

**THE LAW OF REPUBLIC TAJIKISTAN
ABOUT INDUSTRIAL DESIGNS**

Title 1. GENERAL PROVISIONS

Article 1. Relations governed the Law

This Law shall govern the property and connected to them personal non-property relations arising out of creation, legal protection and use of industrial designs within Republic of Tajikistan.

Article 2. State Patent office of the Republic Tajikistan

The State Patent office (hereinafter referred to as a Patent office) shall carry out an integrated state policy in the field of legal protection, in particular, industrial designs. It shall receive applications for the protection of industrial designs, effect the examination and state registration thereof, publish official information and issue patent regulations, and shall perform other functions laid on it.

The activities of Patent office shall be financed from the budget and payments made for the services and materials provided OOOc-3(ce)-32(s)4(h.OF)7143(r

The industrial designs represents the art - design decision of a product determining its form.

An industrial design shall be granted protection if it is new and original.

An industrial design shall be deemed new if the sum of its essential

Receptions of the patent by the employer ;

Transfers of the right on reception of the patent to other person by the employer ;

Acceptances by the employer of the decision on preservation of an industrial designs as fiduciary;

Non receipt of the patent under the application sent by the employer for an industrial designs for the reasons dependent on the employer.

Compensation is paid in size and on the conditions determined on the basis of the agreement between the author and the employer.

In a case of unattainment of the agreements between the sides about the size and the order of payment of compensation or indemnification dispute is considered in court.

For delayed payment of compensation or indemnification, determined by the contract, the employer guilty of it, bears the responsibility according to the current legislation.

Other relations arising in connection with creation by the worker of an industrial designs, are adjusted appropriate by acts.

Title IV. APPLICATION FOR THE GRANT OF THE INDUSTRIAL DESIGN

Article 9. Filing of the Patent Application

An application for the grant of a patent shall be filed with Patent office by the applicant in title (he

4) the drawings, affording general views of the manufactured article and its functional characteristics, or an assembly diagram where indispensable for the understanding of the disclosure.

The industrial design application shall be accompanied

formal examination can be started before the expiration of the specified term. In this case the applicant from the moment of submission of the petition loses the present Law of the right stipulated by article 11 on corrections and specification of documents of the application under the initiative without payment of the duty.

During carrying out of formal examination of the application presence of necessary documents and observance of the established requirements to them is checked according to articles 9 and 10 present Laws and the question on is considered, whether the declared art - design decision concerns to industrial designs to which the right protection is given according to article 3 of the present Law.

If according to article 11 of the present Law the applicant represents

submit objection to Appeal council. The objection should be considered within two months.

Article 17. Examination of the application in essence

Article 18. Publication of Particulars of the Patent Grant

Patent office in six-monthly term from the date of decision-making on distribution of the patent for an industrial designs publishes in the official bulletin of data on the patent, including a name of the author(authors) (at their consent) and patent owner, the name, date of a priority, the list of essential attributes, the image of an industrial designs, and also other necessary data determined by Patent office.

Title VII. GRANTING OF THE RIGHT PROTECTION

Article 19. Registration of Industrial Design and grant of the patent

Patent office within three months from the date of reception of documents on payment of the duty for registration and grant of the patent brings an industrial designs in the State register of industrial design of Republic Tadjikistan, and gives out patent owner the patent.

The structure of the data brought in the State register of industrial design of Republic Tadjikistan and structure of data, indicated in the patent, is established by Patent office.

At presence of several persons addressed to which the patent was asked, he is given out one patent. To the author(authors) of an industrial designs Patent office gives out the certificate confirming authorship to the author(authors) of an industrial designs.

At unrepresented when due hereunder the document confirming payment of the duty on registration and grant of the patent, registration of an industrial design and distribution of the patent is not made, the corresponding application is considered withdrawn.

Article 20. A response of the application

The applicant has the right to withdraw given by him the application before date of registration of an industrial design.

Title VIII. The EXCLUSIVE RIGHT TO USE of the INDUSTRIAL DESIGNS

Article 21. Rights Patent Owner

The patent owner has the exclusive right to use of an industrial design protected by the patent at own discretion if such use does not break the rights of others patent owners, including the right to forbid use of an industrial design belongs to other persons, except for cases when such use according to the present Law is not infringement of the patent owner right.

Mutual relations on use of an industrial design, the patent on which belongs to several persons, are defined by the agreement between them. At absence of such agreement each of owners of the patent can use a protected industrial design at own discretion, but have no right to give on him the license or to transfer the patent to other person without the consent of other owners of the given patent.

If patent owner cannot use an industrial design, not breaking thus of the rights of another patent owner, he has the right to demand from last conclusion of the license contract.

Patent owner has the right to concede the received patent to any physical or legal person. The contract about a concession of the patent is subject to registration in Patent office without which it is considered void.

The exclusive right patent owner is valid operates from the date of the publication of data on grant of the patent in the official bulletin.

The patent for an industrial design and the right for its reception devolve.

Article 22. Granting of the right of use Industrial designs

Any person who is not being patent owner, has the right to use the industrial design protected by the patent, only from the sanction patent owner on the basis of the license contract.

Under the license contract patent owner (licensor) undertakes to concede a right to use of an industrial design in the volume stipulated by the contract, to other person (licensee), and last takes up a duty to carry out all actions stipulated by the contract.

At the exclusive license to the licensee in the limits stipulated by the contract, with preservation for the licensor of the right the exclusive right to use of an industrial design is transferred to his use regarding, not transmitted to the licensee.

At the non-exclusive license the licensor, giving the licensee the right of use of an industrial design, reserves all rights confirmed with the patent, including the right on granting of licenses to the third parties.

The license contract is subject to registration in Patent office and without registration it is considered void.

Patent owner can submit to Patent office the application for granting to any person of the right of use of an industrial design (the open license). In this case the duty on maintenance of the patent in force is reduced on 50 percent since one the year following after year of publication by Patent office of data on such application.

In case of a response of the open license patent owner the duty on maintenance of the patent in force during time of action of the open license is not subject to surcharge, and further is paid in the full size.

The person who has expressed desire to get the open license, is obliged to conclude with patent owner the contract about payments.

owner from the conclusion of the license contract can address in court with the claim for granting to it the compulsory license for use of the specified industrial design.

If the owner of the patent will not prove, that non-use or insufficient use of an industrial design is caused by the valid reasons, the court gives the compulsory license.

By granting the compulsory license by court limits of use of an

Requirements to the infringer of the patent can be declared also by the owner of the exclusive license if other is not stipulated by the license contract, or the owner of the non-exclusive license if it is stipulated by the license contract.

Article 25. The actions which are not recognized as infringement of the exclusive right

Do not admit as infringement of the exclusive right patent owner:

application of the means containing industrial designs, protected by patents, in a design or at operation of vehicles (ground, air, water) other countries provided that the specified means temporarily or casually are in territory of Republic Tajikistan and are used for needs of a vehicle. Such actions do not admit as infringement of the exclusive right patent owner if vehicles belong to physical or legal persons of the countries giving the same rights to owners of vehicles of Republic Tajikistan;

carrying out of scientific research or experiment with the means containing an industrial design, protected by the patent;

application of the means containing an industrial design, protected by the patent, at force majeure (acts of nature, accidents, large failures), with the subsequent payment patent owner proportional indemnification;

At disagreement with the decision of Appeal council any of the sides has the right to address in court.

Courts according to their competence consider the following disputes:

- about authorship to an industrial design;
- about distribution of the patent;
- about an establishment of patent owner;
- about distribution of the compulsory license;
- about infringement exclusive right on use of an industrial design and other property rights of patent owner;
- about the conclusion and execution of license contracts on uses of industrial design;
- about the right of previous and afteruse;
- about payment of compensation to the author employer according to the contract stipulated by article 8 of the present Law;
- other disputes connected to a right protection of industrial design.

Article 31. The responsibility for infringement of the rights of authors

Assignment of authorship, compulsion to the co-authorship, illegal disclosure of data on an industrial designs entail the responsibility according to the legislation of Republic Tajikistan.

Article 32. Duties

For application, for distribution of the patent, for its maintenance in force, for prolongation and restoration of the missed terms, and also for fulfilment of other legal significant actions are collected duties, the Full list for which fulfilment are collected duties, their size and terms of payment, and also the basis for clearing of payment, Reduction of the size or return of duties established by Government Republik Tajikistan.

Article 33. Patenting of Industrial Designs in foreign countries

Patenting of the industrial designs created in Republic Tajikistan in foreign countries natural and legal persons of Republic Tajikistan is carried out only after application in Patent office of Republic Tajikistan. Thus the applicant should inform about patenting in foreign countries.

Article 34. Rights of foreign physical and legal persons

Foreign physical and legal persons have the rights stipulated by the present Law,