

PATENT ACT

NN 16/2020, in force from February 20, 2020

Zagreb February, 2020

THE PATENT ACT

PART ONE

GENERAL PROVISIONS

Subject-matter

Article 1

- (1) This Act shall regulate the system of protection of an invention by a patent, a utility model and a supplementary protection certificate with the State Intellectual Property Office (hereinafter: the Office).
- (2) The provisions of this Act in relation to the protection of an invention by a patent shall apply mutatis mutandis to the provisions on a utility model, unless provided otherwise by this Act.

Harmonisation with legislation of the European Union

Article 2

- (1) This Act contains provisions in accordance with the following acts of the European Union:
 - Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions (OJ L 213, 30.7.1998) and
 - Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30.4.2004).
- (2) This Act ensures the implementation of the following acts of the European Union:
 - Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products, (OJ L 198, 8.8.1996 - hereinafter: Regulation (EC) No. 1610/96)
 - Regulation (EC) No. 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ L 152, 16.6.2009 with all amendments - hereinafter: Regulation (EC) No. 469/2009) as last amended by the Regulation (EU) No. 2019/933 of the European Parliament and of the Council of 20 May 2019 amending the Regulation (EC) No. 469/2009 concerning the supplementary protection certificate for medicinal products (OJ L 153/1, 11.6.2019) and
 - Regulation (EC) No. 816/2006 of the

European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems (OJ L 157, 9.6.2006 – hereinafter: Regulation (EC) No. 816/2006).

Subsidiary application of other regulations

Article 3

- (1) In civil protection procedures, provisions of the general regulation governing the civil procedure shall apply accordingly, unless provided otherwise by this Act.
- (2) Provisions of general regulations governing obligatory relations shall apply accordingly to the rights from patent or supplementary protection certificate with obligatory legal effects, and to the damages incurred by patent infringement, unless provided otherwise by this Act.
- (3) In procedures of setting provisional measures, provisions of the general regulation governing the insurance procedure shall apply accordingly, unless provided otherwise by this Act.
- (4) Provisions of general regulations governing ownership relations shall apply accordingly to the rights from patent or supplementary protection certificate with legal ownership effects, unless provided otherwise by this Act.

Definitions

Article 4

- (1) In terms of this Act, the following definitions apply:
 - a) register means an official collection of the data kept and maintained electronically by the Office, and containing the data to be entered as required or permitted by this Act
 - b) Regulations means the Patent Regulations regulating details from this Act, explicitly regulating to be provided by the regulations, that contain detailed rules and samples of forms useful in the implementation of the provisions of this Act
 - c) application means the application for the protection of an invention by patent or utility model
 - d) biological material means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system
 - e) microbiological process means any process involving or performed upon or resulting in microbiological material
 - f) biotechnological inventions are inventions which concern a product consisting of or containing

biological material or a process by means of which biological material is produced, processed or used

- g) plant variety means a group of plants as defined in Article 5 of the Regulation of the Council (EC) No. 2100/94 of 27 July 1994 on Community plant variety rights (OJ L 227, 1.9.1994) and its amendments
- h) essentially biological process means a process for the production of plants or animals if it consists entirely of natural phenomena such as crossing or selection
- i) authorised institution for the deposit of microorganisms means an institution fulfilling the conditions provided by the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977, with its revisions
- j) Paris Union means the union of contracting parties to which the Paris Convention for Industrial Property Protection (1883) and its revisions and amendments apply
- k) Patent Cooperation Treaty (hereinafter: PCT) means the Patent Cooperation Treaty, signed on 19 June 1970 in Washington, with its revisions, and every reference to the PCT is at the same time considered to be invoking the provisions of the regulations in compliance with the PCT
- l) European Patent Convention (hereinafter: EPC) means the Convention on the Grant of European Patents done in Munich on 5 October 1973, with its revisions, and every reference to the EPC is at the same time considered to be also invoking the provisions of the regulations in compliance with the EPC
- m) national patent application means a patent application filed with the Office in compliance with this Act
- n) national patent means a patent granted on the basis of a national patent application
- o) European patent application means an application for a European patent filed in compliance with the EPC, as well as an international patent application filed in compliance with the PCT for which the European Patent Office (hereinafter: EPO) acts as the designated or elected office and in which the Republic of Croatia is designated in terms of territorial scope of the application
- p) European patent means a European patent granted by the EPO on a European patent application in accordance with the EPC, and designating the Republic of Croatia in terms of territorial scope of the patent
- q) international application means an application filed in compliance with the PCT
- r) designated office means a national office of the state designated by the applicant in compliance with the PCT
- s) elected office means a national office of the state

elected by the applicant in compliance with the PCT.

- (2) In relation to a supplementary protection certificate, definitions within the meaning of this Act shall have the same meaning as the definitions applied in the Regulations (EC) No. 469/2009 and 1610/96.
- (3) In relation to compulsory licenses relating to the manufacture of pharmaceutical products for export to countries with public health problems, definitions within the meaning of this Act shall have the same meaning as the definitions applied in the Regulation (EC) No. 816/2006.

Gender meaning of terms

Article 5

The expressions used in this Act, having a gender meaning shall include equally the male and female gender.

PART TWO

SUBJECT MATTER OF PATENT PROTECTION

Patentable invention

Article 6

- (1) A patent is the right granted that shall be granted for any invention, in any field of technology, which is new, which involves an inventive step and which is eligible for industrial application.
- (2) The following in particular shall not be considered to be the inventions within the meaning of paragraph (1) of this Article:
 - 1. discoveries, scientific theories and mathematical methods
 - 2. aesthetic creations
 - 3. rules, instructions or methods for performing mental activities, playing games or doing business
 - 4. presentation of information and
 - 5. computer programs.
- (3) The subject matters or activities referred to in paragraph (2) of this Article shall be excluded from patent protection only to the extent where a patent application or a patent relate to the subject matters or activities themselves as such (per se).

Patentable inventions in the field of biotechnology

Article 7

- (1) According to the conditions set out in paragraph (1) of Article 6 of this Act, inventions in the field of biotechnology shall also be considered patentable if they concern:
 - 1. a product consisting of or containing

biological material;

2. a process by means of which the biological material is produced, processed or used; and/or
 3. a biological material isolated from its natural environment or produced by means of a technical process, even if it previously occurred in nature.
- (2) An invention which concerns plants or animals shall be considered patentable if the technical feasibility of the invention is not confined to a particular plant or animal variety.

Exclusion from patentability

Article 8

Excluded from patent protection shall be:

1. plant varieties and animal breeds;
2. essentially biological processes for the production of plants or animals, as well as plants or animals exclusively obtained by these processes, with the exception of inventions which concern microbiological or other technical processes or products resulting from such processes;
3. inventions which concern diagnostic or surgical methods or methods of treatment practiced directly on a human or animal body, with the exception of the products, in particular substances or compositions used in such methods; and
4. inventions where their commercial exploitation would be contrary to public order or morality, whereby their exploitation will not be considered contrary to public order or morality just because such exploitation is forbidden by law or another regulation, referring in particular to:
 - a) processes for cloning human beings;
 - b) processes for modifying the germ line genetic identity of human beings;
 - c) uses of human embryos for industrial or commercial purposes; and
 - d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

Human body and its elements

Article 9

- (1) Inventions which concern human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, cannot be considered patentable.
- (2) An invention relating to an element isolated from the human body or otherwise produced by means

of a technical process, including the sequence or partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical with that of a natural element.

- (3) Industrial applicability of a sequence or a partial sequence of a gene must be disclosed in the patent application.

Novelty of an invention

Article 10

- (1) An invention shall be new if it does not form part of the state of the art.
- (2) The state of the art shall comprise everything made available to the public at the global level by means of written or oral description, by use or in any other way prior to the filing date of the patent application.
- (3) The state of the art shall also include the content of all patent applications as filed with the effect for the Republic of Croatia, the filing dates of which are earlier than the date of application referred to in paragraph (2) of this Article, and which were made available to the public only on, or after the date of filing the patent application.
- (4) The provisions laid down in paragraphs (2) and (3) of this Article shall not exclude the possibility for patent protection of any substance or composition, comprised in the state of the art, for use in methods referred to in Article 8, item 3 of this Act, provided that its use for any such method is not comprised in the state of the art.
- (5) The provisions laid down in paragraphs (2) and (3) of this Article shall not exclude the possibility for patent protection of any substance or composition referred to in paragraph (4) of this Article for any specific use in methods referred to in Article 8 item 3 of this Act, provided that such use is not comprised in the state of the art.

Non-prejudicial disclosure of the invention

Article 11

- (1) An invention shall also be considered to be new within the meaning of Article 10 of this Act if not more than six months prior to the filing date of the patent application it formed part of the state of the art due to or in consequence of:
 1. an evident abuse in relation to the patent applicant or his legal predecessor; or
 2. the display by the patent applicant or his legal predecessor at an official or officially recognised international exhibition in compliance with the Convention on International Exhibitions signed at Paris on 22 November 1928 and its revisions, provided that the applicant indicates in the patent application, at the time of its filing, that the invention has been so displayed, and submits a corresponding certificate to that effect not

later than 4 months from the filing date of the application.

- (2) The certificate referred to in paragraph (1) item 2 of this Article shall contain data on the person who exhibited the invention, the title of the invention, the date of the exhibition opening and, if the invention was disclosed after that date, the date of the first disclosure of the invention, and the verification by a responsible authority.

Inventive step

Article 12

- (1) An invention shall involve an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.
- (2) In deciding whether an invention involves an inventive step, the content of the applications referred to in Article 10 paragraph (3) of this Act shall not be taken into consideration.

Industrial applicability

Article 13

An invention shall be industrially applicable if its subject matter can be manufactured or used in any kind of industry, including agriculture.

PART THREE

RIGHT TO THE PROTECTION OF AN INVENTION

Persons entitled to acquire protection

Article 14

- (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 two or more inventors, the right to a patent shall belong jointly to the inventors or their successors in title.
- (3) Foreign natural and legal persons shall enjoy the same rights provided by this Act as domestic natural and legal persons if it results from international treaties binding for the Republic of Croatia or from applying the principle of reciprocity.
- (4) The person invoking reciprocity shall provide evidence thereof.

Inventor

Article 15

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

- (3) The inventor shall have the moral right to be indicated as such in the patent application and utility model, in all the documents issued by the Office in relation to the patent grant, and in the corresponding Office Register.
- (4) The inventor's right to the invention created at work or in relation to the work shall be regulated by a separate law.

Inventor's successor in title

Article 16

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

Representation before the Office

Article 17

- (1) A natural or a legal person not having a domicile or a habitual residence or a principal place of business in the territory of the Republic of Croatia must be represented before the State Intellectual Property Office by a representative.
- (2) General principles of representing and special requirements on the basis of which persons as referred to in paragraph (1) of this Article can exercise their rights from this Act are regulated by special regulations on representation issues.
- (3) By way of derogation from the provision set out in paragraph (1) of this Article, a natural or a legal person may independently, without a representative, perform the following acts:
 1. File a patent application;
 2. Perform other acts relating to the establishment of the filing date of a patent application;
 3. File true copies of the first patent application, when claiming priority right referred to in Article 43 and 72 of this Act;
 4. Pay the administrative fees and procedural charges; and
 5. Receive from the Office notifications relating to the procedures referred to in items 1 to 3 of this paragraph.
- (4) In the case of individually performing the acts, referred to in paragraph (3) of this Article, a natural or a legal person referred to in paragraph (1) of this Article shall communicate to the Office the address for correspondence, which shall be in the territory of the Republic of Croatia.
- (5) If a natural or a legal person referred to in paragraph (1) of this Article fails to appoint a representative or to communicate the address for correspondence to the Office, the Office shall invite

it by a conclusion to appoint a representative or to communicate the address for correspondence in the territory of the Republic of Croatia within a period of three months upon performing the act referred to in paragraph (3) of this Article.

- (6) If a natural or a legal person referred to in paragraph (1) of this Article fails to comply with the conclusion of the Office referred to in paragraph (5) of this Article, the Office shall reject its communication by a decision, and provide for the legal service to be made by public notice.

PART FOUR

PROCEDURE FOR THE PROTECTION OF AN INVENTION

1. COMMON PROCEDURAL PROVISIONS

Competence of the Office

Article 18

- (1) The State Intellectual Property Office shall carry out the administrative procedure for granting a patent, supplementary protection certificate, for registering a utility model and declaring it invalid and other administrative and professional matters concerning the protection of an invention.
- (2) The decisions issued by the Office cannot be appealed, but an administrative dispute can be instituted before the Administrative Court in Zagreb.
- (3) The procedure before the Administrative Court referred to in paragraph (2) of this Article is urgent.

Fees and procedural charges

Article 19

- (1) The procedures provided by this Act shall be subject to payment of the administrative fees in compliance with the law governing the payment of the administrative fees in the field of intellectual property rights.
- (2) The procedures and services provided by this Act shall be subject to payment of charges in compliance with the regulation of the Government of the Republic of Croatia on special procedural and information services charges under responsibility of the Office.

Registers

Article 20

- (1) The Office shall keep the patent register, the utility model register and the register of supplementary protection certificates.
- (2) Registers referred to in paragraph (1) of this Article are public and any person has the right to inspect contents of the data entered, on conditions

provided by Article 25 and 26 of this Act.

- (3) Upon request by any interested person and upon payment of the administrative fee and procedural charges, the Office shall issue an excerpt from registers referred to in paragraph (1) of this Article.
- (4) The Head of the Office shall specify the manner of issuing and the content of the excerpt by the Regulations.

Patent register

Article 21

The patent register is publicly accessible for patent applications as published, and it contains the following information:

1. the number of the application
2. the filing date of the application
3. the title of the invention
4. the classification indication according to the International Patent Classification (IPC)
5. the name and address of the applicant or the holder of the patent
6. the name and address of the inventor
7. the inventor's declaration received that he does not wish to be mentioned in the application
8. the name and the principle place of business of the representative
9. the information on the requested and granted priority right referred to in Article 44 of this Act (the number and the filing date of the first application and the state or an international or intergovernmental organisation which the application is filed in or for)
10. the information on the display at an international exhibition in compliance with Article 11 paragraph (1) item 2 of the Act, if the invention has been displayed
11. the number and the date of the original application, as well as the numbers of all divisional application in case of the division of a patent application
12. the information on an international application, if filed: the number and the filing date of an international application and the number and the date of an international publication
13. the number and the date of a European patent application, if it is a matter of conversion referred to in Article 128 of this Act
14. the publication date of the application and the number of the official gazette of the Office;
15. the date of a subsequent publication of a search report and the number of the official gazette of the Office, where applicable
16. the information on the request for substantive examination of conditions for the grant of a patent
17. the information on the way and the date of

18. completing the administrative procedure
19. the number of the patent
20. the date and the number of the official gazette of the Office in which the mention of a patent grant was published
21. the number and the date of the decision on a patent grant
22. where applicable, the information on a European patent: the number and the date of filing an application for entry of a European patent into the register, the number and the date of publication of a European patent application and the number, the date and the language of publication of a European patent
23. the information on paying the maintenance of valid rights
24. the information on cessation of effect of the rights from an application or a patent: legal basis and the date of cessation and the extent of cessation in case of partial cessation for waiver or administrative dispute
25. the information on the procedure concerning a proposal for a patent invalidity declaration: the filing date, the applicant, the type and the date of a decision
26. the date of reinstatement of rights and of continued processing if the decision referred to in Article 28 or Article 29 of this Act was made
27. the information on changes in relation to:
 - a) the applicant or the patent holder (change of name, address, representative etc.) and
 - b) transfer of rights, license, right in rem, execution, bankruptcy, and other data of significance to the legal status of an application/a patent
28. the information on exemption from paying administrative fees and procedural charges and
29. the information on a supplementary protection certificate: the number of a request, the filing date, the certificate holder, the number of the certificate.
30. the information of submitted inventor's statement that he does not want to be mentioned in the application
31. the name and the principle place of business of the representative
32. the information on the requested and granted priority right referred to in Article 44 of this Act (the number and the filing date of the first application and the state or an international or intergovernmental organisation which the application is filed in or for)
33. the number and the date of the original application, as well as the numbers of all divisional application in case of the division of a patent application
34. the information on the display at an international exhibition in compliance with Article 11 paragraph (1) item 2 of the Act, if the invention has been displayed
35. the information on an international application, if filed: the number and the filing date of an international application and the number and the date of an international publication
36. the number and the date of a European patent application, if it is a matter of conversion referred to in Article 128 of this Act
37. the information on the way and the date of completing the administrative procedure
38. the number of a utility model
39. the publication date of the application and the number of the official gazette of the Office in which the information on registration of a utility model was published
40. the number and the date of a decision on the registration of a utility model
41. the information on payment of the maintenance of a valid utility model
42. the information on a request for substantive examination of requirements for the grant of a patent
43. the information on conversion of a utility model to a patent upon substantive examination conducted and the publishing date of this information in the official gazette of the Office where applicable
44. the information on cessation of effect of a utility model: legal basis and the date and the extent of cessation
45. the information on revocation of a utility model upon substantive examination conducted
46. the information on the procedure concerning the proposal for invalidity declaration: the filing date, the applicant, the type and the date of a decision
47. the date of reinstatement of rights and of continued processing if the decision referred to in Article 28 or Article 29 of this Act was made

Register of utility models

Article 22

The register of utility models is publicly accessible for utility models as published, and it contains the following information:

1. the number of the application
2. the filing date of the application
3. the title of the invention
4. the classification indication according to the International Patent Classification (IPC)
5. the name and address of the applicant or the holder of the utility model
6. the name and address of the inventor
7. the information of submitted inventor's statement that he does not want to be mentioned in the application
8. the name and the principle place of business of the representative
9. the information on the requested and granted priority right referred to in Article 44 of this Act (the number and the filing date of the first application and the state or an international or intergovernmental organisation which the application is filed in or for)
10. the number and the date of the original application, as well as the numbers of all divisional application in case of the division of a patent application
11. the information on the display at an international exhibition in compliance with Article 11 paragraph (1) item 2 of the Act, if the invention has been displayed
12. the information on an international application, if filed: the number and the filing date of an international application and the number and the date of an international publication
13. the number and the date of a European patent application, if it is a matter of conversion referred to in Article 128 of this Act
14. the information on the way and the date of completing the administrative procedure
15. the number of a utility model
16. the publication date of the application and the number of the official gazette of the Office in which the information on registration of a utility model was published
17. the number and the date of a decision on the registration of a utility model
18. the information on payment of the maintenance of a valid utility model
19. the information on a request for substantive examination of requirements for the grant of a patent
20. the information on conversion of a utility model to a patent upon substantive examination conducted and the publishing date of this information in the official gazette of the Office where applicable
21. the information on cessation of effect of a utility model: legal basis and the date and the extent of cessation
22. the information on revocation of a utility model upon substantive examination conducted
23. the information on the procedure concerning the proposal for invalidity declaration: the filing date, the applicant, the type and the date of a decision
24. the date of reinstatement of rights and of continued processing if the decision referred to in Article 28 or Article 29 of this Act was made

25. the information on changes in relation to:
 - a) the applicant or the utility model holder (change of name, address, representative etc.) and
 - b) transfer of rights, license, right in rem, execution, bankruptcy, and other data of significance to the legal status of an application/a patent or a utility model and
26. the information on exemption from paying administrative fees and procedural charges.

Register of Supplementary Protection Certificates

Article 23

The register of supplementary protection certificates for medicinal products and for plant protection products contains the following information:

1. the number of a request for the grant of a supplementary protection certificate
2. the filing date of a request for the grant of a supplementary protection certificate
3. the name of the product for which the grant of a supplementary protection certificate has been applied for (chemical or generic name)
4. the name and address of the applicant
5. the name and the principle place of business of the representative
6. the number and the filing date of an application for a basic patent and the title of an invention
7. the number and the date of authorisation to place the product on the market and the name of the product identified in that authorisation, as prescribed by Article 8, paragraph (1) items (b) and (c) of the Regulation (EC) No. 469/2009 and Article 8, paragraph (1) items (b) and (c) of the Regulation (EC) No. 1610/96
8. the information on requested extension of the duration of a supplementary protection certificate
9. the name and the address of a supplementary protection certificate holder
10. the number of a supplementary protection certificate
11. the date of making a decision on the grant of a supplementary protection certificate and, where applicable, of a decision on extension of the duration of the supplementary protection certificate
12. duration of a supplementary protection certificate
13. the information on payment of the maintenance of a supplementary protection certificate
14. the information on the manner and the date of completing the administrative procedure
15. the information on cessation of effect of a supplementary protection certificate: legal basis and the date and the extent of cessation
16. the information on the procedure concerning

- a proposal for invalidity declaration of a supplementary protection certificate: filing date, applicant, type and decision date
17. the date of reinstatement of rights and of continued processing if the decision referred to in Article 28 or Article 29 of this Act was made
18. the information on changes in relation to:
 - a) the applicant or the supplementary protection certificate holder (change of name, address, representative etc.) and
 - b) transfer of rights, license, right in rem, execution, bankruptcy, and other data of significance to the legal status of a supplementary protection certificate and
19. the information on exemption from paying administrative fees and procedural charges.

Publication of information in the official gazette

Article 24

- (1) The information prescribed by this Act and the Regulations as well as other official information shall be published in the official gazette of the Office.
- (2) The official gazette shall be published electronically on the web site of the Office.

Inspection of files

Article 25

- (1) The Office shall allow all persons to obtain inspection of files related to administrative procedures referred to in Article 18 paragraph (1) of this Act.
- (2) The inspection of files related to applications not yet published is not permitted without explicit approval of the applicant.
- (3) Even before an application has been published in the official gazette of the Office, the Office may make the following information available to any person: the number of an application, the filing date of an application or, in case of priority right claim, the number, the date and an indication of a state or an organisation with which the first application has been filed, the information on the applicant and the title of the invention.
- (4) Where a party in the procedures before the Office delivers documents that contain trade secrets and confidential information and designates them as such, the Office may at his/her request take necessary measures for their protection.
- (5) Before making documents that contain trade secrets and confidential information available for inspection, the Office will warn the persons who search through the file of the obligation to keep this information confidential and of the obligation to sign a non-disclosure declaration.

Information services

Article 26

- (1) The Office shall make copies of published patent applications, patents, utility models and supplementary protection certificates available to all persons on request.
- (2) The Office shall on request provide also other professional information services, such as search of patent information and documents in a certain technical or technological fields via available databases, written reports on patentability assessment etc.
- (3) In accordance with technical preconditions, the Office may electronically provide also other information services related to access and search of patent information.
- (4) All the information services referred to in this Article shall be subject to reimbursement of costs as provided by the regulation referred to in Article 19 paragraph (2) of this Act.
- (5) The Head of the Office shall define by the Regulations the manner and the scope of providing the services referred to in this Article.

Correction of errors and obvious oversights

Article 27

- (1) On request of the applicant, the right holder or ex officio, the Office shall correct by a decision obvious errors in documents, registers that it keeps or in publications, subject to previous payment of administrative fee and procedural charges in cases when an error was not caused by failure of the Office.
- (2) The request for correction of an error referred to in paragraph (1) of this Article shall be submitted through a form, which shall contain:
 1. the number of the application or right which the request refers to
 2. the information on the applicant
 3. an indication of the error to be corrected
 4. an indication of the correct information and
 5. the information on a representative and a proper power of attorney if the request is submitted through a representative.
- (3) The Office shall publish correction of wrongly published information referred to in paragraph (1) of this Article in the official gazette of the Office.
- (4) The Head of the Office shall define by the Regulations the layout of the form referred to in paragraph (2) of this Article as well as the information to be published in the official gazette of the Office pursuant to paragraph (3) of this Article.

Reinstatement of rights

Article 28

- (1) If, despite due care required by the circumstances, the applicant or the right holder failed to perform an action in the procedure before the Office within the time limit prescribed by this Act, the direct consequence of which is the loss of rights with respect to an application or a granted/registered right, the Office shall reinstate the rights by a decision, provided that the applicant:
 1. files a request for reinstatement of rights and performs all the actions missed in the time limit referred to in paragraph (2) of this Article
 2. states the facts that prevented him/her from performing an action missed within the time limit and makes them probable and
 3. pays the administrative fee and procedural charges.
- (2) The request for reinstatement of rights shall be filed within the time limit that expires earlier of the following:
 1. three months upon the day when the reason that caused failure to act ceased to exist or
 2. 12 months upon expiry of the time limit missed, i.e. if the request relates to non-payment of a maintenance charges, 12 months upon expiry of the additional time limit for payment provided by Article 88 paragraph (5) of this Act.
- (3) If the request was granted, the Office shall make a decision on allowing reinstatement of rights, returning the procedure to the state before failure to act and revokes legal consequences incurred by missing the time limit.
- (4) The request for reinstatement of rights shall not be filed because of missing the time limit for the following actions:
 1. filing the request referred to in paragraph (1) of this Article
 2. filing the request for extension of a time limit
 3. filing the request for the grant, restoration, correction or addition of priority right
 4. filing the request for continued processing
 5. filing the request for substantive examination referred to in Article 61 and 77 of this Act
 6. filing the request for the grant of a supplementary protection certificate or its extension of the duration
 7. filing the request for entry of a European patent into the patent register and delivery of documentation referred to in Article 124 paragraph (2) of this Act and/or
 8. for all the actions before the Office in inter partes proceedings.
- (5) Any person who has in good faith exploited an invention or has made real and serious preparations for exploiting the invention which is the subject-matter of a published application, may,

in the period between the loss of right referred to in paragraph (1) of this Article, and a publication of the fact concerning acceptance of the request for reinstatement of rights, continue such exploitation, without compensation for damages, exclusively for the purposes of his own business and needs related to it.

- (6) The Head of the Office shall define by the Regulations the content of the information on reinstatement of rights to be published in the official gazette of the Office.

Continued processing

Article 29

- (1) If the applicant or the right holder failed to perform an action in the procedure before the Office within the time limit the direct consequence of which is the loss of rights, the Office shall allow continued processing, provided that the applicant:
1. files a request for continued processing and performs all the omitted actions within the time limit referred to in paragraph (2) of this Article and
 2. pays the administrative fee and procedural charges.
- (2) A request for continued processing may be filed within two months upon receipt of the notice by the Office related to missing the time limit for performance of an action in the processing and to the legal consequences referred to in paragraph (1) of this Article.
- (3) If the omitted actions have not been performed within the time limit referred to in paragraph (2) of this Article, the Office shall make a decision on rejecting the request for continued processing.
- (4) If the request was complied with, legal consequences of missing the time limit shall be deemed to not have taken effect.
- (5) A request for the continued processing shall not be filed, if failure to comply with concerns the time limit:
1. for filing the request referred to in paragraph (1) of this Article
 2. for filing the request for the grant, restoration, correction or addition of priority right
 3. for filing the proposal for reinstatement of rights
 4. for payment of the charges for maintaining valid rights
 5. for filing the request for the grant of a supplementary protection certificate or its extension of the duration and/or
 6. for all the actions before the Office in inter partes proceedings.
- (6) Any person who in good faith exploited or made genuine and serious preparations for the exploitation of the invention which is the subject of the published application, in the period between

the loss of the right referred to in paragraph (1) of this Article and the publication of the information on the admissibility of the request for continuation of the proceeding, may continue without compensation with such exploitation solely for the purpose of their own business and the needs associated with such business.

- (7) The Head of the Office shall define by the Regulations the content of the information on continued processing to be published in the official gazette of the Office.

Change of name or address

Article 30

- (1) On request by the applicant or the right holder, the Office shall issue a decision on the entry of changes into a corresponding register, provided that the administrative fee and procedural charges are paid as prescribed.
- (2) The entry of changes of the name and the address for several applications or rights can be requested by a single request referred to in paragraph (1) of this Article, provided that the applicant indicates the numbers of all applications or rights concerned and pays the administrative fee and procedural charges for each one of them.
- (3) If the requirements for the entry of a change prescribed by this Article are not met, the Office shall invite the applicant by a conclusion to remedy these deficiencies within two months upon receipt of the conclusion.
- (4) The time limit referred to in paragraph (3) of this Article may be extended on request of the applicant or the right holder by up to one month.
- (5) If the deficiency is not remedied within the time limit as prescribed, the Office shall make a corresponding decision on the request.
- (6) If the requirements referred to in this Article are met, the Office shall make a decision on the entry of a change, enter the changed information into a corresponding register and publish it in the official gazette of the Office.
- (7) The provisions of this Article shall apply mutatis mutandis both to the change of the name or address of the representative and to any change concerning the address for correspondence.
- (8) The request referred to in paragraph (1) of this Article shall be filed via the form the content and the layout of which, as well as the information to be published in the official gazette of the Office shall define the Head of the Office by the Regulations.

2. INSTITUTION OF THE PROCEDURE FOR PROTECTION OF AN INVENTION

Patent application

Article 31

- (1) The procedure for protection of an invention shall be instituted by filing a patent application to the Office.
- (2) The application shall be filed in one copy, in writing, directly, by post or electronically.
- (3) The Head of the Office shall define by the Regulations the details on the means and technical requirements for filing a patent application.

Unity of the invention

Article 32

- (1) A separate patent application shall be filed for each invention.
- (2) One patent application may be used to apply for patent grants for several inventions, only if such inventions are so linked as to form a single inventive concept.

Content of the patent application

Article 33

- (1) The patent application shall contain:
 1. a request for the grant of a patent on the prescribed form
 2. a description of the invention
 3. one or more claims for the protection of the invention
 4. any drawings referred to in the description of the invention and/or the claims where necessary and
 5. an abstract of the invention.
- (2) The Head of the Office shall define by the Regulations the content and the manner of preparing individual parts of the application, as well as of necessary attachments to the application.

A request for the grant of a patent

Article 34

- (1) A request for the grant of a patent shall contain: an express indication that the grant of a patent is applied for, the title of the invention expressing clearly and concisely the essence of the invention, information concerning the applicant, information concerning the inventor or an indication of a declaration that he does not wish to be mentioned in the application and other information and attachments in compliance with the Regulations.
- (2) In the event the inventor does not wish to be mentioned in the application, a written declaration of the inventor concerning this fact shall be filed

with the Office not later than four months from the filing date of the application.

- (3) The Office does not check authenticity of the information given in a request for the grant of a patent.

Description of the invention

Article 35

- (1) The patent application must disclose the invention in a manner sufficiently clear and precise for it to be carried out by a person skilled in the art.
- (2) A description of the invention shall contain in particular: the technical field to which the invention relates, technical problem the solution of which is sought to be protected by a patent, state of the art, disclosure of the invention, as claimed, a brief description of a drawings if there are any, a detailed description of at least one way of carrying out the invention, and the way in which the invention is industrially applicable.
- (3) If the invention involves the use of or concerns viable biological material which is not available to the public and cannot be disclosed in the application in a manner prescribed by paragraph (1) of this Article, the invention is considered to be disclosed clearly and precisely provided that:
 1. a sample of such material was deposited in an authorised institution for depositing microorganisms not later than on the filing date of the patent application;
 2. the patent application contains all the information on deposited viable biological material known to the applicant; and
 3. the patent application contains the name of an authorised institution for depositing microorganisms and the entry number of biological material.
- (4) The information referred to in paragraph (3) of this Article may be delivered within 16 months upon the filing date or, if priority has been claimed, upon the earliest priority date, but not upon expiry of the time limit in which technical preparations were made to publish the application in the official gazette of the Office.
- (5) If the patent application contains disclosure of one or several nucleotide and/or amino acid sequences, the description of the applications shall contain the list of sequences.
- (6) The list of sequences referred to in paragraph (5) of this Article filed after the filing date of the patent application shall not make part of the description.

Drawings

Article 36

- (1) Drawings are a set of figures that represent a supplement to the technical description of an invention with the purpose to make a clear and

unambiguous representation of all technical elements of the invention essential for its performing.

- (2) Drawings are not obligatory.

Claims

Article 37

- (1) Claims shall define the subject matter for which protection is sought.
- (2) Claims shall be clear, concise and fully supported by the description of an invention.
- (3) Claims may be independent and dependent.
- (4) Independent claims shall contain new and essential characteristics of an invention, whereas dependent claims shall contain specific characteristics of the invention as defined in an independent or other dependent claim.

Abstract

Article 38

- (1) The abstract shall be a short summary of the essence of an invention which constitute an efficient instrument for the purpose of searching in the particular technical field and it cannot serve for other purposes, and particularly not for the purpose of interpreting the scope of requested protection, nor for the purpose of applying the provisions referred to in Article 10 paragraph (3) of this Act.
- (2) The Office may amend the abstract if considered strictly necessary.

Availability of viable biological material

Article 39

- (1) A deposited sample of viable biological material referred to in Article 35 paragraph (3) of this Act shall be made available on request, by issuing its sample:
1. until publication of the patent application, to any person who submits such request, and who obtained consent from the applicant for this purpose, as well as to a person who submits such request without the applicant's consent provided that he/she furnishes evidence that the applicant acted against it;
 2. between publication of the application and a patent grant, to any person who submits such request; and
 3. upon patent grant, regardless of the fact if the patent has been declared null and void or revoked, to any person who submits such request.
- (2) The sample shall be made available provided that the person who requests its issuance commits to the following until completion of a patent granting procedure, or during patent validity:

1. he/she will not make this sample or any material obtained from this sample available to third parties; and
2. he/she will use this sample or any material obtained from this sample exclusively for the purpose of an experiment or research, unless the applicant or the holder of a patent explicitly waived the right to such obligation of the requester, whereby the obligation to use a sample or any material obtained therefrom solely for experimental or research purposes shall not apply to an applicant using that sample or material under a compulsory license.

- (3) Until technical requirements for publication of a patent application have been fulfilled, the applicant may file a request to allow availability of deposited material only by issuing a sample to an independent expert appointed by the applicant:
1. until the patent grant has been published; or
 2. within 20 years from the filing date if the application was rejected, refused or the procedure by application was suspended, in which case paragraph (2) of this Article shall apply.
- (4) If viable biological material ceases to be available in an authorised institution for the deposit of microorganisms, new deposit of material shall be allowed under the conditions equalling those provided by the Budapest Treaty on the International Recognition of the Deposit of Microorganisms.
- (5) Legal consequences of discontinuation of availability shall not be considered to have taken effect if the certificate of new deposit issued by an authorised institution for the deposit of microorganisms, certifying that the new deposited viable biological material equals that originally deposited, is delivered to the Office within four months upon the date of the new deposit.

Content forbidden to mention in the application

Article 40

- (1) An application shall not contain:
1. indications or other contents contrary to the law or morality;
 2. indications that discredit products or actions of any third party or quality or meaning of an application or a patent of that party, whereat comparison with former state of the art, in itself, is not considered discrediting; and/or
 3. indications or other contents that are evidently neither essential nor necessary.
- (2) If the application contains indications or other contents referred to in paragraph (1) of this Article, the Office may omit them from publication, indicating place and number of omitted words and drawings.

Patent application contents necessary for
accordance of the filing date

Article 41

- (1) The accordance of the filing date of the patent application shall require that on such a date the application contains:
 1. an indication that the grant of a patent is applied for;
 2. the information that allow identification of the applicant or the information that allow contact to be made with the applicant; and
 3. the part that looks like a description of an invention at first glance, or reference to the application previously filed.
- (2) Reference to the application previously filed referred to in paragraph (1) item 3 of this Article shall contain the filing date and number of that application, the information on the office that this application was filed with, and an indication that the previous application substitutes a description and the drawings.
- (3) When the application contains reference referred to in paragraph (1) item 3 of this Article, a copy of the application previously filed bearing verification of the receiving office, as well as its translation into Croatian if filed in a foreign language, shall be delivered to the Office within two months upon the filing date of the application.

3. PRIORITY RIGHT

Priority of an earlier application

Article 42

- (1) If the same invention has been created by two or more inventors independently of each other, the priority in respect of right to the patent grant shall belong to the applicant whose patent application has the earliest filing date, provided that it has been published as stipulated by this Act.
- (2) The priority shall be in effect as from the date of filing the application with the Office, except where the requirements for the grant of priority right referred to in Articles 43 and 44 of this Act have been complied with.

International priority right

Article 43

- (1) A person or his successor in title who has filed a correct application for any kind of protection for inventions in any Member State of the Paris Union or in any Member State of the World Trade Organization (hereinafter: the WTO), shall enjoy the right of priority in the Republic of Croatia for the period of 12 months from the date of filing the first application.
- (2) The correct application referred to in paragraph

(1) of this Article shall be considered to be an application the filing date of which is accorded in compliance with the national legislation of the Member State of the Paris Union or WTO in which it was filed, or in compliance with an international treaty concluded among the member states, regardless of the legal outcome thereof.

- (3) A subsequent patent application filed in for the same subject-matter of the invention of the first application in the same State or for the same State shall be considered as the first application for the purposes of determining priority, provided that on the date of filing the subsequent application, the previous application has been refused, rejected or withdrawn prior to being made available to the public and without producing any legal effects, and not serving as a basis for claiming priority.
- (4) In the case referred to in paragraph (3) of this Article, the first application cannot serve as a basis for claiming priority anymore.

Priority claim

Article 44

- (1) The applicant for the protection of an invention claiming the priority right referred to in Article 43 of this Act, shall file with the Office a priority claim containing the first application number and filing date and a State or an international or intergovernmental organisation in or for which the application was filed.
- (2) The claim referred to in paragraph (1) of this Article shall be filed with the Office with filing the application for the protection of an invention, and not later than up to the expiration of two months from the date of filing the application.
- (3) The patent applicant may claim multiple priorities on the basis of several earlier applications regardless of their origin from different Member States of the Paris Union or the Member States of the WTO, where the time limits, which under this Act run from the date of granted priority, shall be calculated as from the earliest date of the multiple priority right.
- (4) The applicant claiming priority right shall file with the Office a copy of the first application certified by the competent authority of the Member State of the Paris Union or the WTO in or for which it was filed not later than up to 16 months from the earliest priority date claimed.
- (5) If the application claiming priority is not in Croatian, and its grounds are relevant to determine patentability of the respective invention, the Office may invite the applicant to file a translation of that application into Croatian within two months upon receipt of the invitation.

Priority right effect

Article 45

The date of granted priority shall be considered as the date of filing the application for the protection of an invention with the Office, by applying the provisions referred to in Article 10, paragraphs (2) and (3) and Article 42 paragraph (1) of this Act.

Correction or addition of a priority claim

Article 46

- (1) The applicant may file a request for the correction or addition of a priority claim within a time limit of 16 months from the earliest priority date or, if the correction or addition would cause a change in the earliest priority date, within 16 months from the priority date as so changed, whichever sixteen-month period expires first, provided that:
 1. a request for correction or addition is filed within four months from the filing date of the patent application; and
 2. the administrative fees and procedural charges are paid concurrently with the request referred to in item 1 of this paragraph.
- (2) The request referred to in paragraph (1) of this Article shall not be filed after the applicant has filed a request for publication of the application in accordance with Article 59 paragraph (2) of this Act, unless such a request for publication is withdrawn before the technical preparations for publication of the application have been completed.
- (3) If the priority date is changed due to the correction or addition of the priority claim, the pending time limits shall be counted from the priority date as changed.
- (4) Correction or addition of the request for a priority claim may include correction or addition of any information referred to in Article 44 paragraph (1) of this Act.

Request for restoration of priority right

Article 47

- (1) If the filing date of an application for the protection of an invention is later than the date on which the priority period referred to in Article 43 paragraph (1) of this Act expired, but falls within the two-month period counting from that date, the Office shall allow the restoration of the priority right, provided that the applicant:
 1. files the request for restoration of priority right within two months from the date of expiration of the priority period;
 2. states the reasons and furnishes evidence confirming that the time limit for the priority period to be granted was failed to comply with in spite of due care required by the circumstances having been taken; and

3. pays the administrative fee and procedural charges concurrently with the request referred to in item 1 of this paragraph.

- (2) The request referred to in paragraph (1) of this Article shall not be filed after the patent applicant has filed a request for publication of the application in accordance with Article 59 paragraph (2) of this Act, unless such a request for publication is withdrawn before the technical preparations for publication of the application have been completed.

Characteristics of the invention which is the subject of the priority claim

Article 48

- (1) The priority claim may 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 for which priority is claimed do not appear among the claims formulated in the first application or applications, a priority right shall be granted where the application elements as a whole specifically disclose all such characteristics.

4. EXAMINATION OF AN APPLICATION

Accordance of the filing date

Article 49

- (1) Upon receipt of a patent application, the Office shall examine whether the application complies with the requirements for the accordance of the filing date referred to in Article 41 paragraph (1) of this Act.
- (2) If the application does not comply with the requirements for the accordance of the filing date referred to in Article 41 paragraph (1) of this Act, the Office shall invite the applicant by a conclusion to correct the indicated deficiencies within a time limit of two months upon its receipt.
- (3) If the applicant corrects the indicated deficiencies within the time limit referred to in paragraph (2) of this Article, the date of receipt of the required corrections shall be considered as the filing date of the patent application.
- (4) At the request of the applicant, the time limit set out in paragraph (2) this Article may be extended for a time period not exceeding one month.
- (5) If the applicant does not comply with the Office conclusion within the time limit referred to in paragraph (2) of this Article, the patent application shall be rejected by a decision.

Missing parts of description or drawings

Article 50

- (1) If, when examining the accordance of the filing date, the Office establishes that a part of description of an invention or a drawing referred to in the application are missing, it shall invite the applicant by a conclusion to submit the missing parts of the application within two months upon receipt of the conclusion.
- (2) If the applicant complies with the conclusion of the Office referred to in paragraph (1) of this Article, the filing date shall be considered the date of receipt of that part of description of an invention or that drawing by the Office, i.e. the date when all the requirements referred to in Article 41 paragraph (1) of this Act are fulfilled, depending on the later date.
- (3) If missing part of description of an invention or drawings are filed within the time limit referred to in paragraph (1) of this Article, and the application claims earlier priority, the filing date shall be considered the date when all the requirements referred to in Article 41 paragraph (1) of this Act are fulfilled, provided that missing part of description of an invention or drawings are entirely included in the earlier application.
- (4) If a part of description of an invention or the drawings is not provided, the applicant will not be considered to have referred to them.
- (5) At the request of the applicant, the time limit set out in paragraph (1) of this Article may be extended for a time period not exceeding one month.

Entry of the application into the register

Article 51

A patent application for which the filing date has been accorded shall be entered into a corresponding register referred to in Article 20 paragraph (1) of this Act, which will be notified to the applicant by the Office in writing.

Priority certificate

Article 52

- (1) At the request of the applicant and upon payment of the prescribed administrative fee and procedural charges, the Office shall issue a certificate of the priority right.
- (2) The Head of the Office shall define by the Regulations the content of the certificate referred to in paragraph (1) of this Article.

Division of the patent application

Article 53

- (1) The applicant may on his own initiative, or upon request by the Office, divide the subject-matter of the original patent application having the

accorded filing date into two or more divisional applications and on the basis of each of them carry out a separate procedure.

- (2) The subject-matter of a divisional patent application shall not go beyond the content of the original application.
- (3) The division of the original patent application shall be permitted up to the decision made concerning the request for the granting of a patent.
- (4) A divisional application shall maintain the filing date of the original application and, if having grounds therefore within the meaning of the provisions of Article 43 of this Act, shall enjoy the priority thereof.

Formalities examination of the patent application

Article 54

- (1) The formalities examination procedure of the application having the accorded filing date shall establish whether the application fulfils the following requirements:
 1. the administrative fee and procedural charges for filing the application are paid;
 2. the translation of the application into Croatian is filed, if the application has been drafted in a foreign language;
 3. the applicant referred to in Article 17 paragraph (1) of this Act is represented by an authorised representative;
 4. a power of attorney is duly filed, if the application is filed through an authorised representative;
 5. the inventor is indicated, or the inventor's declaration is filed that he does not wish to be mentioned in the application;
 6. all parts referred to in Article 33 of this Act and prescribed attachments to the application are included; and
 7. the proper priority claim has been filed, if a priority right is claimed.
- (2) If such examination establishes that the requirements referred to in paragraph (1) of this Article are not complied with, the Office shall order the applicant by a conclusion to correct the deficiencies expressly indicated within two months upon receipt of the conclusion.
- (3) At the reasoned request of the applicant, the Office may extend the time limit set out in paragraph (2) of this Article for a time period considered to be justified, but not exceeding three months.
- (4) If the applicant does not correct the priority claim referred to in paragraph (1) item 7 of this Article, the Office shall not grant the priority right.

Amendments of the patent application

Article 55

- (1) A patent application for which the filing date

has been accorded shall not be subsequently amended by extending the subject-matter for which protection is sought.

- (2) The applicant cannot amend the description, claims and drawings of the application before having received a search report of the state of the art.
- (3) Upon receipt of a search report, the applicant may of his own volition once amend the description, claims and drawings, provided that the amendment is filed together with a response to the report.
- (4) Amended claims cannot relate to unsearched subject-matter of the application and which does not form a single inventive concept in combination with an invention or a group of inventions for which protection is originally claimed.

Request for search

Article 56

- (1) If the patent application fulfils the requirements referred to in Article 54 paragraph (1) of this Act, the Office shall invite the applicant by a conclusion to file a request within two months upon its receipt and to pay the administrative fee and procedural charges for preparation of a search report for the invention requested to be protected.
- (2) If the applicant fails to file a request and to pay the administrative fee and procedural charges for preparation of the search report referred to in paragraph (1) of this Article within the prescribed time limit, the Office shall reject the patent application by a decision.
- (3) The applicant may request that the patent office of another state or an interstate office with which the Office has entered into an agreement on cooperation prepares the search report for the patent application fulfilling the requirements referred to in Article 54 paragraph (1) of this Act, provided that he files such request with the Office not later than within the time limit referred to in paragraph (1) of this Article and reimburses the charges of such procedure.
- (4) The request for searching the state of the art not complying with paragraphs (3) and (7) of this Article shall not be forwarded to the patent office of another state or an interstate office with which the Office has entered into an agreement on cooperation, which will be immediately notified by the Office to the applicant by inviting him to correct the request within one month upon receipt of the notification.
- (5) If the applicant fails to correct the request in compliance with the invitation referred to in paragraph (4) of this Article within the prescribed time limit, the Office shall reject the patent application by a decision.
- (6) Requests referred to in paragraphs (1) and (3) of this Article cannot be withdrawn.

- (7) The Head of the Office shall define by the Regulations the manner of filing the request referred to in paragraph (3) of this Article, attachments to the request, the contents of the form to file the request and the course of the procedure by the request.

Search report

Article 57

- (1) The Office shall prepare a search report for the invention requested to be protected on the basis of claims, taking into account the description of the invention together with the drawings filed as necessary, and it shall immediately forward it to the applicant together with all the documents indicated in the report.
- (2) If the Office establishes during preparation of the report referred to in paragraph (1) of this Article that it is not possible to conduct search of the state of the art in relation to all or some of the claims because the patent application does not fulfil requirements referred to in this Act, it shall either indicate in a declaration that it cannot conduct search or it shall prepare a partial search report to the extent possible.
- (3) If the Office establishes during preparation of the report referred to in paragraph (1) of this Article that the patent application does not fulfil the requirements of a single inventive concept, it shall prepare a partial search report related to the invention or a group of inventions within the meaning of Article 32 of this Act which are mentioned first in claims.
- (4) Upon preparation of the partial report referred to in paragraph (3) of this Article, the Office shall notify the applicant that the search report will also contain other inventions, provided that additional search fee is paid for every invention included within two months upon receipt of the notification.
- (5) The declaration or partial report referred to in paragraph (2) of this Article, as well as the report prepared on the basis of paragraph (3) of this Article, shall be considered the search report during further procedure.
- (6) The Head of the Office shall define by the Regulations the manner of preparing the search report and its content.

Written opinion on patentability

Article 58

- (1) On request of the applicant, together with the search report referred to in Article 57 of this Act, the Office may also prepare a written opinion on patentability that establishes if the application and the related invention fulfil requirements of novelty, inventive step and industrial applicability and other requirements of this Act, taking into account the documents indicated in the search report.

- (2) The request for preparation of a written opinion on patentability may be filed together with the request referred to in Article 56 of this Act or not later than within two months upon filing that request, provided that the administrative fee and procedural charges are paid.
- (3) If the requirements referred to in paragraph (2) of this Article are not fulfilled, the Office shall reject the request for preparation of a written opinion on patentability.
- (4) The provisions referred to in Article 57 of this Act shall apply accordingly to the preparation of written opinion on patentability.
- (5) The applicant may reply to a written opinion on patentability and amend the description, claims and drawings as necessary not later than until the request for substantive examination referred to in Article 61 of this Act has been filed, which shall be taken into account by the Office in the substantive examination.
- (6) If the applicant fails to reply to a written opinion on patentability, it shall be considered the first result of the substantive examination referred to in Article 62 of this Act.
- (7) The written opinion on patentability shall not be published.
- (8) The Head of the Office shall define by the Regulations the manner of preparing the written opinion on patentability and its content.

5. PUBLICATION OF A PATENT APPLICATION

Manner and content of the publication of a patent application

Article 59

- (1) The Office shall publish a patent application in the official gazette of the Office, as soon as possible upon expiry of 18 months from its filing date, or the date of granted priority, whereby it becomes available to the public.
- (2) The patent application referred to in paragraph (1) of this Article may be, upon request by the applicant, published prior to the expiration of the said time limit, but not before the expiration of three months from the date of its filing with the Office.
- (3) The patent application shall not be published if the procedure was concluded before the technical preparations for publication of an application have been completed.
- (4) The content of a patent application published or otherwise made available to the public, despite the procedure initiated by an application having been concluded before that, shall not form part of the state of the art.
- (5) Together with publication of a patent application, the Office shall also publish a search report

referred to in Article 57 of this Act if possible.

- (6) If the search report referred to in Article 57 of this Act cannot be published together with the publication of a patent application, it will be published subsequently.
- (8) The Head of the Office shall define by the Regulations in detail the content of the publication of a patent application.

Notification of publication

Article 60

The Office shall notify the applicant of the publication date of an application, or the search report, in the official gazette of the Office, and of the obligation to file a request referred to in Article 61 of this Act.

Request for substantive examination

Article 61

- (1) The applicant may file a request for the substantive examination of requirements for the grant of a patent until expiry of the six-month time limit after the search report referred to in Article 57 of this Act has been published in the official gazette of the Office.
- (2) The request referred to in paragraph (1) of this Article cannot be withdrawn.
- (3) The request is considered to have been filed upon payment of the administrative fee and procedural charges of the examination.
- (4) If the request referred to in paragraph (1) of this Article is not filed within the prescribed time limit or the administrative fee and procedural charges of the examination are not paid, the Office shall reject the patent application by a decision.

6. COURSE OF THE SUBSTANTIVE EXAMINATION OF REQUIREMENTS FOR THE GRANT OF A PATENT

Substantive examination

Article 62

- (1) By substantive examination of a patent application, the Office shall establish whether the invention complies with all the requirements for the grant of the patent prescribed by this Act, i.e. whether the subject-matter of the application:
 1. is an invention which is not excluded from patent protection in compliance with Article 6, paragraph (2) and Articles 8 and 9 of this Act;
 2. is an invention which is in compliance with the rule of unity of invention referred to in Article 32 of this Act;
 3. is an invention which is new in compliance

with Articles 10 and 11 of this Act, which includes an inventive step in compliance with Article 12 of this Act, and which is industrially applicable in compliance with Article 13 of this Act;

4. is an invention which is disclosed in the application in compliance with Article 35 of this Act; and
 5. is an invention fulfilling the requirements referred to in Articles 36 and 37 of this Act.
- (2) The Office may carry out the substantive examination of a patent application referred to in paragraph (1) of this Article, completely or in part, through one of the national patent offices of other countries or interstate offices with which it has concluded a cooperation agreement.
 - (3) The applicant who has also filed a patent application for the protection of the same invention with a national patent office of another country may file with the Office the results of substantive examination carried out by that office, translated into Croatian.
 - (4) If the Office during the substantive examination establishes that the invention which is the subject-matter of the application does not comply with all the requirements referred to in paragraph (1) of this Article, it shall notify the applicant thereof and invite him as many times as necessary to file observations thereon and to correct the established deficiencies within the time limit not sooner than two months nor exceeding three months upon receipt of the notification.
 - (5) The notification referred to in paragraph (4) of this Article contains the result of examination with explaining all the reasons for which the patent cannot be granted.
 - (6) Upon the reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (4) of this Article.

Observation by a third party

Article 63

- (1) Upon publication of a patent application, a third party may file observation with the Office on patentability of the invention which is the subject-matter of the application.
- (2) Observation on patentability referred to in paragraph (1) of this Article shall be in writing and accordingly reasoned, and the Office may take them into consideration when examining requirements for the grant of a patent and deliver them to the applicant or the holder of a patent for observations.
- (3) A person referred to in paragraph (1) of this Article shall not be considered a party in the procedure before the Office.

Urgent procedure

Article 64

Upon request of the applicant or the holder of a utility model who can prove the existence of legal interest, the Office shall immediately subject the application to the urgent substantive examination provided that the administrative fee and procedural charges for substantive examination have been paid with filing the request.

Decision on the refusal of a patent

Article 65

The Office shall issue a decision on refusing a patent if it is established during the substantive examination that the application does not comply with all the requirements for the grant of a patent referred to in Article 62 paragraph (1) of this Act.

Decision on the grant of a patent

Article 66

- (1) If the Office establishes that the patent application complies with all the requirements prescribed by this Act, it shall provide the applicant with the final text of the application on the basis of which it intends to grant a patent and it shall invite him to submit written approval concerning the text provided within two months upon receipt of the invitation.
- (2) Before making a decision on the grant of a patent, the Office shall invite the applicant to pay the charges for printing the publication of the information on granting the patent and issuing the patent certificate and patent file within two months upon receipt of the invitation.
- (3) If the applicant pays the charges within the time limit referred to in paragraph (2) of this Article, he shall be considered to approve of the text proposal and the Office shall issue a decision on the grant of a patent according to the final text of the application provided to the applicant within the meaning of paragraph (1) of this Article.
- (4) If the patent applicant submits in time a written declaration to the effect that he does not agree with the proposal referred to in paragraph (1) of this Article, he shall state the reasons for that and concurrently submit an amended text of the claims to the Office.
- (5) If the Office accepts the applicant's reasons and amended claims referred to in paragraph (4) of this Article, it shall issue a decision on the grant of a patent according to the text of the claims proposed by the patent applicant.
- (6) If the Office establishes that the reasons stated by the applicant cannot be accepted, it shall notify the applicant thereof in detail in writing and it shall issue a decision on the grant of a patent according to the final text of the claims as submitted for

approval.

- (7) If the applicant fails to pay the charges referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall issue a decision on rejecting the application for the grant of a patent.

Entry of the granted right

Article 67

The data on the grant of a patent and a utility model shall be entered into the register referred in Article 21 of this Act.

Patent certificate

Article 68

- (1) The holder of a patent shall be issued a patent certificate as soon as possible from the date of the decision on the grant of a patent.
- (2) The Head of the Office shall define by the Regulations in detail the content and the form of the certificate referred to in paragraph (1) of this Article.

Patent specification

Article 69

- (1) The patent specification shall be issued to the holder of a patent as soon as possible from the date of the decision on the grant of a patent.
- (2) The Head of the Office shall define by the Regulations in detail the content and the form of the specification referred to in paragraph (1) of this Article.

Publication of the mention of a patent grant

Article 70

- (1) The mention of the grant of the patent shall be published in the official gazette of the Office.
- (2) The Head of the Office shall define by the Regulations in detail the data to be published in the official gazette of the Office.

PART FIVE

UTILITY MODEL

Requirements and subject-matter of protection

Article 71

- (1) A utility model shall be registered for an invention whose subject-matter of protection is patentable in compliance with Article 6 of this Act.
- (2) A utility model shall not be registered for:
1. an invention in the field of biotechnology;
 2. an invention of chemical or pharmaceutical

substance;

3. an invention where its commercial exploitation would be contrary to public order or morality, where exploitation shall not be considered contrary to public order or morality only because such exploitation is forbidden by law or another regulation; and
4. an invention that refers to a process.

National priority right

Article 72

- (1) Any person who filed a proper patent application shall enjoy priority from the filing date of that application for the purpose of applying for a utility model or converting a patent application into a utility model application, provided that the utility model application for the same invention has been filed with the Office within 12 months upon the filing date of the patent application and that priority has not been already claimed for the patent application the priority of which is intended to be invoked.
- (2) The applicant for a utility model shall file the priority claim referred to in paragraph (1) of this Article not later than within the time limit not exceeding two months from the filing date of that application.
- (3) The provisions referred to in Articles 43 and 44 of this Act concerning international priority shall be applied accordingly to the national priority.

Utility model application

Article 73

- (1) Registration procedure of a utility model shall be initiated by filing a utility model application with the Office.
- (2) The application referred to in paragraph (1) of this Article cannot contain more than ten claims.

Examination of utility model application

Article 74

- (1) In the examination procedure of a utility model application where the filing date has been accorded within the meaning of Article 49 of this Act, the Office shall establish if it complies with the following requirements:
1. if it complies with Article 54 of this Act;
 2. if it is drafted in the manner as prescribed by Article 34, Article 35 paragraphs (1) and (2), Articles 36 to 38, Article 40 and Article 73 paragraph (2) of this Act; and
 3. if the subject-matter of protection is an invention not excluded from protection within the meaning of Article 6 paragraph (2) and Article 71 paragraph (2) of this Act.
- (2) Novelty, inventive step and industrial applicability of the invention shall not be examined in the

- examination procedure of a utility model.
- (3) If the Office establishes during the examination procedure that the application does not comply with all the requirements referred to in paragraph (1) of this Article, it shall notify the applicant thereof and invite him to correct the established deficiencies within the time limit not sooner than two months nor exceeding three months upon receipt of the notification.
 - (4) The notification referred to in paragraph (3) of this Article contains the result of examination with explanations of the reasons for which the utility model cannot be granted.
 - (5) Upon receipt of the notification referred to in paragraph (3) of this Article, the applicant may amend the description, claims and drawings, provided that the amendment is filed together with a response to the result of examination.
 - (6) Upon the reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (3) of this Article.
 - (7) The utility model application shall not be published.

Decision on the refusal of a utility model

Article 75

The Office shall issue a decision on refusing a utility model if it is established during the examination procedure referred to in Article 74 of this Act that the application does not comply with all the requirements for the registration of a utility model.

Decision on the registration of a utility model

Article 76

- (1) If the Office establishes that the utility model application complies with all the requirements referred to in Article 74 paragraph (1) of this Act, it shall notify the applicant of legal consequences of the registration of a utility model and provide him with the proposal of the final text of the application on the basis of which it intends to grant a utility model and it shall invite him to submit written approval concerning the text provided within one month upon receipt of the invitation or to request conversion of a utility model application into a patent application.
- (2) Before making a decision on the registration of a utility model, the Office shall invite the applicant to pay the charges for printing the publication of the information on registering the utility model and issuing the utility model certificate and utility model file within one month upon receipt of the invitation.
- (3) If the applicant pays the charges within the time limit referred to in paragraph (2) of this Article, he shall be considered to approve of the text proposal and the Office shall issue a decision on

the registration of a utility model according to the final text of the utility model application provided to the applicant within the meaning of paragraph (1) of this Article.

- (4) If the utility model applicant submits a written declaration to the Office in time to the effect that he does not agree with the proposal referred to in paragraph (2) of this Article, he shall state the reasons for that and submit an amended text of the claims to the Office.
- (5) If the Office accepts the applicant's reasons and amended claims referred to in paragraph (4) of this Article, it shall issue a decision on the registration of a utility model according to the text of the claims proposed by the applicant.
- (6) If the reasons stated by the applicant cannot be accepted, the Office shall notify the applicant thereof in detail in writing and it shall issue a decision on the registration of a utility model according to the final text of the claims as submitted for approval.
- (7) If the applicant fails to pay the charges referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall issue a decision on rejecting the utility model application.
- (8) The utility model registration data shall be entered into the register referred to in Article 22 of this Act.

Substantive examination of a utility model

Article 77

- (1) Upon request of the holder of a utility model, the Office shall conduct the substantive examination of the subject-matter of protection of a utility model provided that the administrative fee and procedural charges of preparing the search report and conducting substantive examination have been paid.
- (2) The request referred to in paragraph (1) of this Article may be submitted not later than within the time limit not exceeding the seventh year of duration of the utility model and it cannot be withdrawn.
- (3) If the invention which is subject-matter of protection of a utility model complies with the requirements prescribed by Article 62 paragraph (1) items 1 to 3 of this Act, the Office shall issue a decision on the grant of a patent to its holder.
- (4) Provisions referred to in Article 62 paragraphs 2 to 6 and Articles 65 to 70 of this Act shall apply accordingly to the substantive examination of a utility model.
- (5) A utility model not complying with the requirements referred to in Article 62 paragraph (1) items 1 to 3 of this Act shall be declared null and void by the Office ex officio.
- (6) The Office shall enter the data on converting a utility model into a patent or the data on its declaration of nullity into the register referred to

in Article 22 of this Act and it shall publish them in the official gazette of the Office.

- (7) The Head of the Office shall define by the Regulations in detail the data referred to in paragraph (6) of this Article to be published in the official gazette of the Office.

Conversion of an application

Article 78

- (1) The applicant may file a request for conversion of a utility model application into a patent application and vice versa, on which the Office shall issue a corresponding decision.
- (2) The request for conversion of a utility model application into a patent application may be filed until adoption of the decision referred to in Article 75 or Article 76 of this Act provided that the administrative fee and procedural charges have been paid.
- (3) The request for conversion of a patent application into a utility model application may be filed not later than until expiry of six months upon the date of publishing a search report in the official gazette of the Office.
- (4) The converted application shall maintain the filing date of a utility model application or a patent application.

PART SIX

SUPPLEMENTARY PROTECTION CERTIFICATE

Scope

Article 79

- (1) If a basic patent has been granted for a product which is a component part of a medicine intended for humans or animals for which marketing authorisation by a responsible authority is necessary, the Office may grant a supplementary protection certificate for that product in accordance with the requirements, scope and effects provided by the Regulation (EC) No. 469/2009.
- (2) If a basic patent has been granted for a product which is a component part of a plant protection product for which marketing authorisation by a responsible authority is necessary, the Office may grant a supplementary protection certificate for that product in accordance with the requirements, scope and effects provided by the Regulation (EC) No. 1610/1996.
- (3) The supplementary protection certificate referred to in paragraph (1) of this Article may be extended in accordance with Article 13 paragraph (3) of the Regulation (EC) No. 469/2009 and Article 36 of the Regulation (EC) No. 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use.

- (4) The provisions of this Act shall apply mutatis mutandis to particular matters of the procedure relating to Supplementary Protection Certificates, not regulated by the Regulations (EC) No. 469/2009 and No. 1610/1996.

An application for a supplementary protection certificate

Article 80

- (1) An application for a supplementary protection certificate shall be filed with the Office in accordance with the provisions of Article 7 paragraphs (1) and (2) of the Regulation (EC) No. 469/2009 and Article 7 of the Regulation (EC) No. 1610/96.
- (2) In addition to the content prescribed by Article 8 paragraph (1) of the Regulation (EC) No. 469/2009 and Article 8 paragraph (1) of the Regulation (EC) No. 1610/96, an application for a supplementary protection certificate shall also contain the name of the product for which the grant of the certificate has been applied for.
- (3) With an application referred to in paragraph (1) of this Article, the applicant shall pay the administrative fee and procedural charges.
- (4) The Head of the Office shall define by the Regulations the content and the form of the application referred to in paragraph (1) of this Article.

Content of an application for a supplementary protection certificate required for the accordance of the filing date

Article 81

- (1) The accordance of the filing date of the application for a supplementary protection certificate shall require that on that date the application contains at least:
 1. an indication that the supplementary protection certificate is applied for;
 2. data that enable identification of the applicant;
 3. the number of the basic patent and the title of the invention; and
 4. the number and date of the first authorisation to place the product on the market, in accordance with Article 3 item (b) of the Regulation (EC) No. 469/2009 and Article 3 item 1(b) of the Regulation (EC) No. 1610/96, and indication of the number and date of the first authorisation, if the authorisation as filed is not the first authorisation to place the product on the market in the European Union.
- (2) The application with a filing date accorded shall be entered in the register referred to in Article 23 of this Act and it shall be published in the official gazette of the Office in accordance with the provisions of Article 8 paragraph (2) of the

Regulation (EC) No. 469/2009 and Article 9 paragraph (2) of the Regulation (EC) No. 1610/96.

- (3) The Head of the Office shall define by the Regulations the content of the information referred to in paragraph (2) of this Article to be published.

Examination of the application for the supplementary protection certificate

Article 82

- (1) In the examination procedure carried out upon the application for a certificate, the Office shall establish:
1. whether the application complies with the requirements for the accordance of the filing date referred to in Article 81 of this Act;
 2. whether the administrative fee and procedural charges for filing the application have been paid;
 3. whether Croatian translations of supporting documents have been filed;
 4. whether the applicant referred to in Article 17 paragraph (1) of this Act is represented by a representative; and
 5. whether a proper power of attorney for representation has been submitted if the application is filed through a representative.
- (2) If the application fails to comply with the requirements referred to in paragraph (1) of this Article, the Office shall order the applicant by a conclusion to correct the deficiencies as indicated in it within two months upon its receipt, i.e. to pay the administrative fee and procedural charges.
- (3) If the applicant acts in accordance with the conclusion within the time limit referred to in paragraph (2) of this Article, the Office shall inform him that the date of receipt of the required corrections shall be accorded as the filing date of the correct application for a certificate.
- (4) If the applicant fails to comply with the conclusion of the Office within the time limit referred to in paragraph (2) of this Article, the application shall be rejected by a decision.
- (5) Upon a reasoned request of the applicant, the Office may extend the time limits referred to in this Article for a period it considers to be justified, but which shall not exceed 2 months.

A decision on an application for a supplementary protection certificate

Article 83

- (1) If, in the further course of the examination procedure, it has been established that the application complies with all the requirements prescribed by the Regulations (EC) No. 469/2009 and No. 1610/96, and the requirements prescribed by this Act, the Office shall issue a decision on the grant of a supplementary protection certificate,

also specifying the duration of the certificate.

- (2) If in the examination procedure it has been established that the application fails to comply with the requirements referred to in paragraph (1) of this Article, the Office shall issue a decision on the refusal of the application for a supplementary protection certificate.
- (3) The indications concerning the grant of a supplementary protection certificate as well as indications concerning its refusal or rejection shall be published in the official gazette of the Office in accordance with the provisions referred to in Article 11 of the Regulation (EC) No. 469/2009 and Article 11 of the Regulation (EC) No. 1610/96.
- (4) The Head of the Office shall define by the Regulations the content of the indications referred to in paragraph (3) of this Article to be published.

A request for an extension of the duration of a supplementary protection certificate

Article 84

- (1) A request for an extension of the duration of a supplementary protection certificate shall be filed with the Office in accordance with the provisions referred to in Article 7 paragraphs (3) to (5) of the Regulation (EC) No. 469/2009.
- (2) For the request referred to in paragraph (1) of this Article the applicant shall pay the administrative fee and procedural charges.
- (3) The request referred to in paragraph (1) of this Article shall be filed on the form the content and the layout of which shall be defined in more detail in the Regulations by the Head of the Office.

Examination of a request for an extension of the duration of a certificate

Article 85

- (1) In the examination procedure of a request for an extension of the duration of a supplementary protection certificate, the Office shall inspect if the request complies with all the requirements prescribed by the Regulation (EC) No. 469/2009.
- (2) The provisions referred to in Article 82 of this Act shall apply mutatis mutandis to the examination procedure of the request for an extension of the duration of a certificate.

A decision on a request for an extension of the duration of a supplementary protection certificate

Article 86

- (1) If, in the course of the examination procedure concerning a request for an extension of the duration of a supplementary protection certificate it has been established that the request complies with all the requirements prescribed by the Regulation (EC) No. 469/2009 and the requirements prescribed by this Act, the Office

shall issue a decision on the extension of a certificate, also specifying its duration.

- (2) If a request for an extension of a supplementary protection certificate has been filed simultaneously with an application for a supplementary protection certificate or in the course of the certificate granting procedure, the Office shall decide on the request for an extension by a decision concerning an application for a supplementary protection certificate.
- (3) If a request for an extension of an already granted certificate has been filed, and the procedure for the declaration of invalidity of the certificate or for the lapse thereof have been initiated, the Office shall suspend the procedure until a decision on the proposal for the declaration of invalidity of a supplementary protection certificate, or a decision on the lapse thereof respectively, becomes final.
- (4) The provisions referred to in Article 83 of this Act shall apply mutatis mutandis to the procedure of issuing a decision on the request for an extension of the duration of a supplementary protection certificate.

PART SEVEN

DURATION, MAINTENANCE AND CESSATION OF EFFECT OF A PATENT

1. DURATION AND MAINTENANCE OF A PATENT

Term of a patent

Article 87

- (1) The term of a patent shall be 20 years from the filing date of the application.
- (2) The term of a utility model shall be ten years from the filing date of the application.

Maintenance of a patent and a utility model

Article 88

- (1) The maintenance of a patent and a utility model shall be subject to payment of the annual charges in compliance with special regulations.
- (2) The annual charges referred to in paragraph (1) of this Article may be paid by any person.
- (3) The annual charges referred to in paragraph (1) of this Article shall be payable for the third and every subsequent year, counting from the filing date of an application.
- (4) The annual maintenance charges for an original application due on the filing date of a divisional application shall also be payable for the divisional application when filing it.
- (5) If not paid in compliance with paragraph (3) or paragraph (4) of this Article, the maintenance

charges may be paid in the grace period of six months, provided that maintenance surcharges are also paid.

- (6) The Office shall inform the applicant, the patent holder or the holder of a utility model of non-payment of the annual maintenance charges and of the consequences thereof, and of the possibility of payment according to paragraph (5) of this Article.

Maintenance of a supplementary protection certificate

Article 89

- (1) The annual charges for the maintenance of the supplementary protection certificate shall be paid to the Office for each year of its duration.
- (2) The annual charges referred to in paragraph (1) of this Article shall cover a twelve-month period, starting from the date of expiration of the basic patent and shall be paid for each year separately.
- (3) If the last period of the duration of the certificate is shorter than 12 months, the annual charges shall be paid in advance in the amount which is proportionate to the duration of the certificate, together with the payment of the total amount of the annual charges for the last complete year.
- (4) If the annual charges are not paid in accordance with paragraphs (2) and (3) of this Article, they may be paid in the grace period of six months, provided that the maintenance surcharges are also paid.
- (5) The annual charges referred to in this Article may be paid by any person.
- (6) The Office shall inform the holder of the failure to pay the annual charges for the maintenance of the certificate and of the consequences of the failure to pay them, as well as of the payment possibility referred to in paragraph (4) of this Article.

2. LAPSE OF A PATENT

Lapse of a patent and a utility model due to the non-payment of maintenance charges

Article 90

- (1) If the applicant or the patent holder or the holder of a utility model fails to pay the prescribed maintenance charges, the patent shall lapse on the day following the day on which the time limit for the payment referred to in Article 88 paragraph (3) of this Act has expired.
- (2) The information on the lapse of a patent shall be published in the official gazette of the Office.

Termination of a patent due to the surrender thereof

Article 91

- (1) The patent or the utility model holder may surrender a patent completely or in part by a written declaration concerning the surrender thereof.
- (2) The declaration of surrender shall take effect on the day following its filing with the Office.
- (3) If a particular right on behalf of third persons has been entered into the register, the patent or the utility model holder shall file a certified written consent of those persons with the Office together with the declaration referred to in paragraph (1) of this Article.
- (4) The information on surrender shall be published in the official gazette of the Office.

Death or end of existence of a patent holder

Article 92

- (1) A patent or a utility model shall be terminated on the day of the patent holder's death, or on the day of the loss of the capacity of the legal person respectively, unless it is transferred to heirs or successors in title.
- (2) The provisions referred to in this Article shall be applied mutatis mutandis to the applicant of a patent.

PART EIGHT

EFFECTS OF A PATENT

1. ACQUISITION AND EFFECTS OF A PATENT

Exclusive rights acquired by a patent

Article 93

- (1) The holder of a patent shall acquire exclusive rights conferred by a patent on the date of publishing the information on its grant.
- (2) Any other person not having the patent holder's consent shall be prohibited from:
 1. making, offering for sale, selling or using, importing and stocking for such purposes, the product which is a subject matter of a patent;
 2. using or offering the use of the process which is the subject matter of the patent, if another person was or must have been acquainted with the fact that the process is prohibited from implementing without the patent holder's consent; and/or
 3. offering for sale, selling, using, importing or stocking for such purposes, the product which is obtained directly from a process which is the subject-matter of the patent.

- (3) Any other person not having the patent holder's consent shall be also prohibited from offering and supplying the product constituting an essential element of the invention, to persons not entitled to exploit the said invention, if the offeror or supplier knows or should have known from the circumstances of the case that such product is intended for putting the invention of another person into function.
- (4) The provisions referred to in paragraph (3) of this Article shall not apply if the offered or supplied product is a staple commercial product, except where the supplier or offeror induces other persons to commit acts referred to in paragraph (2) of this Article.

Exclusive rights related to patents in the field of biotechnology

Article 94

- (1) If a biological material possessing specific characteristics as the result of the invention is protected by a patent, the exclusive rights referred to in Article 93, paragraphs (2) and (3) of this Act shall extend to any biological material derived from that biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.
- (2) If a process that enables a biological material to be produced possessing specific characteristics as a result of the invention is protected by a patent, the exclusive rights referred to in Article 93, paragraphs (2) and (3) of this Act shall extend to biological material directly obtained through that process and to any other biological material derived from the directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.
- (3) If a product containing or consisting of genetic information is protected by a patent, the exclusive rights referred to in Article 93, paragraphs (2) and (3) of this Act shall extend to all material, with the exception of the material referred to in Article 9 paragraph (1) of this Act, including the product and the material in which the genetic information is contained and performs its function.

Rights conferred by a patent application

Article 95

- (1) By publication of the patent application, the patent applicant shall acquire provisional rights on the basis of which compensation for damages may be claimed from any third party which has exploited the invention within the period from the date of publication of the patent application and the date of publication of a mention of the grant of the patent contrary to Articles 93 and 94 of this Act.

- (2) The patent application shall not have the effects set out in paragraph (1) of this Article when it has been suspended, rejected or refused.

Scope of the exclusive rights

Article 96

- (1) The scope of the patent holder's exclusive rights shall be determined by the claims which are finally accepted in the patent granting procedure, whereas the description and drawings shall serve to interpret the claims.
- (2) Where the subject matter of the patent is a process, the rights conferred by such patent shall also extend to the product directly obtained by that process.
- (3) The terms of the claims shall not be confined to their strict literal wording, nor shall the description and drawings be taken into account only for the purpose of clarifying vagueness in the claims. The claims shall neither be taken as guidelines indicating that the scope of the exclusive rights may extend to the matter which a person skilled in the art might take as the intended scope of protection on the basis of description and drawings.

Scope of protection from a published application

Article 97

- (1) In the period until a patent has been granted, the scope of protection shall be determined by claims from a published patent application.
- (2) The rights referred to in paragraph (1) of this Article shall be retroactively determined by claims of the patent eventually granted, or amended in the annulment procedure, provided that the scope of protection is thus not extended.

2. LIMITATION OF THE EFFECT OF A PATENT

Exceptions from the exclusive rights

Article 98

The patent holder's exclusive right of exploitation of the invention shall not apply to:

1. acts in which the invention is exploited for private and non-commercial purposes;
2. acts done for the purposes of research and development and for experiments relating to the subject-matter of a patent or a supplementary protection certificate, including where such acts are necessary for obtaining authorisation for putting on the market a product comprising a medicine intended for people and/or animals; and/or
3. direct and individual preparation of a medicine in a pharmacy on the basis of an individual medical prescription and acts relating to the

medicine so prepared.

Limitation of effects in respect of patents in the field of biotechnology

Article 99

- (1) The exclusive rights deriving from the provision set out in Article 94 of this Act shall not extend to biological material obtained from the propagation or multiplication of biological material placed on the market in the territory of the Republic of Croatia, or a Member State of the European Union or a Contracting Party to the European Economic Area Agreement, by the holder of the patent or with his consent, where the multiplication or propagation necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.
- (2) By way of derogation from Article 94 of this Act, the sale or other form of commercialisation of plant propagating material to a farmer by the holder of the patent or with his consent for agricultural use implies authorisation for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm.
- (3) By way of derogation from Article 94 of this Act, the sale or any other form of commercialisation of breeding stock or other animal reproductive material to a farmer by the holder of the patent or with his consent implies authorisation for the farmer to use the protected livestock for agricultural purposes, including making the animal or other animal reproductive material available for the purposes of pursuing his agricultural activity but not for sale within the framework or for the purpose of a commercial reproduction activity.

Right of earlier date

Article 100

- (1) A patent shall not take effect against a person who used or made a product which is the subject matter of an invention or who made effective and serious preparations for such exploitation of the invention, in good faith, in the Republic of Croatia and within his economic activities, before the filing date of the patent application or before the date of granted priority.
- (2) The person referred to in paragraph (1) of this Article shall have the right to continue exploiting the invention within the scope he exploited it or prepared its exploitation until the filing date of the patent application for the related invention.
- (3) The right referred to in paragraph (2) of this Article may only be transferred or inherited with the process of work and a manufacturing site where exploitation of the invention was prepared or started.

Limitation of rights for undisturbed
international traffic

Article 101

- (1) The use of products made according to a protected invention in a vessel belonging to a Member State of the Paris Union or the WTO, in a hull, machines, equipment, devices or other accessories, shall not be considered a patent infringement where such vessel finds itself temporarily or accidentally in the territorial waters of the Republic of Croatia, provided that the built-in product serves exclusively for the purposes of the said vessel.
- (2) The use of products made according to a protected invention in the construction or operation of an aircraft, a land vehicle or other transport means belonging to a Member State of the Paris Union or the WTO shall not be considered a patent infringement where such transport means finds itself temporarily or accidentally in the territory of the Republic of Croatia, provided that the built-in product serves exclusively for the purposes of the said transport means.

Exhaustion of the patent holder's exclusive rights

Article 102

- (1) The exclusive rights conferred by a patent shall not extend to a product which is a subject matter of the patent after such product has been put on the market in the territory of a Member State of the European Union or a Contracting State of the European Economic Area Agreement by the holder of a patent or with his consent.
- (2) The provision referred to in paragraph (1) of this Article shall not apply if there are legitimate grounds for the holder of a patent to prohibit further commercialisation of the product.
- (3) The provisions referred to in paragraph (1) of this Article shall also apply to the exclusive rights acquired by a supplementary protection certificate.

3. COMPULSORY LICENSES

Compulsory license granting competence and
procedure

Article 103

- (1) The Commercial Court in Zagreb shall be the competent court for granting a compulsory license.
- (2) Compulsory license granting procedure shall be initiated by bringing an action against the patent or the supplementary protection certificate holder.
- (3) The action referred to in paragraph (2) of this Article contains a request for the grant of a compulsory license, and it cannot be brought

before expiry of a four-year period from the filing date of a patent application or before expiry of a three-year period from the patent granting date.

- (4) The claimant shall provide all facts in the action and propose all pieces of evidence which his request is based on.
- (5) Decisions of the court in compulsory license granting procedures may be appealed in accordance with the provisions of general regulations governing civil procedure.
- (6) General regulations governing civil procedure shall be applied to particular matters of the compulsory license granting procedure not regulated by this Act.

Compulsory licenses

Article 104

- (1) The court referred to in Article 103 paragraph (1) of this Act may allow any person to exploit the subject matter of a patent without consent of the holder of a patent by granting a compulsory license in cases where the holder of a patent does not at all or insufficiently exploit the subject matter of a patent in the territory of the Republic of Croatia or has not made effective and serious preparations for its exploitation.
- (2) A compulsory license cannot be granted if the holder of a patent provides legitimate reasons to justify non-exploitation or insufficient exploitation of the protected invention.
- (3) The court referred to in Article 103 paragraph (1) may grant a compulsory license in relation to the subject matter of the first patent to the holder of a patent who cannot exploit the subject matter of his patent (second patent) without infringing the first patent, on the following conditions:
 1. the subject matter of the second patent involves an important technical advance of considerable economic significance in relation to the subject matter of protection of the first patent;
 2. the holder of the first patent shall be entitled, on reasonable terms, to a cross compulsory license to use the subject matter of the second patent; and
 3. granted license may be transferred exclusively with a transfer of the second patent.
- (4) The provisions referred to in paragraph (3) of this Article shall apply mutatis mutandis in the case where a breeder cannot exercise the right to a protected plant variety without infringing the patent protecting an invention in the field of biotechnology or where the holder of a patent cannot exploit the invention protected by a patent in the field of biotechnology without infringing the breeder's right to a protected plant variety.
- (5) The court referred to in Article 103 paragraph (1) of this Act may grant a compulsory license if

the exploitation of the subject matter of a patent is necessary in situations of extreme urgency on a national level, in particular for national security, public interest protection in the field of health, food supply, environmental protection and improvement, specific commercial interest or when it is necessary to remedy a practice determined by a judicial or administrative process to be anti-competitive.

- (6) In the case of semi-conductor technology, a compulsory license may be granted only in the cases set out in paragraph (5) of this Article.
- (7) A compulsory license shall be transferred only with the production plant or the part thereof respectively, in which the invention it is granted for has been exploited.
- (8) A compulsory license according to paragraphs (3) and (4) of this Article shall be non-transferable except together with a transfer of the second patent or a protected plant variety.

Conditions applicable to the grant of a compulsory license

Article 105

- (1) A compulsory license may be granted only if the person filing the request has made efforts to obtain authorisation from the holder of a patent to exploit a protected invention on reasonable commercial terms and conditions and if such efforts have not been successful within a reasonable period of time.
- (2) The court referred to in Article 103 paragraph (1) of this Act may derogate from these conditions in the situations set out in Article 104 paragraph (5) of this Act.
- (3) The right holder shall be informed of the granting of a compulsory license as soon as possible.
- (4) A compulsory license cannot be exclusive, and its scope and duration shall be exclusively limited to the purpose for which it was granted.
- (5) A compulsory license shall be granted predominantly for the purposes of supplying the domestic market unless it is necessary to correct a practice determined by judicial or administrative process to be anti-competitive.
- (6) Upon reasoned request by an interested person, subject to adequate protection of the legitimate interests of the licensees, the court referred to in Article 103 paragraph (1) of this Act shall cancel a compulsory license, if and when the circumstances which led to its authorisation cease to exist and are unlikely to recur.
- (7) The holder of a patent has the right to remuneration from a licensee, taking into account the economic value of the license and need to correct anti-competitive practice that can be established by agreement or a decision by the court referred to in Article 103 paragraph (1) of this Act.

Compulsory licenses relating to public health problems

Article 106

- (1) The court referred to in Article 103 paragraph (1) of this Act may grant a compulsory license required for the manufacture and sale of a pharmaceutical product which is the subject matter of a patent or a supplementary protection certificate in cases and subject to conditions prescribed by the Regulation (EC) No. 816/2006 to any person bringing an action, when such product is intended for export to importing countries having public health problems.
- (2) With an application for the grant of a compulsory license referred to in paragraph (1) of this Article, the applicant shall communicate the number of the granted patent or the supplementary protection certificate for the invention which is the subject matter of the compulsory license, and the website address referred to in Article 10 item 6 of the Regulation (EC) No. 816/2006.
- (3) The provisions of the Civil Procedure Act and the provisions of this Act relating to compulsory licenses shall apply mutatis mutandis to particular matters relating to the procedure for the grant of a compulsory license, not regulated by the Regulation (EC) No. 816/2006.
- (4) The court referred to in paragraph (1) of this Article shall notify the Council for Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization (the Council for TRIPS through the intermediary of the Office or the European Commission of its final decisions relating to the grant of a compulsory license, the conditions under which it was granted, as well as of its termination and review, indicating the data prescribed by Article 12 of the Regulation (EC) No. 816/2006. A copy of this notification shall be communicated by the Office to customs authorities and to the authority competent for medicines and medicinal products in the Republic of Croatia.

PART NINE

TRANSFER OF RIGHTS

Transfer of rights

Article 107

- (1) A patent may be the subject of a transfer, complete or in part.
- (2) The contract on the transfer of a patent shall be concluded under the conditions and in a manner as prescribed by the provisions of general regulations governing obligatory relations.
- (3) The contract on the transfer of a joint patent shall require the consent of all the holders thereof.

- (4) The provisions of this Article shall also apply *mutatis mutandis* to the transfer of the right conferred by a patent application, utility model and supplementary protection certificate.
- (5) The transfer of rights shall take effect against third parties from the date of being entered in an appropriate register referred to in Article 20 of this Act.

License

Article 108

- (1) The right to exploit the invention protected by a patent shall be assigned by a license contract.
- (2) The license may be exclusive or non-exclusive.
- (3) The license contract shall be concluded in writing, under the conditions and in a manner as prescribed by the provisions of general regulations governing obligatory relations.
- (4) The conclusion of the license contract on a joint patent shall require the consent of all the holders thereof.
- (5) The provisions of this Article shall also apply *mutatis mutandis* to the rights conferred by a patent application, utility model and supplementary protection certificate.
- (6) A license shall have effect against third persons from the date of its entry in the register.

Entry of transfer of rights and of a license into a register

Article 109

- (1) Upon request of a holder of a patent or a person who acquires a patent, or any of the parties, the Office shall enter the changes on a patent concerning the transfer of rights and license referred to in Articles 107 and 108 of this Act into an appropriate register referred to in Article 20 of this Act provided that:
 - 1. the administrative fee and procedural charges are paid;
 - 2. a contract or a deed to prove legal basis of the change requested to be entered is submitted, translated into Croatian; and
 - 3. a proper power of attorney is submitted, if the procedure for the entry is initiated through a representative, and if the information on the holder of a patent is changed with entering the transfer of rights.
- (2) The original or a certified copy of the contract or the deed referred to in paragraph (1) item 2 of this Article shall be submitted completely or in part clearly showing the change was made.
- (3) If entering of the transfer of rights into the register results in changing the information on the holder of a patent who shall be represented by a representative within the meaning of Article 17 paragraph (1) of this Act, a power of attorney shall

be submitted for a new holder of a patent.

- (4) If the requirements for entering the changes on a patent prescribed by this Article are not fulfilled, the Office shall invite the applicant by a conclusion to remedy the deficiencies within two months upon receipt of the conclusion.
- (5) If a deficiency is not remedied within the prescribed time limit, the Office shall issue a corresponding decision on the request.
- (6) If the requirements referred to in this Article are fulfilled, the Office shall issue a decision on entering the changes into a register and publish the change in the official gazette of the Office.
- (7) The request referred to in paragraph (1) of this Article shall be filed via the form the content and the layout of which, as well as the information to be published in the official gazette of the Office shall be defined by the Head of the Office in the Regulations.

Entry of rights in rem

Article 110

- (1) A patent may be the subject of a lien or other rights in rem.
- (2) Upon request of one of the parties, the rights referred to in paragraph (1) of this Article shall be entered in a corresponding register referred to in Article 20 of this Act, and they shall have effect against third parties as of the date of their entry in the register.
- (3) The provisions of this Article shall also apply *mutatis mutandis* to the rights conferred by a patent application, utility model and supplementary protection certificate.

Entry of bankruptcy and pre-bankruptcy proceedings

Article 111

Where a patent application, a patent, a utility model or a supplementary protection certificate forms part of a bankruptcy estate, the information on the institution of the bankruptcy or pre-bankruptcy proceedings shall be entered in a corresponding register referred to in Article 20 of this Act pursuant to special regulations, on the basis of a notification by a competent authority or upon request of the bankruptcy estate manager.

PART TEN

NULLITY

Reasons for the declaration of nullity of a patent

Article 112

A patent may be declared null and void in part or completely at any time, on the proposal of any

legal or natural person or a State Attorney or ex officio, if the patent has been granted:

1. for the subject matter which may not be protected by a patent within the meaning of Article 6, paragraph (2) and Articles 8 and 9 of this Act;
2. for an invention which was not new within the meaning of Article 10 or did not include an inventive step within the meaning of Article 12 or for an invention which is not industrially applicable within the meaning of Article 13 of this Act on the filing date of the patent application or on the date of the granted priority respectively;
3. for an invention which is not disclosed in a manner sufficiently clear and detailed for it to be carried out by a person skilled in the art;
4. for the subject-matter extending beyond the content of the patent application as filed or, if the patent was granted on a divisional application beyond the content of the original application as filed; and
5. on behalf of a person not entitled to the patent protection for the invention.

Proposal for the declaration of nullity of a patent

Article 113

- (1) The procedure concerning the declaration of nullity of a patent shall begin by filing a written proposal with the Office.
- (2) The applicant shall pay the administrative fee and procedural charges concerning the proposal referred to in paragraph (1) of this Article.
- (3) The proposal referred to in paragraph (1) of this Article shall contain the indication requesting a patent to be declared null and void, the data concerning the applicant, the holder of the patent, the number of the patent, the power of attorney if the procedure for entry is initiated through a representative, the reasons for the proposal of the declaration of nullity of the patent supported by necessary facts and evidence.
- (4) The provisions of this Act referring to the procedure concerning the proposal to declare a patent null and void shall apply *mutatis mutandis* to the declaration of nullity of a utility model and to the declaration of nullity of a supplementary protection certificate.

Examination of the proposal for the declaration of nullity of a patent

Article 114

- (1) If the Office establishes in the examination procedure concerning the proposal for the declaration of nullity of a patent that it is not drafted in compliance with the provision referred to in Article 113 of this Act, the Office shall order

the applicant by a conclusion to correct the deficiencies within two months upon receipt of the conclusion.

- (2) If the applicant does not correct the proposal within the time limit specified in paragraph (1) of this Article, the Office shall reject the proposal by a decision.
- (3) Upon a reasoned request, the Office may extend the time limits referred to in this Article for a period it considers to be justified, but which shall not exceed two months.

Procedure for the declaration of nullity of a patent

Article 115

- (1) The Office shall communicate the correct proposal for the declaration of nullity of a patent referred to in Article 113 of this Act to the holder of a patent and shall invite him to submit his response within a period which shall not be less than one month nor exceeding two months upon receipt of the conclusion and to amend, where applicable, a description, claims and drawings.
- (2) In the course of the procedure concerning the declaration of nullity of a patent, the Office shall invite the parties as many times as necessary to submit their comments on the submissions of the other party within the period referred to in Article 114 paragraph (1), and all invitations and responses thereto shall be communicated to all parties in the procedure.
- (3) In the procedure concerning the declaration of nullity of a patent, the Office shall examine the reasons stated by the applicant within the meaning of Article 113 paragraph (3) of this Act, but it may also examine other reasons *ex officio* not invoked by the applicant if such reasons would put patent maintenance into question.
- (4) If the Office establishes in the course of the procedure that the proposal is unfounded, it shall issue a decision on refusing the proposal for the declaration of nullity of a patent.
- (5) If the Office establishes that there is but one reason referred to in Article 112 of this Act, the Office shall issue a decision on declaring a patent null and void.
- (6) If the Office establishes that a patent is to be maintained valid but amended, it shall first notify the parties in the procedure thereon and invite them to submit their reasoned observations on the content of claims on the basis of which it intends to maintain the patent valid within a period referred to in paragraph (1) of this Article, if they disapprove of it. If the parties disapprove of such text, the Office may continue the procedure for the declaration of nullity of a patent.
- (7) If the parties approve of the text on the basis of which the Office intends to maintain the patent valid or if they fail to reply to the invitation referred to in paragraph (6) of this Article, the Office shall

issue a decision on partial declaration of nullity of a patent maintaining an amended patent, provided that the holder of a patent of the patent pays the administrative fee and procedural charges for printing a new patent specification within two months upon receipt of the conclusion.

- (8) If the holder of a patent fails to pay the fee and procedural charges referred to in paragraph (7) of this Article, the Office shall declare the patent null and void within the limits of the proposal referred to in Article 113 paragraph (3) of this Act.
- (9) Upon a reasoned request by the applicant, the Office may extend the time limits referred to in paragraph (1) of this Article for a period it considers to be justified, but which shall not exceed two months.
- (10) The Office may hold oral proceedings, if it considers it necessary in order to establish the facts essential for its decision.

Procedure for the declaration of nullity of a supplementary protection certificate

Article 116

The Office may initiate the procedure ex officio to declare a supplementary protection certificate null and void pursuant to Article 15 paragraph (1) items (b) and (c) of the Regulation (EC) No. 469/2009 and the Regulation (EC) No. 1610/96.

Declaration of nullity ex officio

Article 117.

- (1) If the applicant of the proposal for the declaration of nullity withdraws the proposal in the course of the procedure, the Office may continue the procedure ex officio.
- (2) The provision referred to in paragraph (1) of this Article applies mutatis mutandis where the holder of a patent has surrendered the patent or the patent has lapsed.

Effect of a decision concerning the declaration of nullity of a patent

Article 118

The patent application and the patent granted thereon shall not have ab initio the effects specified in Articles 93 to 95 of this Act, to the extent that the patent has been declared null and void.

Publication and issuing an amended patent specification

Article 119

- (1) The Office shall enter the information on declaring a patent null and void in a register referred to in Article 21 of this Act and publish it in the official gazette of the Office upon a decision referred to

in Article 115 paragraph (5) of this Act becoming final.

- (2) If a patent is maintained as amended, the Office shall publish a new patent specification together with issuing a decision referred to in Article 115 paragraph (7) of this Act.
- (3) The Head of the Office shall define by the Regulations the content of the information referred to in paragraph (1) of this Article to be published in the official gazette of the Office.

Deciding on costs of the parties in proceeding with two or more parties

Article 120

- (1) Any party in the procedure concerning a proposal for the declaration of nullity of a patent shall bear his costs in case of completing the procedure:
 1. by rejecting the proposal for the declaration of nullity of a patent;
 2. by suspending the procedure concerning the proposal; or
 3. by partial adoption of the party's request.
- (2) If the procedure concerning the proposal referred to in Article 113 of this Act is completed by a decision on declaring a patent null and void or on rejecting the proposal for the declaration of nullity of patent, procedural costs shall be borne by the party who received an unfavourable court decision.
- (3) The procedural costs shall be decided upon by a decision completing the procedure.

PART ELEVEN

EUROPEAN PATENT APPLICATION AND EUROPEAN PATENT

Filing a European patent application

Article 121

- (1) The European patent application may be filed with the Office in any of the languages referred to in Article 14, paragraphs 1 and 2 of the EPC in one copy directly, by post or electronically, in accordance with the provisions of the EPC and the related implementing regulations.
- (2) A European divisional patent application shall be filed directly with the EPO.
- (3) The application referred to in paragraph (1) of this Article relating to an invention of possible interest for defence affairs of the Republic of Croatia shall not be transmitted to the EPO and it shall be subject to the rules regulating treatment of patent granting procedures for inventions of interest to the affairs of defence.

Fees and procedural charges for European patent applications

Article 122

The fees and procedural charges payable in respect of European patent applications shall be paid in accordance with the provisions of the EPC and the related implementing regulations.

Effects of European patent applications

Article 123

- (1) A European patent application claiming protection of an invention designating the Republic of Croatia and which has been accorded a filing date shall be equivalent to a national patent application, with the priority claimed for the European patent application, where granted, whatever its outcome may be.
- (2) A published European patent application filed for protection of an invention designating the Republic of Croatia shall provisionally confer protection as conferred by a published national patent application under Article 95 of this Act, from the date on which the applicant has communicated a translation of the claims of a published European patent application into Croatian to the person using the invention in the Republic of Croatia.
- (3) The European patent application shall be deemed not to have had ab initio the effects referred to in paragraph (2) of this Article, if it has been withdrawn, deemed to be withdrawn, finally refused or if the designation of the Republic of Croatia has been withdrawn or is deemed withdrawn.

Effects of European patents

Article 124

- (1) A European patent claiming protection of an invention designating the Republic of Croatia shall, subject to the conditions laid down in paragraphs (2) to (5) of this Article, confer from the date of publication of the mention of its grant by the EPO the same rights as would be conferred by a national patent granted under this Act.
- (2) The Office shall issue a decision on the entry of a European patent in the Register of Patents referred to in Article 21 of this Act provided that the European patent owner pays within three months upon the date of publishing the grant by the EPO the administrative fee for the request for entry and the procedural charges for publication and printing of translation of European claims into Croatian in accordance with a special regulation and files the following documents with the Office:
 1. a request for entry of the European patent into the Register of Patents on a prescribed form;
 2. a patent specification of the European

patent in English, or a translation of such specification into English unless the language of the proceedings was English;

3. a translation of the claims into Croatian; and
 4. payment evidence of the administrative fee for the request for entry and the procedural charges for publication and printing of translations of the claims of the European patent into Croatian in accordance with a special regulation.
- (3) If, as a result of an opposition filed with the EPO, the European patent is maintained with the amended claims, or is limited by the amendment of the claims as a result of a request for limitation, the owner of the European patent shall furnish the Office with a translation of the amended claims into Croatian and English, and shall pay the procedural charges for publication and printing of translations of amended claims of the European patent into Croatian, within 3 months from the date of publication of the EPO decision concerned, in accordance with a special regulation.
 - (4) The Office shall publish as soon as possible the mention of any translation duly filed under paragraph (2) or (3) of this Article in its official gazette.
 - (5) If the request and the translations referred to in paragraphs (2) and (3) of this Article are not filed in the prescribed time-limit or the prescribed administrative fee and procedural charges for publication are not paid within the same time-limit, the European patent shall be deemed to be void ab initio for the Republic of Croatia or shall be deemed that the European patent application and the patent conferred on it have not, ab initio, produced the effects referred to in paragraph (1) of this Article and Article 123 of this Act, to the extent that the patent has been revoked or limited in the opposition proceedings, limitation proceedings or revocation proceedings before the EPO.
 - (6) The Head of the Office shall define by the Regulations the content of the form referred to in paragraph (2) item 1 of this Article and the content of the information referred to in paragraph (4) of this Article to be published in the official gazette of the Office.

Authentic text of European patent applications and European patents

Article 125

- (1) The text of a European patent application or a European patent established in the language of the proceedings before the EPO shall be the authentic text in any proceedings in the Republic of Croatia.
- (2) Where the translation referred to in Article 123 paragraph (2) or Article 124 of this Act confers protection narrower than that conferred by a European patent application or a European

patent, such translation shall be regarded as authentic, except in the procedures concerning the declaration of a patent null and void.

- (3) An applicant for or the owner of a European patent may file a corrected translation referred to in Article 123 paragraph (2) or Article 124 of this Act at any time.
- (4) The corrected translation of the claims of a published European patent application referred to in Article 123 paragraph (2) of this Act shall not have any legal effects in the Republic of Croatia until it has been communicated to the person using the invention in the Republic of Croatia.
- (5) The corrected translation of claims referred to in Article 124 of this Act designating the Republic of Croatia shall not have any legal effect, until the Office has published the mention of the correction, as soon as possible after payment of the procedural charges prescribed for the publication.
- (6) Any person who, in good faith, uses or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of a European patent application or a European patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

Rights of earlier date

Article 126

- (1) In the Republic of Croatia, a European patent application and a European patent designating the Republic of Croatia shall have, with regard to a national patent application and a national patent, the same state of the art effect as a national patent application and a national patent.
- (2) In the Republic of Croatia, a national patent application and a national patent shall have, with regard to a European patent designating the Republic of Croatia, the same state of the art effect as they have with regard to a national patent.

Simultaneous protection

Article 127

Where a European patent designating the Republic of Croatia and a national patent having the same filing date or, where priority has been claimed, the same priority date, has been granted to the same person or his successor in title, the national patent shall have no effect to the extent that it covers the same invention as the European patent designating the Republic of Croatia from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed, or from the date on which the opposition procedure has resulted in a final decision maintaining the

European patent.

Conversion into a national patent application

Article 128

- (1) The Office shall carry out a procedure for the grant of a national patent upon the request of an applicant for a European patent in the following cases:
 1. where the European patent application is deemed to be withdrawn under Article 77, paragraph (3) of the EPC; or
 2. where the translation of a European patent application referred to in Article 14 paragraph 2 of the EPC has not been filed in due time in accordance with the provision of Article and Article 90, paragraph (3) of the EPC.
- (2) In the case referred to in paragraph (1) item 1 of this Article, a request for conversion of a European patent application into a national patent application shall be filed with the Office. The Office shall, subject to the provisions on national security, transmit the request directly to the central industrial property offices of the Contracting States specified therein.
- (3) In the cases referred to in paragraph (1) item 2 of this Article, a request for conversion of a European patent application into a national patent application shall be filed with the EPO, which shall transmit it to the Office, if the Republic of Croatia is specified therein.
- (4) A request for conversion of a European patent application into a national patent application shall be filed within the time limit prescribed by the EPC, and the effects of the European patent application referred to in Article 123 of this Act shall lapse if the request for conversion is not filed in due time.
- (5) Within two months upon receipt date of the request for conversion of a European patent application to a national patent application, the applicant shall pay the prescribed administrative fee and procedural charges for filing an application in accordance with special regulations, and shall file with the Office the translation of the original text of the European patent application into Croatian.
- (6) If the administrative fee and procedural charges have not been paid in due time, or if the translation of the original text of the European patent application into Croatian is not filed in due time, the request for conversion shall be deemed not to be filed, concerning which the Office shall issue a corresponding decision.
- (7) The mention of conversion shall be published in the official gazette of the Office, and the Head of the Office shall define by the Regulations the content of the publication of this information.

Renewal fees for European patents

Article 129

- (1) Renewal fees for European patents shall be paid to the Office for the years following the year in which the mention of the grant of the European patent was published in accordance with special regulations, whereby Article 141 paragraph (2) of the EPC shall be applied.

Dispositions of European patent applications and European patents

Article 130

The provisions referred to in Part Nine of this Act and the provisions of this Act on compulsory licences shall also apply to European patents with effect in the territory of the Republic of Croatia.

Protection against infringement

Article 131

The provisions of this Act on the protection of patents in the case of infringement shall apply to European patent applications and European patents designating the Republic of Croatia.

Declaration of nullity of the European patent

Article 132

- (1) Subject to the provisions referred to in Article 138 of the EPC, and the provisions referred to in Article 112 of this Act, respectively, a European patent may be declared null and void in the procedure before the Office in accordance with the provisions of this Act, with the effect for the Republic of Croatia.
- (2) In the procedure for the declaration of nullity of a European patent before the Office, the holder of a patent may limit the patent by amending the claims, and the procedure for the declaration of nullity shall be conducted on the basis of thus limited patent.
- (3) If a request for the declaration of nullity of a European patent is filed with the Office after the initiation of the opposition procedure before the EPO referred to in Article 99 of the EPC or the procedure concerning a request for limitation or revocation referred to in Article 105a of the EPC, the Office shall stay the procedure concerning a request for the declaration of nullity up to the termination of the mentioned procedures before the EPO.

Application of EPC

Article 133

This Act shall apply to the European patent applications and European patents, which have, in accordance with the provisions of EPC and

this Act, effect in the Republic of Croatia, unless provided otherwise by the EPC.

PART TWELVE

INTERNATIONAL APPLICATION UNDER THE PCT

International application

Article 134

The provisions of the PCT, this Act, and a regulation enacted by virtue of this Act shall apply to international applications filed with the Office as the receiving office, or in which the Office is indicated as a designated or elected office.

International application filed with the Office as the receiving office

Article 135

- (1) An international application may be filed with the Office as the receiving office if the applicant is a Croatian national or domiciled or having its principal industrial or commercial place of business in the Republic of Croatia.
- (2) The filing of the international application referred to in paragraph (1) of this Article shall be subject to the payment of the prescribed administrative fee and procedural charges for its transmittal to the International Bureau, within one month upon receipt of the international application at the Office.

The manner of filing an international application with the Office as the receiving office

Article 136

- (1) An international application shall be filed with the Office as the receiving office in writing in one copy, directly, by post or electronically in English or in Croatian.
- (2) If the international application is filed in Croatian, the applicant shall file a translation of the international application into English within one month upon receipt of such application at the Office.
- (3) The fees prescribed by the Regulations according to the PCT and the fees prescribed by the Agreement between the EPO and the International Bureau of the World Intellectual Property Organization shall be paid to the account prescribed by the Regulations referred to in paragraph (5) of this Article within one month upon receipt of the international application.
- (4) International search and international preliminary examination of international applications filed with the Office as the receiving office shall be conducted by the EPO.
- (5) The Head of the Office shall define by the

Regulations the details of technical prerequisites for filing an application and for payment method of the fees referred to in paragraph (3) of this Article.

International application filed with the Office as the designated or elected office

Article 137

- (1) An international application in which the Republic of Croatia is designated or elected, in compliance with the provisions of the PCT, for the grant of a national patent, shall, subject to payment of the administrative fee and procedural charges, be filed with the Office in Croatian not later than up to the expiration of a period of 31 months from the international filing date or priority date respectively, if priority is claimed in the international application in compliance with Article 8 of the PCT.
- (2) If the claims are amended in accordance with Article 19 of the PCT, the international application referred to in paragraph (1) of this Article shall contain thus amended claims and a translation of the statement referred to in Article 19 of the PCT.
- (3) If the international application is amended in accordance with Article 34 of the PCT and if the international preliminary examination report contains annexes with the amendments made, the international application referred to in paragraph (1) of this Article shall be in compliance with the annexes to the international preliminary examination report.
- (4) The provisions of this Act referring to the granting procedure initiated by a regular national patent application shall also apply mutatis mutandis to the international application referred to in paragraph (1) of this Article.
- (5) The international application referred to in paragraph (1) of this Article shall be published in the official gazette of the Office in a manner provided for in Article 59 of this Act not later than six months upon the filing date.
- (6) The provisional rights provided for under the provisions of Article 95 of this Act for the international applications referred to in paragraph (1) of this Article shall be effective as of the date of publication of the translation into Croatian.
- (7) The request for substantive examination of the international application referred to in paragraph (1) of this Article may be filed within 6 months upon publication of the application in the official gazette of the Office.
- (8) An international application published under Article 21 of the PCT shall not be considered state of the art under Article 10, paragraph (3) of this Act as long as the conditions set out in paragraph (1) of this Article have not been met.

PART THIRTEEN

CIVIL PROTECTION

Persons entitled to claim the protection of rights

Article 138

- (1) In addition to the right holder, the licensee may also claim the protection of the rights referred to in this Act to the extent that he is entitled thereto on the basis of a legal transaction or the law.
- (2) The applicant and the exclusive licensee may claim the protection of rights referred to in paragraph (1) of this Article upon publication of the application.
- (3) The utility model holder is not entitled to claim the protection of rights referred to in paragraph (1) of this Article.

Claim for the establishment of the right to patent protection

Article 139

- (1) The inventor or his successor in title shall be entitled to file a legal action with the competent court, to request the establishment of the right to the patent protection of the invention, if a patent application has been filed by a person not entitled to such right or, in case of a jointly created invention, by the person who is not the sole person entitled to such right.
- (2) Instead of the person or together with the person entered in the register as the right holder, the inventor or his successor in title shall be entitled to file a legal action with the competent court, to request the establishment of the right to the patent protection of the invention against the person entered in the register as the right holder by a patent granting decision.
- (3) The legal action referred to in paragraph (1) of this Article may be brought up until the decision on the grant of a patent is made, and the legal action referred to in paragraph (2) of this Article may be brought up until expiry of the patent.
- (4) The inventor or his successor in title respectively, whose right to the grant of patent protection for the invention has been established by a final court decision, shall be entitled to resume the procedure for the grant of a patent within three months from the date the court decision becomes final.
- (5) The inventor or his successor in title respectively, whose right to the grant of patent protection for the invention has been established by a final court decision, may at any time request from the Office to enter his name into the patent application and all the documents issued for a patent as well as in the appropriate Office registers.

Claim due to the infringement of the inventor's moral right

Article 140

- (1) The inventor shall be entitled through a legal action before the court to claim the entry of his name into the patent application and all the documents issued for a patent as well as in the appropriate Office registers, if the person mentioned as such in the application is not the inventor or the inventor is not indicated.
- (2) Where a person who is not the inventor is entered as such in the application and/or documents issued for a patent and/or in the Office registers, a legal action shall be instituted against such person; and if the inventor is not entered, a legal action shall be instituted against the Office.
- (3) The right to the claim referred to in paragraph (1) of this Article shall also belong to the inventor of the joint invention.
- (4) There shall be no time limit for an action referred to in paragraph (1) of this Article. After the death of the inventor the right to an action shall belong to his heirs.

Claims due to the infringement of a patent

Article 141

- (1) The holder of a patent may institute a legal action against any person who has infringed a patent by performing without authorisation any of the acts referred to in Article 93 paragraphs (2) and (3) and Article 94 of this Act, claiming establishment of the infringement, termination of the infringement or prohibition of such and similar future infringements.
- (2) The holder of a patent may institute a legal action against any person who has by performing any of the acts without authorisation caused a serious threat that his patent might be infringed, claiming desistance from the act concerned and prohibition of the infringement of the patent.
- (3) The claims referred to in paragraphs (1) and (2) of this Article may also be made against an intermediary who renders services used by a third party in the acts infringing a patent or threatening to infringe it.

Claim for seizure and destruction of infringing objects

Article 142

- (1) The holder of a patent may institute a legal action against any person who has infringed a patent by performing without authorisation any of the acts referred to in Article 93 paragraphs (2) and (3) of this Act, claiming that the court orders for the products resulting from or acquired by the infringement of a patent, and the objects used in the manufacture of the products infringing the

patent be removed from the market, seized or destroyed.

- (2) The court shall order the measures referred to in paragraph (1) of this Article at the expense of the defendant, unless there are special reasons for not deciding so.
- (3) When ordering the measure referred to in paragraph (1) of this Article, the court shall take due care that they are proportionate to the nature and seriousness of the infringement.
- (4) Ordering the measures referred to in paragraph (1) of this Article shall not prejudice the patent holder's right to the damages incurred by the infringement of a patent.

Claim for damages, usual compensation and unjust enrichment

Article 143

- (1) The holder of a patent may take a legal action against any person who knew or must have known to participate in illegal performing of an act referred to in Article 93 paragraphs (2) and (3) and Article 94 of this Act, claiming damages pursuant to the general rules on legal redress laid down in this Act.
- (2) The holder of a patent may take a legal action against any person who knew or must have known to participate in illegal performing of an act referred to in Article 93 paragraphs (2) and (3) and Article 94 of this Act, and has benefited from it, claiming the recovery or compensation of such benefits pursuant to the general rules on unjust enrichment.
- (3) The claims referred to in paragraphs (1) and (2) shall not be mutually excluding.
- (4) When determining the amount of damages, the court shall take into consideration all the corresponding factors, such as negative economic consequences, including lost profit suffered by the injured party, any unfair gain earned by the infringer and, when deeming it appropriate, elements that are not economic factors, such as non-material damage incurred to the holder of a patent by illegal committing of an act referred to in Article 93 paragraphs (2) and (3) and Article 94 of this Act.
- (5) Instead of determining the amount of damages referred to in paragraph (4) of this Article, the court may, when deeming it appropriate, determine the amount of damages against the infringer who knew or must have known to participate in illegal committing of an act referred to in Article 93 paragraphs (2) and (3) and Article 94 of this Act in the amount of compensation that might be required in such circumstances if the infringer requested approval to use a patent.

Claim for damages due to infringement of the rights conferred by a patent application

Article 144

The patent applicant may institute a legal action against any person who has within the period from the date of publication of the patent application and the date of publication of the mention of the grant of the patent infringed the provisional rights conferred by a patent application by performing without authorisation any of the acts referred to in Article 93 paragraphs (2) and (3) and Article 94 of this Act, claiming damages pursuant to the general rules on legal redress.

Claim for publication of the judgement

Article 145

- (1) The holder of a patent may claim that the final judgment entirely or partially upholding the claim for protection of the patent in the case of infringement is published in the means of public communication at the expense of the defendant.
- (2) The court shall decide, within the limits of the claim, on the means of public communication in which the judgment shall be published, and whether it shall be published entirely or partially.
- (3) If the court decides that only a part of the judgment shall be published, it shall order, within the limits of the claim, that at least the dispositive part of it is published and, if necessary, the part of the judgement specifying the infringement concerned and the person having committed it.

Burden of proof

Article 146

- (1) In civil proceedings for infringement of a patent-protected process for obtaining a new product, it is considered that any identical product that was manufactured without the consent of the holder of a patent was obtained by the patent-protected process.
- (2) In the absence of evidence to the contrary, a protected product will be deemed to have been obtained if the product is new or it is likely that the product was obtained by the protected process and that the holder of a patent could not, despite reasonable effort, determine the process actually used. The likelihood of a product obtained by a protected process exists especially when the protected process is the only known process.
- (3) The burden of proof shall be on the defendant manufacturing such a product, taking into consideration his legitimate interests to protect his industry and trade secrets.

Claim for provision of information

Article 147

- (1) The holder of a patent who has instituted civil proceedings for the protection of the patent in the case of infringement may claim the provision of information on the origin and distribution channels of the goods or services infringing his patent.
- (2) The claim referred to in paragraph (1) of this Article may be made against a person who has been sued in the civil proceedings referred to in paragraph (1) of this Article in the form of a separate legal action or as a manifestation request in a gradual legal action.
- (3) The claim referred to in paragraph (1) of this Article may also be made against:
 1. a person who is within her/his economic activities in possession of the goods suspected of infringing a patent;
 2. a person who uses, within her/his economic activities, services suspected of infringing a patent;
 3. a person who provides, within her/his economic activities, services used in the activities suspected of infringing a patent; or
 4. a person who is indicated by any of the mentioned persons referred to in paragraph (2) of this Article, or items 1 to 3 of this paragraph as being involved in the manufacture or distribution of the goods or the provision of the services suspected of infringing a patent.
- (4) The claim referred to in paragraph (1) of this Article shall be made as a separate claim or as a manifestation request in a gradual legal action against the mentioned persons as co-litigants against the person sued in the civil proceedings referred to in paragraph (1) of this Article.
- (5) The claim for information on the origin of the goods and distribution channels of the goods or services referred to in paragraph (1) of this Article may include in particular:
 1. information on the names and addresses of the producers and distributors, suppliers and other previous holders of the goods, as well as the intended wholesalers and retailers; and/or
 2. information on the quantities of the goods produced, made, delivered, received or ordered, as well as the price obtained for the goods concerned.
- (6) The person required to provide the information referred to in paragraph (2) or paragraph (3) of this Article may refuse to provide such information on the same grounds as those allowing the refusal to present evidence as a witness pursuant to the provisions of the general regulation governing civil proceedings.
- (7) If the person required to provide the information referred to in paragraph (2) or paragraph (3) of

this Article refuses to provide information without justified reasons, she/he shall be responsible for the damage incurred, pursuant to the provisions of the general regulation governing obligatory relations.

- (8) The provisions of this Article shall be without prejudice to the provisions on the manner of use of confidential information in civil and criminal proceedings, the provisions regulating the responsibility for misuse of the right to acquire information, and the provisions regulating the processing and protection of personal data.

Taking of evidence in the course of the civil proceedings

Article 148

- (1) Where a party to the civil proceedings invokes a determined or determinable document or other evidence claiming that it lies with the opposing party or a third party or is available to them, the court shall invite these parties to present such documents or evidence within a specified time limit.
- (2) In a proposal to submit evidence, a party must make it probable that the evidence is with or available to another party or third party, and if the proposer is the plaintiff, he must also make his claim probable.
- (3) Where the holder of a patent as a plaintiff in a legal action claims that the infringement of a patent has been committed on a commercial scale for the purpose of acquiring commercial or economic benefit, and has made it likely during the proceedings, and where he invokes in the proceedings banking, financial or similar economic documents, papers or the like evidence, claiming that they lie with the opposing party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.
- (4) Before making a decision ordering the other party or third party to submit evidence, the court will invite them to make observations thereon.
- (5) Where the party or a third party, which is invited to present evidence, denies that the evidence lies with it or is available to it, the court may take evidence to establish such a fact.
- (6) The provisions of the general regulation governing civil proceedings relating to the right of refusal to present evidence as a witness shall apply *mutatis mutandis* to the right of the party to refuse to present evidence.
- (7) In deciding on a proposal to disclose evidence, the court will consider and evaluate the interests of the party seeking the submission of evidence in relation to the interests of the other party and third parties from whom the evidence is sought, taking into account, *inter alia*, the interests of those persons:

1. not to disclose any evidence if the related facts may also be established on the basis of other available evidence;
2. to determine evidence to the extent possible considering the circumstances of a case and that it is significant for the proceedings;
3. that the scope and costs of their submission are not such that they are clearly out of proportion to the significance of the facts sought; or
4. to protect trade secrets of their own or of others.

- (8) The defendant's interest in avoiding damages, or in preventing the plaintiff's success in the proceedings, is not a justifiable reason for denying the presentation of evidence that harms him.
- (9) If taking of the evidence referred to in paragraph (3) of this Article or the submission of evidence pursuant to this Article is related to certain costs for a third party, the court shall invite the applicant to deposit the costs.
- (10) If the party fails to act according to the court's decision ordering it to submit evidence, the court shall, taking into consideration all the circumstances of the case, decide at its own discretion, on the importance of the fact that the party having the evidence refuses to comply with the court's decision ordering it to present evidence, or denies, contrary to the court's opinion, that the evidence lies with it.
- (11) The parties in the proceedings shall not be allowed to file an appeal against the decision of the court on the proposal to submit evidence.
- (12) On the basis of a decision ordering a third party to present evidence, the court shall, upon proposal, institute enforcement under the rules of the proceedings even before the decision becomes final.
- (13) The third party is entitled to reimbursement of the justified costs incurred by disclosing the evidence, which must be claimed within 15 days upon full compliance with the court's decision.

Provisional measures due to infringement of a patent

Article 149

- (1) Upon the request of the holder of a patent who makes it likely that his patent has been infringed or threatened to be infringed, the court may order any provisional measure comprising termination or prevention of the infringement, and in particular:
1. order the opposing party to cease or desist from, respectively, the acts infringing a patent; the court may also issue such order against an intermediary whose services are being used by a third party to infringe a patent;
 2. order the seizure or removal from the market of the goods resulted from or acquired by

the infringement of a patent, and objects (implements and tools) predominantly used in the creation of the goods infringing a patent.

- (2) Upon the request of the holder of a patent who makes it likely that his patent has been infringed on a commercial scale for the purpose of acquiring commercial or economic benefit, and that such infringement has threatened to cause him irreparable damage, the court may, in addition to the provisional measures referred to in paragraph (1) of this Article, order the seizure of the movable and immovable property of the opposing party, not directly related to the infringement, including the blocking of his bank accounts and other assets.
- (3) For the purpose of ordering and enforcing the provisional measure referred to in paragraph (2) of this Article, the court may require from the opposing party or other relevant persons disposing with it the communication of the banking, financial and other economic information, or the access to other relevant information and documents. The court shall ensure the protection of confidentiality of such information, and prohibit any misuse thereof.
- (4) The provisional measure referred to in paragraph (1) of this Article may be ordered without informing the opposing party thereof, if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that irreparable damage is threatened to occur.
- (5) The provisional measure referred to in paragraph (2) of this Article may be ordered without informing the opposing party thereof, if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that, taking into consideration a very serious circumstances of the infringement, this would be necessary.
- (6) If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.
- (7) In the decision ordering a provisional measure the court shall specify the duration of such measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days, from the day of communication of the decision to the applicant for measures, whichever expires later.
- (8) The provisions of this Article shall be without prejudice to the possibility to order provisional measures pursuant to other provisions of this Act, and the provisions of the general regulation governing such procedure.

Provisional measures comprising the preservation of evidence

Article 150

- (1) Upon the request of the holder of a patent who makes it likely that his patent has been infringed, or threatened to be infringed, the court may order a provisional measure comprising the preservation of evidence.
- (2) By the provisional measure referred to in paragraph (1) of this Article, the court may order in particular:
 1. preparation of a detailed description of the goods made likely to infringe a patent, with or without taking of samples;
 2. seizure of the goods made likely to infringe a patent;
 3. seizure of the materials and implements used in the production and distribution of the goods made likely to infringe a patent and the documentation relating thereto.
- (3) The provisional measure referred to in this Article may be ordered even without informing the opposing party thereof, if the applicant for measures makes it likely that there is a risk of evidence being destroyed or of irreparable damage incurring.
- (4) If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.
- (5) In the decision ordering a provisional measure, the court shall specify the duration of the measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days from the date of communication of the decision to the applicant for measures, whichever expires later.
- (6) The provisions of this Article shall be without prejudice to the possibility of the court to order provisional measures comprising the preservation of evidence pursuant to the provisions of the general regulation governing such procedure.

Fines

Article 151

- (1) The court may impose a fine against a legal or a natural person who does not observe any measure taken pursuant to Articles 142, 149 and 150 of this Act.
- (2) Legal persons may be imposed a fine referred to in paragraph (1) of this Article in the amount of HRK 1,000.00 to 30,000.00.
- (3) If the fine is imposed against a legal person,

the court shall also impose a fine referred to in paragraph (1) of this Article in the amount of HRK 5,000.00 to 30,000.00 against responsible persons in the legal person if it establishes that these persons caused a punishable offence of the legal person by acting or failing to act.

- (4) Natural persons may be imposed a fine referred to in paragraph (1) of this Article in the amount of HRK 1,000.00 to 30,000.00.
- (5) If the person to whom the court threatened with a fine in accordance with this Act fails to comply with the court's order, the court shall impose that sentence and, if necessary, threaten it with new penalties and impose them until that person acts on the court's order.
- (6) If a natural person who has been fined does not pay that fine within the time limit set by the court's decision, that sentence will be replaced by imprisonment under the rules of criminal law on the substitution of a fine by imprisonment. The total sum of imprisonment for which a person has been fined may not exceed six months in the same proceedings.
- (7) Imprisonment imposed pursuant to the provisions of this Act shall be executed in the manner prescribed for the execution of imprisonment imposed in criminal proceedings.
- (8) The court will execute the imposed fine and imprisonment ex officio, and the costs of execution shall be borne by the state budget.
- (9) The court shall decide on the fine by a decision. The decision on punishment may be appealed within three days upon delivery of the decision. The appeal against the decision on punishment is decided by the court of the second instance within eight days upon receipt of the appeal.
- (10) The appeal referred to in paragraph (9) of this Article shall delay the enforceability of the decision.

Expeditious proceedings and application of the provisions of other acts

Article 152

- (1) The procedures in litigations concerning the infringement of the rights under this Act shall be expeditious.
- (2) In litigations concerning the infringement of a patent, the time limit for a statement of defence shall be eight days upon delivery of the claim to the defendant.
- (3) In disputes arising out of the infringement of the rights referred to in this Act, the main hearing shall be held within 30 days upon receipt of the statement of defence.
- (4) In litigations, proceedings for infringement of a patent before a court of first instance shall be completed within one year upon filing the lawsuit.
- (5) In litigations for the infringement of a patent, the

court of second instance shall render a decision on the appeal filed against the decision of the court of first instance within six months upon receipt of the appeal.

- (6) The decision on the provisional measure shall be issued within 30 days upon submission of the proposal for the provisional measure.
- (7) Upon the request of the court or any of the parties to the procedure concerning the infringement of a patent, the Office shall promptly accept a request for the declaration of nullity of the decision on the grant of a patent, filed before or during the civil action, and shall subject it to the expeditious proceedings. The court shall decide whether it shall stay the proceedings up to the final decision on the request for the declaration of nullity of the decision on the grant of a patent, or not.

PART FOURTEEN

PROVISIONS CONCERNING CONTROL AND MISDEMEANOURS

Control of the implementation of the Act

Article 153

Inspection control of the implementation of this Act shall be carried out by the state administration authorities competent in accordance with a special regulation governing the responsibility to perform inspection tasks in the field of intellectual property rights.

Administrative control

Article 154

Administrative control of the implementation of this Act and the regulations adopted thereunder shall be carried out by the ministry responsible for the control of the the Office's operation.

Misdemeanour provisions

Article 155

- (1) Any legal person shall be punished for a misdemeanour by a fine amounting from HRK 20,000 to 100,000, if it involves the following acts without consent of the holder of a patent:
 1. making, offering for sale, selling, using, importing or stocking for such purposes a product manufactured according to the protected invention (Article 93 paragraph (2) item 1);
 2. using or offering for use a process which is the subject-matter of the protected invention (Article 93 paragraph (2) item 2);
 3. offering for sale, using, importing or stocking for such purposes a product obtained directly

from the process which is the subject-matter of the protected invention (Article 93 paragraph (2) item 3); or

4. offering or delivering a product which constitutes the essential element of the protected invention to persons not entitled to use such invention (Article 93 paragraph (3)).
- (2) A responsible person in the legal entity shall also be punished for a misdemeanour referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000 to 10,000.
- (3) Any natural person shall be punished for a misdemeanour referred to in paragraph (1) of this Article by a fine amounting from HRK 2,000 to 10,000.
- (4) A natural person – a craftsman or other self-employed person, respectively, shall be punished for the misdemeanour, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5,000.00 to 50,000.00, where the misdemeanour has been committed in the performance of her/his activities as a craftsman or other self-employed person, respectively.

Misdemeanour provisions in case of a patent protecting biological material

Article 156

- (1) Any legal person shall be punished for a misdemeanour by a fine amounting from HRK 20,000 to 100,000, if it involves the following acts without consent of the holder of a patent:
 1. making, offering for sale, selling, using, importing or stocking for such purposes within the meaning of Article 93 paragraph (2) item 1 of this Act any biological material referred to in Article 94 paragraph (1) of this Act;
 2. using or offering for use within the meaning of Article 93 paragraph (2) item 2 a process which is the subject-matter of the protected invention referred to in Article 94 paragraph (2) of this Act that enables the production of biological material containing specific characteristics arising from the invention;
 3. offering for sale, selling, using, importing or stocking for such purposes within the meaning of Article 93 paragraph (2) item 3 of this Act any biological material obtained directly from the process referred to in Article 94 paragraph (2) of this Act, as well as any other biological material derived from such directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics; or
 4. offering or delivering within the meaning of Article 93 paragraph (3) of this Act a product and all materials referred to in Article 94

paragraph (3) of this Act to persons not entitled to use such invention.

- (2) A responsible person in the legal entity shall also be punished for a misdemeanour referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000 to 10,000.
- (3) Any natural person shall be punished for a misdemeanour referred to in paragraph (1) of this Article by a fine amounting from HRK 2,000 to 10,000.
- (4) A natural person – a craftsman or other self-employed person, respectively, shall be punished for the misdemeanour referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000.00 to 50,000.00, where the misdemeanour has been committed in the performance of her/his activities as a craftsman or other self-employed person, respectively.

PART FIFTEEN

TRANSITIONAL AND FINAL PROVISIONS

Article 157

- (1) Patents entered into the Office Patent Register up to the date determined for the application of this Act shall remain in effect and the provisions of this Act shall apply to them.
- (2) Consensual patents entered into the Office Consensual Patent Register up to the date determined for the application of this Act shall remain in effect and the provisions of the Patents Act shall apply to them (Official Gazette, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18).

Article 158

- (1) The procedures pending on the day of the entry into force of this Act shall be completed in accordance with the provisions of the Patents Act (Official Gazette, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18).
- (2) The applicants who filed a patent application with the Office pursuant to the Patents Act (Official Gazette, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18) may apply for conversion of the patent application into the utility model application referred to in Article 73 of this Act within three months from the date of entry into force of this Act, provided that the patent application has not been published on the date of the application for conversion.

Article 159

- (1) The Head of the Office shall enact the regulations governing the matters referred to in Article 20 paragraph (4), Article 26 paragraph (5), Article 27 paragraph (4), Article 28 paragraph (6), Article 29 paragraph (7), Article 30 paragraph (8), Article

31 paragraph (3), Article 33 paragraph (2), Article 52 paragraph (2), Article 56 paragraph (7), Article 57 paragraph (6), Article 58 paragraph (8), Article 59 paragraph (7), Article 68 paragraph (2), Article 69 paragraph (2), Article 70 paragraph (2), Article 77 paragraph (7), Article 80 paragraph (4), Article 81 paragraph (3), Article 83 paragraph (4), Article 84 paragraph (3), Article 109 paragraph (7), Article 119 paragraph (3), Article 124 paragraph (7), Article 128 paragraph (7) and Article 136 paragraph (5) of this Act within two months upon this Act coming into force.

- (2) The Patent Regulations (Official Gazette, No. 117/07, 3/11, 66/11, 145/12, 85/13 and 43/17) shall remain in effect until the regulations referred to in paragraph (1) of this Article enter into force.

Article 160

The regulation referred to in Article 19, paragraph (2) of this Act shall be harmonised with the provisions of this Act within 60 days upon its entry into force.

Article 161

The Patents Act (Official Gazette, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18) shall cease to be valid on the date of this Act coming into force.

Article 162

This Act shall enter into force on the eighth day following the day of its publication in the Official Gazette.