filed in manner and number of copies prescribed by the regulations issued by the Minister of Economy.

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## Article 39

- (1) The request for grant of a patent shall contain:
- an express indication that grant of a patent is required,
- title of the invention expressing the essence of the invention,
- indications concerning the applicant and the inventor.
- (2) A written declaration of the inventor, in case he does not want to be mentioned in the application, shall be filed to the Office within two months from the filing date of the application.

# Distribution

- (1) The description of the invention must disclose the invention in a manner sufficiently clear and precise for it to be applied by a person skilled in the art in that field.
- (2) If the application relates to a viable biological or microbiological material which cannot be described, the application must be accompanied with evidence that a sample of that material has been deposited with a competent depositary institution no later than the filing date of the patent application.
- (3) The competent depositary institution referred to in paragraph (2) of this Article shall be considered to be an institution which complies with the requirements prescribed in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

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### Article 41

- (1) Patent claims shall define the subject matter for which protection is sought.
- (2) Patent claims shall be clear and fully contained in the description of the invention.
  - (3) Patent claims may be independent and dependent.
- (4) The independent claims shall contain new, essential characteristics of an invention.
- (5) The dependent claims shall contain specific characteristics of the invention defined in the independent or other dependent claim.

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# Article 42

(1) Abstract shall be a short summary of the essence of an invention serving exclusively for information on the invention.

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#### Article 43

- (1) Accordance of the filing date of the patent application shall require that on such a date the application contains:
  - 1. request for grant of patent;
  - 2. name or company name and residence or business seat of the applicant;
  - 3. description of an invention and one or more patent claims.

Addition

- (1) If the application does not contain all elements provided for in Article 43 of this Law, the Office shall notify the applicant that his application is not proper and that filing date cannot be accorded.
- (2) If the filing date of the application cannot be accorded, the Office shall invite the applicant to correct the deficiencies referred to in paragraph (1) of this Article within 60 days from the day of receipt of the notification.
- (3) If the applicant corrects the deficiencies within the prescribed time limit, the Office shall issue a conclusion for accordance of the filing date.
- (4) Filing date shall be considered to be the date of reception of a proper application within the meaning of Article 43 of this Law submitted by the applicant

- 2. translation of the application in Macedonian language has been filed, where the application is in a foreign language;
- 3. the drawings referred to in Article 38 paragraph (1) item 5 of this Law have been filed;
- 4. proper power of attorney has been filed, where the application was filed through a representative.
- (2) If the patent application does not contain all basic elements referred to in paragraph (1) of this Article, the Office shall invite the applicant to correct the determined deficiencies within 90 days from the day of receipt of the invitation.
- (3) On reasoned request of the applicant, the time limit referred to in paragraph (2) of this Article may be extended for justified reasons by no more than 60 days.
- (4) If the applicant fails to correct the determined deficiencies referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall rejected the patent application by issuing a conclusion.
- (5) Where a patent application refers to drawings which are not included in the application, the Office shall notify the applicant that he may file them within the prescribed time limit.

(1) If the applicant acts in compliance with the conclusion in the time lim	nit

- (1) The substantive examination of the patent application referred to in Article 52 shall be conducted in one of the institution for examination.
- (2) The institution for examination referred to in paragraph (1) of this Article shall be as a rule national and international offices which under the Patent Cooperation Treaty (PCT) have the status of International Searching Authority or International Preliminary Examining Authority for international search or for preliminary examination of international patent applications.

#### Article 56

- (1) Substantive examination determines whether the invention is in compliance with all requirements for grant of a patent right, i.e. whether the subject matter of the application is:
  - 1. invention which is patentable under Articles 19 and 20 of this Law;
  - 2. invention which has been described in a manner that can be applied by a person skilled in art under Article 40 of this Law;
  - 3. invention which is in compliance with the rule of unity of invention under Article 29 of this Law;
  - 4. invention which is new under Article 21 paragraphs (1), (2) and (4) and Article 22 of this Law, which contains an inventive step under Article 23 of this Law and is industrially applicable under Article 24 of this Law.

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#### Article 57

(1) The Office shall issue a decision for grant of patent on the basis of submitted evidence from the substantive exat 1 Tf I.1(t)-5.1(b(3der)-5)5.1(c)-9.2(o).7(n)5.8(tT0(e)-1.2(o)-1.2

(1 from the	) The patent- date of the de	owner shall becision on gra	pe issued a p ant of patent.	atent certificat	e within 6 months

- (1) The Ministry of Defense has the exclusive right to use the secret invention and dispose of it.
- (2) The patent-owner of secret invention protected by patent is entitled to remuneration, regardless whether the invention is being used in the defense and to which extent.
- (3) The amount of the remuneration referred to in paragraph (2) of this Article shall be agreed by the applicant and the Minister of Defense.
- (4) If agreement referred to in paragraph (3) of this Article is not reached, the applicant may ask the competent court to determine the amount of the remuneration.

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#### Article 65

- (1) The term of patent shall be twenty years as from the filing date of the patent application.
- (2) The term of patent under paragraph (1) of this Article may be extended for over twenty years if the subject matter of the patent is a medical product or a product for protection of plants or process for their production which has to undergo an administrative authorization procedure required by law before it can be put on the market, but no for more than 5 years.



## Article 66

- (1) The term of the patent under Article 65 paragraph (2) of this Law may be extended by issuing a supplementary protection certificate.
- (2) The procedure for issuing supplementary protection certificate shall be prescribed by the regulations issued by the Minister of Economy.



#### Article 67

(1) Before issuing a decision for grant of patent, the Office shall invite the patent-owner to pay the total amount of fees for maintenance of the patent right

for the period from the filing date of the application to the date of the grant of patent.

(2) The annual maintenance fee for the forthcoming period shall be due on the date corresponding to the filing date of the patent application.

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### Article 68

- (1) A patent right shall cease before the expiration of its validity date:
- 1. if the prescribed fees and expenses are not paid, the day after the expiration of the time limit for payment thereof;
- 2. if the patent-owner renounces his right, the day after the filing of the request for renouncing to the Office;
- 3. on the basis of court decision or act of the Office in cases provided for by this Law, at the day determined in the decision or act;
- 4. with the lapse of the legal person or upon the death of the natural person who is the patent-owner, on the day of lapse or death, or with the declaration of a missing patent-owner dead, on the day of the coming into force of the declaration, unless the right has been transferred to the legal successors in title of the legal person or to the heirs of the natural person;
- 5. If the patent-owner or the owner of exclusive right from patent does not comply with Article 52 paragraph (1) and Article 54 of this Law, the validity of the patent shall expire on the date of the expiring of the tenth year of the patent term.



- (1) If license, pledge or any other right of a third person has been entered into the patent register, the patent-owner may not renounce his rights without written consent from the person who is signatory of the license, pledge or other right.
- (2) If the patent-owner fails pay the fee within the prescribed time limit and the license, pledge or any other right of a third person has been entered into the patents register, the Office shall notify the third person that the fee had not been paid and that in order to keep his right he shall have to pay the fee within six months from the date of the notification.
- (3) In case of action for securing the registered rights of a third person, the court may decide to transfer the patent to the person in whose name the license,

pledge or other right is entered into the register, if that is necessary for securing those rights.

(4) In the case referred to in paragraph (3) of this Article, the person to whom the patent rights was transferred by the court shall be considered fiduciary patent-owner.

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#### Article 70

- (1) The patent-owner shall have:
- 1. exclusive right to use the protected invention in production;
- 2. exclusive right to put on the market objects produced according to the protected invention;
- 3. right to dispose of the patent;
- 4. right to prohibit use of the protected invention in production or in trade by third person(s) who did not have his consent for that.
- (2) The right under paragraph (1) of this Article refers to a patent for process and the product obtained directly by that process.

#### Fea

- (1) The patent-owner's right under Article 70 of this Law for exclusive exploitation of the invention shall not apply to:
  - 1. acts in which the invention is exploited for private and non-commercial purposes:
  - acts done for the purpose of research and development of the subject matter of the protected invention, in particular: making, using, offering for sale, import or export of protected invention, where such acts are

- (2) In absence of proof to the contrary, it shall be deemed that the product have been obtained by a protected process if the product is new or there is a reasonable doubt that the product was obtained by a protected process and that the patent-owner was not able to determine the process actually used in spite of the reasonable efforts.
- (3) It shall be deemed that there is reasonable doubt that the product was obtained by protected process if the protected process is the only known process.
- (4) The burden of the proving referred to in paragraph (1) of this Article shall fall on the alleged infringer only if one of the conditions referred to in paragraph (2) of this Article is fulfilled.



(1) The scope of the exclusive rights of the patent-owner shall be determined with the text of the patent claims which have been finally accepted in the patent granting procedure, where the description and the drawings shall be used for interpreting the patent claims.



#### Article 74

- (1) The patent right shall have no effect on the person who used the invention prior to the filing date of the application or the date of recognized priority right in good faith and not publicly in the Republic of Macedonia or performed preparation necessary for use thereof.
- (2) The person referred to in paragraph (1) of this Article shall have the right, without consent from the patent-owner, to continue using the invention to the extent to which it was used or prepared for using from the filing date of the application for the invention.



### Article 75

Use of product made on the bases of patent in construction or equipment of a ship, aircraft or land vehicle belonging to any of the states member of the Paris Union shall not be considered to be patent infringement where such means of transportation finds itself temporarily or accidentally on the territory of the Republic of Macedonia, provided that the product serves exclusively for the purposes of that means of transportation.



(1) If the patent-owner does not exploit the protected invention or exploits it to the extent which is insufficient to satisfy the needs of the Macedonian market, and refuses to conclude a license agreement or sets forth non-market conditions for conclusion of such agreement, the right of use of the invention may be given to another person with obligation to pay remuneration to the patent-owner.

- (2) The amount of the remuneration is agreed by the patent-owner and the user to whom the license was granted, i.e. who shall be using the invention protected with patent.
- (3) If agreement is not achieved, the amount of the remuneration shall be determined by the competent court.
- (4) The absence of agreement or court decision referred to in paragraph (3) of this Article shall not prevent the person who was granted license from exploiting the invention.

## Diff

#### Article 80

- (1) Compulsory license shall not be exclusive.
- (2) The duration of the compulsory license shall be connected exclusively with the duration of the reasons it had been granted for.
  - (3) The compulsory license shall not be transferable.

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#### Article 81

- (1) Compulsory license may also be granted if the invention protected by patent cannot be exploited fully or partially without using some other invention protected with previous patent where the later invention, which is a more significant technical progress, is of particular significance to state economy or for supplying the general needs.
- (2) If compulsory license is granted under paragraph (1) of this Article, the owner of the former patent may request compulsory license for exploiting the invention of the later patent.

#### RHV

applicable on certain industrial or handcraft products or part thereof to the extent	t

(3) The fact that the filed design was made available to the public no more than six months prior to the filing date of the application without consent from the applicant shall not influence the assessment of novelty and individual character.

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#### Article 85

- (1) Designs of products shall be considered identical when if features differ only in insignificant details.
- (2) Design of product shall be considered to have individual character if a skilled person can immediately notice differences from any design which was previously made available to the public.
- (3) Design of product shall not be considered to have individual character for the sole fact that its application refers to other industrial or handcraft products or parts thereof.

# Alge

- (1) An industrial design right shall not protect a design of product which:
- 1. is contrary to law or morality;
- 2. presents technical plan or scheme;
- 3. exclusively presents cartographic or photographic work;
- 4. contains national coat of arms or any other public coat of arms, flag or emblem, name or abbreviated namethe prch6(oua)5y8( )-5phoin ofnon r8( )6l.7(

2. which has no individual characte

- (1) The procedure for grant of an industrial design right shall be initiated by filing an application for industrial design right to the Office.
- (2) The procedure for grant of an industrial design right may also be initiated by filing an application for industrial design right under the Hague Agreement Concerning the International Deposit of Industrial Design of November 28, 1960 as completed in Stockholm on June 14, 1967 and amended on September 28, 1979.



- (1) Separate application shall be filed for any new form of body, picture, drawing or combination thereof.
- (2) One application for grant of right to industrial design may relate to two or more products (multiple application).
- (3) Multiple application shall relate to products classified under a single subclass under the Locarno Agreement on International Classification for Industrial Designs (hereinafter: International Classification).



#### Article 93

- (1) As from the date of filing of a proper application of industrial design in the Office, the applicant shall have the right to acquire priority right over any other person who shall later file an application for the same design.
- (2) Exception to paragraph (1) of this Article shall be the case when the conditions for filing an application for industrial design under Articles 94 and 95 of this Law are fulfilled.



- (1) A person who has exhibited design at an officially recognized international exhibition or fair in the Republic of Macedonia or in any of the states member of the Paris Union may claim in his application that the date of first day of exhibition of the design be accorded as priority date within 90 days from date of the closing of the exhibition or fair.
- (2) The application referred to in paragraph (1) of this Article shall be accompanied by a certificate issued by a competent authority of the state member of the Paris Union proving that the exhibition or fair was recognized

indicate the type of exhibition or fair, its place, its opening and closing date or the date of use.



#### Article 95

- (1) Any legal or natural person who has filed a proper industrial design application in any of the states member of the Paris Union or of the World Trade Organization shall be granted priority right in the Republic of Macedonia from the date of filing the first application provided that it is claimed within 6 months from the filing date.
- (2) The application under paragraph (1) of this Article shall be considered proper if the filing date is determined under the national legislation of the state member of the Paris Union in which it was filed or in accordance with the international agreements made between the states member of the Union, regardless of the future legal outcome of the application.



#### Article 96

(1) The applicant who intends to use the priority right under Article 95 of this Law shall be obliged in the application filed in the Republic of Macedonia to give all information on the application the priority to which is claimed and, no later than three months from the date of filing of the application, to submit a copy of the first application certified by the competent authority of the state member of the Paris Union with which the first application was filed.

# M Hap

- (1) The applicant may file a claim for grant of multiple priority right on the basis of several earlier applications filed in one or more states member of the Paris Union.
- (2) Where multiple priority right is claimed, the time limits under this Law shall run from the date of granted priority right starting from the earliest date of

(2) The conditions, procedure and contents of the certificate referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.

# Cttp

# Article 99

- (1) An industrial design application shall contain:
- 1. request for grant of industrial design;
- 2. data on the applicant;
- 3. representation of the design for which protection is sought;
- 4. description of the design, if necessary for assessing novelty.
- (2) An industrial design application shall be deemed as filed if it complies with the requirements referred to in paragraph (1) of this Article.
- (3) Other components of the application and supplements to the application shall be filed in the manner and in the number of copies prescribed by the regulations issued by the Minister of Economy.

# Addish

- (1) If the application does not contain the elements provided for in Article 99 paragraph (1) of this Law, the Office shall notify the applicant that his application is not proper and that filing date cannot be accorded.
  - (2) If the filing date of the application ies contain1(accorded. )]TJ 2w [(thei(ficeTc 0 Tw I pr

- (1) The application the filing date of which had been accorded by conclusion shall be entered in the register of industrial design applications.
- (2) The contents of the register of industrial design applications and the manner of its keeping shall be determined by the regulations issued by the Minister of Economy.

# Diff

#### Article 102

- (1) During the granting procedure, multiple industrial design application may, at the applicant's request, be divided into two or more applications.
- (2) The request for division of industrial design application may be filed until the issuing of the decision for grant of industrial design right.
  - (4) The divided industrial design application shall maintain the filing date and the priority right of the first application.



#### Article 103

- (1) In case of dispute referring to infringement of the right from the industrial design application, the applicant may request the Office to proceed the application immediately.
- (2) The request for immediate proceeding of the industrial design application may not be filed earlier than 90 days from the filing date.



- (1) After the entry of the industrial design application in the register of industrial design applications, the Office shall examine whether:
  - 1. the filing fee for the application has been paid;
  - 2. translation of the application in Macedonian language has been filed, where the application is in a foreign language;
  - 3. the application contains the elements and supplements under Article 99 of this Law;
  - 4. proper p 0 114 app2(4.)-5 atto the rney

- (3) On reasoned request of the applicant, the time limit referred to in paragraph (2) of this Article may be extended for justified reasons by no more than two months.
- (4) If the applicant fails to correct the determined deficiencies referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall reject the industrial design application by issuing a conclusion.
- (5) Where an industrial design application refers to supplements which are not included in the application, the Office shall notify the applicant that he may file them within the prescribed time limit. If the applicant does not comply with the notification of the Office, any reference to the supplements shall be considered to be non-existent.
- (6) If the applicant corrects the application within the time limit, the application shall be deemed to be orderly filed.



(1) If the Office determines that the patent application is proper under Article 104 of this Law, it shall examine whether the conditions for grant of

publishing the industrial design in the Official Gazette of the Office within 30 days.

- (2) The Office shall issue a conclusion for rejection of the industrial design application if the applicant fails to pay the expenses referred to in paragraph (1) of this Article.
- (3) On reasoned request from the applicant, the publishing referred to in paragraph (1) of this Article may be postponed for the required period of no more than 12 months as from the filing date or the priority date if priority right is claimed.

(1) The Office shall examine whether the opposition is filed by the person

(3) If the applicant fails to pay the fees and expenses within the time limit referred to in paragraph (1) of this Article, the Office shall issue a conclusion for rejection of the application.

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#### Article 112

(1) The decision under Article 111 of this Law determines the scope of the granted protection of the industrial design right presented with the adopted description and presentation.

# A (file)

#### Article 113

- (1) Industrial design right shall be acquired on the day of the issuing of the decision for grant of right and the entry of the industrial design in the register.
- (2) The date of entering the industrial design in the register is the same as the date of issuing the decision for grant of industrial design.



#### Article 114

- (1) The data on the industrial design shall be published in the Official Gazette of the Office no later than 90 days from the date of entry of the industrial design in the register.
- (2) The data published in the Official Gazette shall be prescribed by the regulations issued by the Minister of Economy.



# Article 115

- (1) The industrial design owner shall be issued industrial design certificate within six months from the date of issuing a decision for grant of industrial design.
- (2) The data contained in the Industrial design certificate shall be prescribed by the regulations issued by the Minister of Economy.

## M

- (1) The designer shall always have the right to be mentioned as the designer of the industrial design in all the documents and public presentations, irrespective of the fact whether he is the applicant or the right-owner.
- (2) The transfer or waiver of the right under paragraph (1) of this Article shall be considered as nullity.
- (3) If several designers have jointly created an industrial design, all the designers shall have equal rights, irrespective of their contribution to the creation of the industrial design, and therefore all of them shall have right to be mentioned as designers.

# Edg

#### Article 117

(1) The owner of industrial design shall have the exclusive rights to apply the protected industrial design on producimpor.5 0 05.0026 -1.1517 T.3535.2(c(gco5-J pli.91)

(1) Use of product made on the bases of industrial design in the construction or equipment of a ship, aircraft or land vehicle belonging to any of the states member of the Paris Union shall not be considered to be industrial design infringement where such transport means finds itself temporarily or accidentally on the territory of the Republic of Macedonia, provided that the product serves exclusively for the purposes of that means of transportation.

#### Article 120

- (1) The right-owner may not invoke the exclusive rights in relation to a third person who has been using the same industrial design or who has performed the relevant preparations for the use of the same industrial design prior to the filing date of the application to the Office or the date of granted priority right, if claimed, provided that the third person created the industrial design without knowledge of the existence of industrial design not available to the public at that time.
- (2) Third person may not use the industrial design under paragraph (1) of this Article in a manner exceeding the boundaries of usual entrepreneurial activities.

### Aëjebe

#### Article 121

- (1) The owner of the prior industrial design right shall have no right to:
- 1. request invalidation of a later granted industrial design on the basis of his priority right;
- 2. prohibit use of later granted identical or substantially similar industrial design, if he had within a five-year period consciously acquiesced this usage, unless the later industrial design was protected in bad faith.
- (2) The owner of the later granted industrial design right should have no right to prohibit use to the owner of the earlier granted industrial design right.
- (3) Acquiescence in the use of an industrial design within the meaning of paragraph (1) of this Article may not be a reason for its deletion from the register.



- (1) The term of industrial design right shall be 5 years from the filing date of industrial design application.
- (2) The industrial design term may be renewed by periods of five years up to the total of 25 years, provided that the industrial design owner, during the last year of protection or within six months upon the expiration of that term, files to the Office a request for renewal of the industrial design validity and pays the appropriate maintenance fee and expenses.
- (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 renewal of the industrial design shall be prescribed by the regulations issued by the Minister of Economy.

# Cition

#### Article 123

- (1) An industrial design shall cease to be valid:
- 1. if the term of the industrial design validity under Article 122 of this Law has expired;
- 2. upon a written declaration of the right-owner on waiver of the industrial design the day following the day of filing the declaration to the Office;
- 3. with the lapse of the legal person or upon the death of the natural person who is the industrial design owner, on the day of lapse or death, or with the declaration of a missing industrial design owner dead, on the day of the coming into force of the declaration, unless the right has been transferred to the legal successors in title of the legal person or to the heirs of the natural person.
- (2) The declaration referred to in paragraph (1) item 2 of this Article shall have no legal effect if certain right of third person has been entered in the register and the right-owner had not obtained written consent from those persons prior to that.
- (3) The ceasing of industrial design validity shall be entered in the register of industrial designs.

#### RHRE

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- (1) A trademark shall protect a sign which may be represented graphically and which is suitable for distinguishing goods or services of one undertaking from those of other undertakings.
- (2) Trademark shall protect signs suitable for distinguishing, in particular: words, letters, numerals, pictures, drawings, combinations of colors, three-dimensional forms, including shapes of goods or their packaging, as well as combinations of all of the above-mentioned signs.
- (3) The words and letters referred to in paragraph (2) of this Article may be written in any language and alphabet.

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#### Article 125

- (1) A sign shall be suitable for distinguishing if it gives certain goods or services character distinctive from identical or similar goods or services.
- (2) While establishing whether a given sign is suitable for distinguishing, all circumstances shall be taken into consideration, particularly the time and scope of its past use in trade.

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- (1) A trademark shall not protect a sign:
- 1. the publishing or use of which is contrary to law or morality;
- 2. which cannot be represented graphically;

- authorization from the competent authority of the country or organization;
- 9. contains or imitates appearance or name of a famous person, unless with consent from that person, or the government body competent for general administrative affairs in the case of deceased famous person;
- 10. which contains seal, official sign or hallmarks for control and guarantee of quality and imitations thereof;
- 11. which contains religious symbols or imitations thereof.
- (2) The signs under paragraph (1) items 3, 4 and 5 of this Article may be protected by trademark if the applicant proves that during the long years of use, the sign acquired distinctiveness.



- (1) Trademark may not protect a sign:
- 1. which is identical to earlier trademark filed for protection or registered by another person designating identical kind of goods or services;
- 2. which is identical with or similar to trademark, earlier filed for protection

- those to whom the published sign refers, or where such goods or services are subject matter of the firm's activity;
- 2. a natural person whose name and surname or appearance are identical with or similar to the published sign;
- 3. the owner of earlier industrial property right, if the subject matter of such right is identical with or similar to the published sign;
- 4. the person having copyright on the work which is identical with or similar to the published sign.
- (6) A trademark shall not protect a sign which is identical with or similar to a trademark the validity of which has expired on the ground of expiring of term of protection and if the right-holder failed to file a request for renewal of validity and pay the prescribed fees in the prescribed time limit, when a trademark application was filed before the expiration of the period of nine months, counting from the expiration date of the trademark validity, unless the protection of such a sign is required by the owner in whose name the trademark has been protected, or by his successor in title.
- (7) Grounds for exclusion from trademark protection under this Article may be invoked only by the applicant of the earlier application or the owner of the earlier right.

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#### Article 128

(1) Procedure for acquiring right to trademark may be initiated by a natural or legal person.

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#### Article 129

- (1) The procedure for grant of trademark shall be initiated by filing an application that contains request for grant of trademark and other relevant elements under this Law.
- (2) Separate application shall be filed for each sign for which trademark protection is sought.
- (3) One and the same trademark application may be used for requesting protection of two or more goods and services.

### Cttp

- (1) A trademark application shall contain:
- 1. a request for grant of a trademark;
- 2. appearance of the sign applied for trademark protection;

(1) If the trademark application is filed in accordance with Article 130 paragraphs (1) of this Law, the applicant shall acquire right of priority as from the date of filing of the application over any other applicant filing a later trademark application for protection of identical or similar sign and identical or similar goods or services.

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#### Article 134

(1) Any citizen of the state member of the Paris Union who filed a proper application in any of the state member of the Paris Union or the World Trade Organization shall be granted priority right in the Republic of Macedonia from the date of filing of the first

elements and supplements under this Law and the regulations issued by the Minister of Economy, the Office shall notify the applicant to correct the established deficiencies within no more than 90 days from the day of receipt of the notification.

- (2) On reasoned request of the applicant, the time limit referred to in paragraph (1) of this Article may, for the justified reasons, be extended by no more than 90 more days.
- (3) If the applicant corrects the application within the prescribed time limit, the application shall be considered to be proper.
- (4) If the applicant fails to correct the deficiencies referred to in paragraph (1) of this Article within the prescribed time limit, the application shall be rejected by conclusion.

# Distrib

#### Article 140

- (1) If the sign for which trademark application is filed is excluded from protection in respect to all or some of the specified goods or services on the grounds referred to in Article 126 of this Law, the Office shall issue a decision for refusal of the application.
- (2) Decision for refusal of trademark application may not be issued if the applicant has not been previously notified in writing about the grounds for the full or partial exclusion from protection and invited to make a declaration thereon in due time.
- (3) The trademark applicant shall have the right to make a declaration concerning the grounds for the exclusion of the sign from protection within 90 days from the day of receipt of the written notification and to submit evidence on the possible new facts that might influence the final decision of the Office.



#### Article 141

- (1) If the trademark application complies with all the requirements regarding correctness of the application under Article 138 of this Law, if the sign is not excluded from protection under Article 126 of this Law and if the prescribed publication fee is paid, the data from application shall be published in the Official Gazette of the Office.
- (2) The application data published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.



(1) Opposition to a published trademark application from the publication date, be filed with the Office by:	may,	within	90	days

- (1) If the applicant makes a declaration on the grounds specified in the opposition, the Office shall examine the justification of the opposition within the boundaries of the specified grounds, taking into consideration the declaration thereon.
- (2) If the Office establishes that the opposition is unjustified, it shall be refused with decision.
- (3) The decision under paragraph (2) of this Article shall be sent to the applicant and to the person who filed the opposition.
- (4) If, in the examination procedure on the opposition, the Office establishes that the opposition is justified, it shall refuse the trademark application and submit a written decision to that effect to the applicant and to the person who filed the opposition.

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#### Article 145

- (1) If the requirements provided for in Article 126 paragraph (1) and Article 127 paragraphs (1) to (6) of this Law are fulfilled, the Office shall issue a conclusion that the requirements for grant of a trademark right had been fulfilled and invite the applicant within 30 days from receipt of the conclusion to pay the fee for maintenance of the trademark for the first ten-year period, the expenses for publication of trademark in the Official Gazette of the Office and the expenses for issuing a trademark certificate.
- (2) If the applicant pays the fee and expenses referred to in paragraph (1) of this Article within the prescribed time limit, the Office shall issue a decision for grant of a trademark right and enter the granted right in the trademark register.
- (3) If the applicant fails to pay the fee and expenses referred to in paragraph (1) of this Article, the trademark application shall be rejected by conclusion.

#### A titib

### Article 146

- (1) Trademark right shall be acquired by issuing decision for grant of the right and entry of the trademark in the register.
- (2) The date of entering the trademark in register is the same as the date of issuing the decision for grant of the trademark.

# Article 147

(1) The data on the trademark shall be published in the Official Gazette of the Office within 90 days from the date of entry of the trademark into register.

(2) The data published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

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- (1) The Office shall issue to the owner a trademark certificate no later than six months from the date of publication of the trademark in the Official Gazette of the Office.
  - (2) The data in the trademark certificate shall be prescribed by the

the goods or rendering of the services or any other characteristic of the goods, irrespective of the fact that those indications are identical with or similar to the trademark or parts thereof, provided that they are used in compliance with the good business practices and does not lead to unfair market competition.

(2) The trademark shall not entitle its owner to prohibit third persons from using in trade a sign which is identical with or similar to a trademark if that is necessary for indicating the purpose of the goods, particularly the spare parts thereof, or the kind of services rendered in compliance with the good trade practices and does not lead to unfair competition.

#### Article 151

- (1) The owner of prior trademark right shall not have the right to require cancellation of later trademark on the basis of his earlier priority right nor to prohibit use of the later trademark in relation to the goods or services for which the later trademark has been used, if he had acquiesced in this use for five consecutive years, unless the later trademark was protected in bad faith.
- (2) The owner of a trademark with later priority right shall not have the right to prohibit use to the owner of earlier registered trademark.

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#### Article 152

(1) The owner of trademark shall not have the right to prohibit use of the trademark for marking goods or services put on the domestic market by himself or with his consent, unless there have been essential changes in the goods, deterioration of their characteristics or change of the nature of the goods or services after their putting on the market.

#### Article 153

(1) If the reproduction of a registered trademark in dictionaries, encyclopedia or similar publications creates an impression that it is a generic name of the products or services for which the trademark was registered, the editor of the publication shall, on request of the trademark-owner, accompany the reproduction of the trademark in the first following edition of the publication by an indication that the trademark has been registered.

- (1) A trademark term shall be 10 years as from the date of filing the trademark application.
- (2) A trademark may be renewed indefinite number of times for term of ten years, provided that the trademark applicant files with the Office a request for renewal of the trademark validity and pays the corresponding fee and procedural expenses during the last year of the ten-year term of protection or no later than six (nine) months after the expiration of the validity.
- (3) The new period of protection shall begin the day of expiration of the previous ten-year period of protection.
- (4) The data to be contained in the request for renewal of the trademark term shall be prescribed by the regulations issued by the Minister of Economy.

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- (3) The request referred to in paragraph (1) of this Article shall be filed through the Office in a procedure prescribed by the regulations issued by the Minister of Economy.
- (4) For the purpose of international registration of trademarks under the Madrid Agreement Concerning the International Registration of Marks, the publication of the application under Article 141 of this Law shall be replaced with publication of the international registration in the Official Gazette of international registrations of trademarks of the World Intellectual Property Organization.
- (5) The time limit for filing opposition to the grant of internationally registered trademark for the Republic of Macedonia shall run from the first day of the month following the month of publication of the Official Gazette of the World International Property Organization in which that trademark was published.

#### REB

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- (1) Geographical indication shall be the geographical name of the country, region or place marking the product the quality, reputation or other characteristic of which may be essentially attributed to the geographical origin.
- (2) The geographical indication of a product may be protected only if the production and/or processing and/or preparation for production are carried out in the place of origin.
- (3) The geographical name which does not comply with the requirements for protection with appellation of origin may be protected as geographical indication.



- (1) Product may also be marked by a geographical indication if the raw materials used for its production originate from a geographical area larger than or other than the processing area provided that:
  - 1. the production area of the raw materials is limited or that special conditions for production of raw materials exist;
  - 2. the traditional way of production, i.e. the human factor, is crucial to the quality and particular characteristics of the product.

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#### Article 168

(1) Appellation of origin and geographical indication may also be used to protect geographical name of a given country, region or place which, in the course of long years of use on the market, became generally known as name of the product which originated from that territory, as well as the traditional geographical or non-geographical name which refers to certain origin of the product and complies with the requirements under Article 165 and Article 166 paragraph (2) of this Law.

#### Fttp

#### Article 169

(1) Geographical name may be used for marking natural, agricultural, industrial, handcraft and home-made products.

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# Article 170

(1) A geographical indication or appellation of origin shall not be granted for protection of name of place of origin of a product which:

- (1) Geographical name may be protected in favor of a foreign natural or legal person and he may be registered as authorized user of the protected geographical name only if those rights have been granted in the countries of origin and if the requirements under this Law are fulfilled.
- (2) Foreign natural and legal person may be granted the rights referred to in paragraph (1) of this Article if that results from the international agreements ratified by the Republic of Macedonia or on the grounds of bilateral agreement for mutual protection if so provided in the legislation of the person's country of origin.
- (3) The geographical name which has already been protected with geographical indication or appellation of origin in the Republic of Macedonia may also be protected abroad on the grounds of bilateral agreements for mutual protection or the international agreements ratified by the Republic of Macedonia.
- (4) The application for protection in a foreign country may be filed only by the authorized users of geographical names who have been entered in the adequate register kept by the Office.



The procedure for grant of protection of a geographical name and/or acquisition of the right to use a protected geographical name shall be initiated by filing an application containing a request for grant of geographical name and request for grant of the right to use a protected geographical name, accompanied

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#### Article 177

- (1) The application for protection of a geographical name may be filed by:
- natural or legal persons which produce a given product and associations having capacity to acquire rights and incur liabilities relating to protection and right of use;
- state administrative body, local administrative body and chambers interested in protection of geographical names in the region of their activity.

#### Cttb

#### Article 178

- (1) The application for protection of geographical name shall contain a request for protection of the geographical name with indication that the requested protection is by geographical indication or appellation of origin.
- (2) The application for protection of geographical name by appellation of origin, apart from the request for protection of geographical name, shall also contain elaboration for the product which shall be marked with the geographical name.
- (3) The application for protection of geographical name by geographical indication, apart from the request for protection of geographical name, shall also contain specification for the product which shall be marked with the geographical name.

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- (1) The Office shall keep register of applications for protection of geographical names and register of applications for use of protected geographical names, register of protected geographical names and register of authorized users of protected geographical name.
- (2) The contents of the registers referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.
- (3) The interested parties may inspect the protected geographical name and the authorized users of those names only in presence of an Office employee.
- (4) On written request of interested party and after paying the prescribed fee, the Office shall issue excerpt from the registers.

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#### Article 181

- (1) Protection of the name of the place of origin of product by geographical indication or appellation of origin shall be made by issuing a decision and entering the geographical name of the product and type of product to which that name refers in the register of protected geographical names.
- (2) The right to use protected geographical names shall be acquired by issuing a decision for grant of the right and entering it in the register of authorized users of protected geographical names.



- (1) The term of protection of geographical names shall be unlimited.
- (2) The right to use protected geographical names shall last for 5 years and may be renewed infinite number of times. The right-owner shall file an application for renewal of the right before the expiration of the five-year period in manner prescribed by the regulations issued by the Minister of Economy.
- (3) Renewal of the right to use protected geographical names shall be approved if the requirements for acquiring that right have been met, otherwise, the right of use shall cease on the day of expiration of a five-year term of protection. The registration of the renewal of the right shall be made as prescribed by the regulations issued by the Minister of Economy.



- (2) On reasoned request of the applicant, the time limit referred to in paragraph (1) of this Article may, for the justified reasons, be extended by no more than 30 days.
- (3) If the applicant, within the prescribed time limit, fails to correct the application or pay the expenses for correcting the application, the Office shall issue a conclusion for rejection of the application for protection of geographical name or the application for grant of right of authorized user.

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#### Article 186

If under this Law and the regulations issued by the Minister of Economy the Office establishes that the application is proper, it shall examine the application and determine whether it complies with the prescribed requirements for protection of geographical name or grant of right to authorized user.



- (1) If the Office determines that the application does not fulfill the requirements for protection of geographical name or grant of right to authorized user of protected geographical name, it shall inform the applicant in writing about the grounds for which the geographical name cannot be protected or the right to authorized user granted and invite him to declare himself thereon within 90 days from the date of receipt of information.
- (2) On reasoned request of the applicant, the time limit referred to in paragraph (1) of this Article may, for justified reasons, be extended by no more than 90 days.
- (3) If the applicant does not, within the prescribed time limit, declare himself or if he does so and the Office decides that it cannot protect the geographical name or grant the right to authorized user of a protected geographical name, it shall issue a decision for refusal of the application for protection of geographical name or the application for grant of right of authorized user of geographical name.
- (4) If in the case referred to in paragraph (3) of this Article the subject matter is an application for appellation of origin which complies with the requirements for protection by geographical indication or application for grant of the right to use the appellation of origin which complies with the requirements for grant of a right to use the geographical indication, the Office shall notify the

- (1) When the right-owner pays the expenses for publication of the right of authorized user, the Office shall publish the data on the granted right of authorized user in the Official Gazette.
- (2) The data on the granted right of authorized user which are being published in the Official Gazette of the Office shall be prescribed by the regulations issued by the Minister of Economy.

#### Cb

#### Article 192

- (1) The Office shall issue to the authorized user of protected geographical name a certificate for the recognized right of authorized user within 6 months from the date of issuing of the decision.
- (2) The contents of the certificate referred to in paragraph (1) of this Article shall be prescribed by the regulations issued by the Minister of Economy.



#### Article 193

- (1) The user of protected geographical name shall have the right to use it for marking exclusively the type of product entered in the register of protected geographical names kept by the Office.
- (2) The right on use shall also refer to the use of the protected geographical name on packages, business certificates and marketing materials.
- (3) The manner of marking the products geographical name of which has been protected shall be prescribed by the regulations issued by the Minister of Economy.

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- (1) The protected geographical name cannot be subject of agreement for transfer of right, license, pledge, franchise, etc.
- (2) If the protected geographical name is subject of previously applied for protection or registered trademark, that trademark cannot be transferred, licensed, pledged.

- (3) The changes entered in the register of authorized users shall be published in the Official Gazette of the Office.
- (4) The data which should be contained in the request for entering the changes shall be prescribed by the regulations issued by the Minister of Economy.

# CHANGE

#### Article 198

(1) The decision for grant of right of use of a protected geographical name may be revoked if established that the requirements for protection of geographical name provided for by this Law have ceased to exist. In the proceeding on the request for revocation of the decision for grant of right to use of a protected geographical name, the authorized user of the protected geographical name shall be obliged to prove that there are grounds for grant of the right.

#### Article 199

- (1) The decision for grant of right to use protected geographical name may be revoked ex officio or at proposal of an interested party or a public prosecutor.
- (2) The request for revocation of the decision under paragraph (1) of this Article shall be filed to the Office in written form.
- (3) The request referred to in paragraph (2) of this Article shall be accompanied by the necessary evidence.
- (4) The Office shall, within 15 days of receiving the request, submit it to the owner of the right of use and invite him to declare himself thereon within 30 days from the reception of the notification.

# CHANGE

- (1) If the person who filed the request for revocation of the decision for grant of right to use protected geographical name gives up the request during the procedure, the Office may continue the procedure ex officio.
- (6) The right of use of protected geographical name granted to a person registered as authorized user shall terminate the day after the issuing of the decision for revocation of that right.

#### Titib

# Action 203

(1) The action for infringement of rights under this Law may be instituted within 3 years from the day the plaintiff learnt about the infringement and the infringer, and no later than 5 years from the day of the infringement.



# Article 204

(1) The action for infringement of protection of rights under this Law shall be expeditious.

# Disposition

# Article 205

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#### Action 208

- (1) The inventor of the patent or the designer of the industrial design may institute an action to the competent court asking to be mentioned in the application and the documents.
- (2) In case of death of the inventor or designer referred to in paragraph (1) of this Article, the right for instituting an action passes on his heirs.

#### Article 209

- (1) Apart from the request under Article 201 paragraph (2) of this Law, the plaintiff may also ask for court decision recognizing him as inventor or designer to be published on the expense of the defendant.
- (2) Apart from the request referred to in paragraph (1) of this Article, the plaintiff may also request remuneration for non-material damage.



#### Article 210

(1) The action for infringement of right to patent or industrial design may be initialed from the date of filing an application during the entire term of validity of the patent or the industrial design.

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### Article 211

(1) In case of infringement of moral right, the court may rule the inventor or designer to receive adequate remuneration for damage on his personality, honor and reputation, i.e. for non-material damage, if that is determined as justified under the circumstances in the case, particularly the degree of damage and its duration.

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- (1) Legal or natural person may institute an action and request the competent court to establish that the sign he uses on the market to mark his goods or services is identical with or similar to the trademark used by another legal or natural person to mark his own goods or services of the same or similar type and that that sign was generally known as sign for marking of the goods or services of the plaintiff even before the defendant had filed the trademark application.
- (2) The plaintiff may ask the court to issue a decision declaring him trademark-owner.
- (3) The action under paragraph (1) of this Article shall not be accepted by the court if the defendant, the trademark-owner, proves that he had used the mentioned sign for the same or similar type of goods or services even before filing the application for as long as the plaintiff or longer.
- (4) The action under paragraph (1) of this Article may not be instituted after the expiration of the time limit of 5 years from the date of entering the trademark in the trademark register.

#### REX

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### Article 213

(1) The right-owner who can initiate an action for infringement of his rights under this Law may also submit to the court request for ruling provisional measures under the conditions and in the manner provided for by the Law on executive procedure.

- (1) The right-owner may request the persons who were in any way connected with the infringement of the right acquired under this Law (producer, publisher, importer, distributor, consignor, owner, seller, owner of samples, items or means with which his right was infringed and other persons) to submit the data and documents regarding the infringement without delay.
- (2) If the persons referred to in paragraph (1) of this Article fail to submit the data or document at their disposal, they shall be responsible for remuneration of damages caused by that failure.

(3) If the right-owner referred to in paragraph (1) of this Article abuses the data or documents acquired from the persons under paragraph (1) of this Article, causing them damages, he shall be obliged to remunerate the damages under the general provisions for remuneration of damages.

#### Beatn

#### Article 215

- (1) If the right-owner lodges an application that the import of given goods in the Republic of Macedonia infringes his rights acquired under this Law, at his request, the customs officials may rule the following border measures:
  - an authorized customs employee, accompanied by the right-owner or his representative, to inspect the goods which are being imported and exclude them from trade or store them in a safe place, unless the importer has authentic evidence on the production of the goods he is importing.
- (2) At request of the customs officials or the importer, the right-owner shall be obliged to submit bail for possible damages caused by the measures under paragraph (1) of this Article.
- (3) The customs officials shall immediately notify the importer and receiver of goods of the ruled measures.
- (4) The customs officials shall suspend the ruled measures under paragraph (1) of this Article if the right-owner does not institute an action for infringement of right to the competent court within 8 days from the date of filing the request.

# Cip

#### Article 216

- (1) During an infringement of rights acquired under this Law, if the right has been infringed intentionally and because of omission, the right-owner may request payment of the usual remuneration increased by 200%, regardless whether the infringement resulted in material damage.
- (2) On deciding on the request for payment of remuneration under paragraph (1) of this Article and determining the amount, the court shall take into consideration all circumstances in the case, particularly the degree of guilt of the defendant, the amount of the usual remuneration and the preventive purpose of the penalty.
- (3) If the material damage is higher than the penalty, the right-owner may request remuneration of the difference until full compensation.

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#### Article 217

- (1) The applicant for industrial property right and the right-owner may by agreement fully or partially transfer their right under the conditions prescribed by this Law and other provisions.
- (2) The agreement for transfer of right shall be filed in written form and the signatures of the parties in the agreement shall be certified by a notary public.
- (3) On request of one of the parties in the agreement, the agreement under paragraph (2) of this Article shall be entered in an adequate register kept by the Office.
- (4) The agreement under paragraph (2) of this Article which has not been filed in written form and certified shall not have legal effect.

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#### Article 218

(1) The applicant for indue-.0002 Tc .2211 Tw [((3))-6.5( On)5.8( reqTf 26oU2 Tc .2211 1ht

(1) In the license agreement, any provision which poses limitations to the licensee that do not result from the right which is subject matter of the agreement or which is unnecessary for maintaining that right shall be declared as nullity.

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#### Article 221

- (1) The Office may issue a decision for termination of patent if grant of compulsory license could not reach the goal for which it was granted, at request of an interested legal or natural person and according to previously acquired opinion of the administrative body competent in the area in which the patented invention should be exploited.
- (2) The request for terminating the patent cannot be filed before expiring of two years from the date of grant of the first compulsory license.
- (3) The request referred to in paragraph (2) of this Article shall be filed to the Office in a written form.
- (4) Within 15 days from the receiving the request, the Office shall submit the request to the patent-owner and invite him to declare himself thereon within 30 days from receiving the notification.



#### Article 222

- (1) If the trademark-owner has not used the trademark for marking the goods or services it refers to without justified reasons for over 5 years continuous period from the date of entering the trademark in the trademark register or from the date when the trademark was last used, the Office may at request of an interested person issue a decision for termination of that trademark.
- (2) In the procedure on the request for termination of a trademark, the trademark-owner shall have to prove that he is using the trademark.
- (3) The right to collective mark may also be terminated if the trademark is not used under the general act or contract for collective trademark.
- (4) The request referred to in paragraphs (1) and (3) of this Article shall be filed to the Office in written form.
- (5) Within 15 days from the reception of the request, the Office shall submit it to the trademark-owner and invite him to declare himself within 30 days from the date of reception of the notification.

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- (1) The patent and the trademark shall stop being valid the date when the decision of the Office for termination enters into force.
- (2) The decision referred to in paragraph (1) of this Article shall be published in the Official Gazette of the Office.

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# Article 224

(1) The decision for grant of industrial property right under this Law shall be declared as nullity if it is established that the conditions for grant of that right are not provided for by this Law.



- (1) The decision for grant of industrial property right may be declared as nullity during the whole term of protection, ex officio, at proposal of an interested person or at proposal of the public prosecutor.
- (2) The proposal for declaring a decision as nullity shall be filed to the Office in a written form.
- (3) The proposal under paragraph (1) of this Article shall be accompanied by the necessary evidence.
- (4) The Office shall submit the proposal to the right-owner within 15 days from the reception thereof and invite him to declare himself thereon within prescribed period that cannot be longer than 60 days from the reception of the proposal. ThSal.

- (2) For offences referred to in paragraph (1) of this Article, the competent employee in the legal person shall also be imposed a fine in the amount of MKD 25,000 to MKD 50,000.
- (3) For offences referred to in paragraph (1) of this Article, the legal person shall be ruled the security measure prohibition of performing the activity in the period of six months to one year.
- (4) Fine in the amount of MKD 10,000 to MKD 50,000 shall be imposed on the person who independently performs economic or professional activity without the capacity of legal entity if he performs any of the activities under Article 228 of this Law.
- (5) Fine in the amount of MKD 10,000 to MKD 50,000 shall be imposed on natural person if he performs any of the activities under Article 228 of this Law.
- (6) For offences referred to in paragraph (1) of this Article, the natural person shall be ruled the security measure prohibition of performing the activity in the period of six months to one year.

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### Article 229

(1) The Government of the Republic of Macedonia, on proposal of the Minister of Economy, shall appoint Director of the Office within 30 days from the

under the provisions which were in force until the date of entry into force of this Law.

- (3) The procedures for declaring as nullity a decision for grant of industrial property rights which were not finished by the date of entry into force of this Law shall be finished under the provisions which were in force until the date of entry into force of this Law.
- (4) The procedures on patent applications for plant variety and hybrid which were not finished by the date of entry into force of this Law shall be finished under the provisions which were in force until the date of entry into force of this Law.