

3.4. The scope of legal protection conferred by a patent for invention, a certificate for utility model shall be determined by a formul

filed with the Patent Office within 6 months from the date of such disclosure. The burden of proof in such case shall rest with the applicant.

ARTICLE 5. CONDITIONS FOR PATENTABILITY OF THE TECHNICAL SOLUTION FOR ITS RECOGNITION AS A UTILITY MODEL

5.1. New and industrially applicable solutions relating to constructive realization of production means and consumer articles or its components are protected as utility models.

A utility model is new if aggregate of its essential features is not known from the state of prior art.

The prior art includes information on the means of the same purpose as an applied utility model, made public in the world before the date of priority of a utility model, as well as information on their application in Republic Tajikistan.

The prior art shall include, providing their early priority, all filed applications of other persons in the Republic of Tajikistan for an invention and utility models (except for withdrawn ones), and also inventions and utility models patented in the Republic of Tajikistan.

The utility model shall be deemed industrially applicable if it can be practically used.

The novelty of a utility model shall not be prejudiced by the public disclosure of information relating to such utility model by the applicant (author) or by any other

6.2. The following shall not be recognized as patentable industrial designs:

- solutions that are determined exclusively by the technical function of an article;
- solutions that relate to architectural works (with the exception of minor architectural forms) and industrial, hydrotechnical and other stationary structures;
- solution that relate to printed matter as such;
- solution that relate to subject matter of unstable shape such as liquids, gaseous, dry or the like;
- articles that are contrary to the public interests, principles of humanity and morality.

The patentability of an industrial design shall not be prejudiced by the public disclosure of information relating to such design by the applicant (author) or any other person who received such information from the applicant if the application for an industrial design is filed within 6 months from the date of such disclosure.

SECTION 3. SUBJECTS OF LAW.

ARTICLE 7. AUTHOR OF AN INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN

7.1. A physical person whose creative work resulted in an invention, utility model, industrial design shall be recognized as the author thereof.

7.2. Where a subject of industrial property results from a joint creative work of two or more natural persons, those persons shall be recognized as the joint authors thereof. The conditions for excising the author's rights shall be determined by an agreement between them.

Persons shall not be deemed to be joint authors if they did not made a personal creative contribution to the development of a subject of industrial property or only provided the author(s) with technical, organizational or material assistance or only helped in securing the registration of rights for such subject and for its use.

7.3. The authorship right shall be an inalienable personal right and shall be protected perpetually.

ARTICLE 8. PATENT OWNER

8.1. The patent for invention, industrial design and the certificate for a utility model shall be granted to:

- the author(s) of an invention, utility model, industrial design or his (their) heir(s);
- physical and legal persons (providing their

placing on the market of a product created with use of a protected decision, and also application of the process protected by a patent for an invention, or placing on the market of a product produced directly by the process protected by a patent for an invention shall be deemed as infringement of an exclusive right of a patent owner. A

- use of such devices for personal needs without deriving any income;
- one-time production of medicines in pharmacies on a doctor's prescription;
- if upon sale by a patent owner or from his permission of a product or an article protected by a patent, any other person shall use or sell this product or article;
- if any person applies or sells a product

- a document certifying the payment of a fee in the prescribed amount or grounds for exemption from payment of the fee, as well as reduction of fees.

16.3. Other requirements for the documents of an application for an invention shall be

receiving of the application by the Patent Office, including application for the grant of a patent and a certificate, a description, a claim and drawings accordingly, if a reference to them is made in the description.

The priority of an industrial design is established by the date of receipt of the application including a request for the grant of a patent, a description, a set of images.

19.2. The priority may be established by the date of submission of the first application in the state-member of the Paris Convention on Protection of I

Within two months from the date of receipt of an application an applicant shall have the right to make corrections and clarifications to the application materials without changing the essence of the claimed invention, utility model or an industrial design. Corrections and clarifications may be submitted on application for an invention and upon expiry of a specified period, but not later than 12 months from the date of the receipt of an application, providing that the fee has been paid.

ARTICLE 21. EXAMINATION OF AN AP

object that comes first in the claims.

21.6. Upon the expiry of 18 months from the date

ARTICLE 25. PUBLICATION OF INFORMATION ON A TITLE OF PROTECTION

25.1. Within six months of the date of making a decision to grant a patent for an invention, utility model, industrial design providing the payment of fee by the applicant, the Patent Office shall publish in the Official Bulletin information about the granted title of protection, including the names of the author(s), if the latter have not refused to be mentioned as such, and the patent owner, the name and the claim of the invention or the utility model or the list of essential features of an industrial design and its images. The Patent Office shall determine fullness of the published information.

25.2. The form of a title of protection and the content of information described there shall be determined by the Patent Office.

25.3. The Patent Office shall issue the author of the subject of industrial property who is not a patent owner an official certification confirming his authorship.

ARTICLE 26. REGISTRATION OF AN INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN AND GRANT OF A PATENT

26.1. The Patent Office simultaneously with publication of information on the grant of a title of protection shall enter an invention, utility model or industrial design into the Register of inventions, or the Register of utility models, or the Register of industrial designs accordingly, and shall grant a patent or a certificate to the patent owner.

26.2. Where a patent was sought in the names of several persons request, they shall be granted a single patent. The Patent Office shall issue the author of the invention, other than the patent owner, a certificate.

26.3. The form of the patent and the content of information therein shall be determined by the Patent Office.

26.4. At the request of the patent owner the Patent Office shall make corrections of clear and technical mistakes in the patent.

ARTICLE 27. WITHDRAWAL OF AN APPLICATION

The applicant shall have the right, before the publication of information about the application for an invention, utility model or industrial design, but not later than the date of registration, to withdraw the application.

ARTICLE 28. CONVERSION OF APPLICATIONS

Before the publication of information about the application for invention the applicant shall have the right to convert it into an application for a utility model by way of filing an appropriate request. Conversion of the application for a utility model into the application for an invention shall be possible before the decision on the issue of certificate is made.

Upon the abovementioned conversions of applications the priority of the first application shall be retained.

SECTION 6. TERMINATION OF A PATENT

ARTICLE 29. OPPOSITION TO A PATENT

29.1. A patent may be contested and invalidated, fully or partially, during its term in cases when:

a) a protected solution does not comply with the conditions of patentability specified in the present Provision;

b) the claims of an invention, utility model, industrial design include features that were absent from the initial materials of the application;

c) the author(s) or the patent owner wrongly named in the patent;

A person lodging an appeal shall be obliged to motivate it, and also shall submit a document certifying the payment of the fee.

29.2. An opposition to the grant of a patent on the grounds, listed in subparagraphs 1 , 1b of this Article, shall be considered by the Patent Office within six months from the date of its receipt; the patent owner shall be acquainted with the opposition. A person who has lodged an opposition, as well as the patent owner may participate in its

The rate of interest shall be determined by the patent owner on the agreement with the author.

31.2. Remuneration to the author of the invention the patent for which is granted to the State Fund of Inventions of the Republic of Tajikistan, shall be paid by this Fund in the amount determined in the agreement with th

Disputes arising in connection with realization of employment law of authors shall be considered in accordance with the law of the Republic of Tajikistan on the procedure for consideration of labour disputes.

ARTICLE 35. LIABILITY FOR AN INFRINGEMENT OF AUTHORS' RIGHTS

Usurpation of authorship, coercion to co-authorship and illegal disclosure of information about a subject of industrial property shall entail liability in accordance with the legislation of the Republic of Tajikistan.

SECTION 9. FINAL PROVISIONS

ARTICLE 36. PATENT FEES

36.1. Filing of an application for the grant of a patent, examination and grant of a patent, its maintenance in force, extension of a patent, as well as other legally significant actions related to the patent shall be levied a fee. The full list of actions for which fees shall be charged, their amounts and terms of payment, and the grounds for exemption from payment of fees, rebates of such fees or their refund shall be established by the Government of the Republic of Tajikistan.

36.2. The fees shall be paid by the applicant, patent owner or, in agreement with them, by any physical person or legal entity.

ARTICLE 37. PATENTING OF OBJECT OF INDUSTRIAL PROPERTY IN FOREIGN COUNTRIES

Patenting of inventions, utility models and industrial designs in foreign countries and the states of Commonwealth shall be made by physical persons or legal entities after filing an application with the Patent Office of the Republic of Tajikistan, and the applicant should notify about his intention of patenting in foreign countries and the states of Commonwealth.

ARTICLE 38. RIGHTS OF FOREIGN PHYSICAL AND LEGAL PERSONS

Foreign physical persons and legal entities shall enjoy the rights provided for by this Provision on an equal basis with physical and legal persons of the Republic of Tajikistan or on the basis of the principle of reciprocity.

ARTICLE 39. INTERNATIONAL AGREEMENTS

If an international agreement of the Republic of Tajikistan have established other than these rules that are included in the present Provision, the rules of international agreement shall be applied.