

## **On Amending Certain Laws of Ukraine Concerning the Establishment of the National Intellectual Property Authority**

The Verkhovna Rada of Ukraine resolves:

I. The following laws of Ukraine are amended:

1. In the [Law of Ukraine](#) "On Protection of Rights to Industrial Designs" (Bulletin of the Verkhovna Rada of Ukraine, 1994, No. 7, Article 34, as further amended):

1) in [Article 1](#):

indents two and fourteen are amended as follows:

"National Intellectual Property Authority (hereinafter referred to as the "NIPA") shall be a public organization included in the state system of legal protection of intellectual property defined at the national level by the Cabinet of Ministers of Ukraine as exercising powers in the field of intellectual property, which are defined by this Law and other laws in the field of intellectual property, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association, and has the right to represent Ukraine in international and regional organizations";

"Appeals Chamber shall be a collegiate body of NIPA for consideration of objections against NIPA's decisions on acquisition of rights to intellectual property, statements of invalidation of rights to intellectual property in whole or in part, statements of recognizing a trademark well known in Ukraine and consideration of other issues falling within its competence in accordance with this Law, other laws and regulatory legal acts of Ukraine";

indent fifteen is deleted;

indent sixteen is amended as follows:

"the state system of legal protection of intellectual property shall be the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, NIPA and a combination of scientific, educational, information and other state enterprises, institutions and organizations of relevant specialization, which are managed by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

indents seventeen and eighteen are inserted:

"Personnel Review Commission shall be a NIPA's collegiate body whose major activity is the review of personnel who have shown their intentions to acquire the right to engage in activities of a representative in intellectual property cases (patent attorney).

Appeals Commission shall be a NIPA's collegiate body whose major activity is the consideration of complaints of candidates for representatives in intellectual property cases (patent attorneys) against decisions of the personnel review commission and consideration of complaints against actions of intellectual property representatives (patent attorneys)";

2) [Article 2](#) is amended as follows:

“**Article 2.** Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property

1. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall include the following:

ensuring the regulatory and legal governance in the sphere of protection of rights to industrial designs;

defining the priority areas of developing the field of protection of rights to industrial designs;

interaction and coordination with central executive authorities, other governmental authorities in the process of formulation and implementation of state policy in the field of intellectual property, as well with a view to strengthening the protection of intellectual property rights;

development of proposals to improve legislation in the field of legal protection of intellectual property;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to industrial designs at international organizations;

conclusion in accordance with the law of international treaties on cooperation in the field of legal protection of intellectual property;

ensuring the implementation of international programs and projects in the field of legal protection of intellectual property in accordance with international treaties;

ensuring the fulfillment of obligations arising from Ukraine's membership in international organizations in the field of legal protection of intellectual property;

interaction, in due course, with the relevant authorities of foreign states and international organizations;

approval of regulations on representatives in intellectual property cases (patent attorneys), on the Personnel Review Commission and the procedure for the review of representatives in intellectual property cases (patent attorneys), on the Appeals Commission, on the state register of representatives in intellectual property cases (patent attorneys);

coordination of NIPA's activities in the field of intellectual property;

exercising control over the NIPA's observance of the legislation in the field of intellectual property, use of proceeds from the collection of fees for actions related to the protection of intellectual property rights.

2. Central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property shall perform other powers pursuant to the Law”;

3) **Articles 2<sup>1</sup>** through **2<sup>4</sup>** are inserted as follows:

"**Article 2**<sup>1</sup>. Powers of the National Intellectual Property Authority in the field of protecting rights to industrial designs

1. Functions of the NIPA shall be performed by the legal entity of public law (public organization) established by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and designated by the Cabinet of Ministers of Ukraine.

2. The powers delegated to the NIPA shall include:

receipt of applications, their expert examination, decision-making on them;

conduct of the state registration of industrial designs and issuance of certificates;

recognition of industrial design rights as invalid in whole or partially in the manner prescribed by law;

publication of official information about industrial designs, maintenance of the Register, entering information into it, providing extracts and excerpts in electronic and (or) paper form;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to industrial designs at the World Intellectual Property Organization and international organizations in accordance with the law;

preparation, attestation and registration of representatives in intellectual property cases (patent attorneys);

maintenance of the State Register of Representatives in Intellectual Property Cases (Patent Attorneys);

informing and giving explanations on implementation of the state policy in the field of protection of rights to industrial designs.

3. NIPA shall also perform:

functions of the "National Agency" and "Agency", which are provided for in the [Hague](#) and [Geneva](#) Acts to the Hague Agreement Concerning the International Registration of Industrial Designs;

information and publishing activities in the field of legal protection of intellectual property;

generalization of national and international practice of application of legislation in the field of protection of rights to industrial designs, elaboration of proposals for improvement of legislation in this area and submission of such proposals to the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

approval of guidelines for the expert examination of applications and state registration of industrial designs;

organization and performance of work on training, retraining and qualification improvement of personnel of the state system for legal protection of intellectual property;

other functions and powers provided for in this Law, other laws and regulatory legal acts as well as the articles of association.

NIPA shall be entitled to receive information, documents and materials, which are necessary for it to perform the powers vested in it, from ministries, other central and local executive authorities and local self-government authorities on a free-of-charge basis.

4. NIPA shall act on the basis of this Law, other laws of Ukraine, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

5. In order to ensure the fulfillment by NIPA of delegated powers, the head of NIPA shall be empowered to sign title documents.

6. To develop recommendations on matters falling within the competence of the NIPA, the body shall perform scientific research, involve experts and consultants.

7. NIPA shall be headed by the head appointed to and dismissed from the post by the central executive body, which ensures the formulation and implements the state policy in the field of intellectual property.

The head of NIPA may be a citizen of Ukraine, who has lived in Ukraine for the last five years, is fluent in the state language, speaks one of the official languages of the World Intellectual Property Organization (WIPO), has a complete higher legal education and/or education in the field of intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPA shall not be a person who, in accordance with a court judgement, is deprived of the right to carry out activities related to the performance of state functions or hold corresponding positions, and has been subjected to an administrative penalty for a corruption or corruption-related offense within three years upon the day of entry into force of the relevant court judgement.

The head of NIPA shall be appointed based on the results of an open competition conducted by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of economic entities in the public sector of economy.

The head of NIPA shall have one deputy and two deputies to be appointed to the position by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, upon the recommendation of the head of NIPA.

8. The supervisory board shall be the supervisory body of the NIPA consisting of the following members:

two representatives of the Verkhovna Rada of Ukraine;

two representatives of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

one representative of the central executive authority, which ensures the formulation of state policy in the fields of science and education;

one representative of community organizations of representatives in cases of intellectual property (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The supervisory board may consist of two representatives of international and/or regional intellectual property organizations having an advisory vote.

Personal composition of the supervisory board shall be approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The members of the supervisory board shall perform their duties on a voluntary basis.

The head of the supervisory board and his/her deputies shall be elected by the members of the supervisory board from among them: a representative of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall not be the head of the supervisory board.

The powers of the supervisory board shall include supervision over the financial and economic activities of the NIPA, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

The supervisory board shall have the following rights:

request any information, except for the restricted information, from the NIPA and receive such information;

hear the reports of the head of the NIPA on the state of implementing powers by the NIPA, on the conduct of financial and economic activities, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights, as well as the plan of NIPA's activities;

submit recommendations to the NIPA that are mandatory for consideration;

inform the executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, about the violations detected.

The term of office of supervisory board members, except for the head, shall be two years and may be extended by no more than one term. Upon expiration of the term of office of a supervisory board member, the relevant body or organization that has delegated him/her shall, within one month, delegate a new representative to the supervisory board or make a decision to extend the term of office of the supervisory board member.

Powers of a member of the supervisory board may be terminated early upon the recommendation of the body that has delegated him/her. The powers of a member of the supervisory board shall also be terminated at the initiative of the supervisory board in the case of:

submission of an application for termination of powers at own discretion;

inability to perform personal duties, including due to health problems;

termination of relations with the body that has delegated him/her;

entry into force of a guilty verdict against him/her;

death or on the basis of a court judgement declaring him/her incapable, partially incapable, missing or declared dead;

application of an administrative penalty for a corruption or corruption-related offense.

The body that has delegated a member of the supervisory board, whose powers have been terminated early, shall be obliged to delegate a new representative to the supervisory board within one month from the day the powers of the previous representative are terminated early.

The supervisory board shall act in accordance with this Law and regulation on the supervisory board approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The form of work of the supervisory board shall be a meeting, resulting in drawing up the minutes, a copy of which is sent to the NIPA and the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property. A meeting of the supervisory board shall be considered valid if a simple majority of the members of the supervisory board are present.

Placement and organizational and material support of the supervisory board shall be provided by the NIPA.

9. The NIPA shall publish annually on its official website the financial statements, in particular, the annual financial statements, auditor's opinions on the annual financial statements, its performance report, including the budget execution report, and the budget for the next year.

The financial or consolidated financial statements of the NIPA shall be audited by decision of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

10. NIPA cannot intend to receive profit generated by its operations. NIPA's activities shall be funded from the proceeds of collecting fees for actions related to the protection of intellectual property rights as well as from other sources not prohibited by law.

NIPA shall procure goods, works and services in the manner and using the procedures established by the [Law of Ukraine](#) "On Public Procurement"

11. A qualified electronic signature may be affixed to the documents received or approved by the NIPA in compliance with the Law. Submission of documents electronically to the NIPA and issuance of documents electronically by it shall be carried out in compliance with the legislation in the sphere of electronic documents and electronic document circulation, electronic trust services this Law and

rules established by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

**Article 2<sup>2</sup>. Guarantees of independence of the Appeals Chamber and experts of the National Intellectual Property Authority**

1. The activities of the Appeals Chamber shall be based on the principles of legitimacy, impartiality, independence, transparency, reliability, collegiality and qualified staffing.

2. The main principles of consideration of objections and applications by the Appeals Chamber are the rule of law, legitimacy, equality of participants in the consideration before the law and the Appeals Chamber.

3. The powers of the Appeals Chamber, the requirements for its members, the procedure for consideration of objections against NIPA's decisions on acquisition of intellectual property rights by the Appeals Chamber, the procedure for organizational and technical support for activities of the Appeals Chamber and resolution of other issues falling within its competence shall be determined by the Rules of Procedure of the Appeals Chamber approved by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

4. Independence of a NIPA's expert and correctness of his/her opinion shall be ensured by:

compliance with the procedure established by law for the appointment and conduct of expert examination;

prohibition of interference in the expert examination process by anyone;

creation of conditions necessary for the activities of the NIPA's expert, his/her financial, social and other support;

ensuring the possibility for the Appeals Chamber to review the conclusions of the expert examination;

ensuring the possibility of the applicant and third parties to participate in the expert examination in the cases prescribed by law.

**Article 2<sup>3</sup>. Personnel Review Commission**

1. The Personnel Review Commission shall be a collegiate body of the NIPA, which is established with the purpose of determining the level of professional training of persons who have shown their intention to acquire the right to engage in activities of a representative in cases of intellectual property (patent attorney).

2. The Personnel Review Commission shall consist of NIPA's employees, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have at least 10 years of practical experience in the field of legal protection of intellectual property.

3. The powers of the Personnel Review Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be

determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Personnel Review Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

#### **Article 2<sup>4</sup>. Appeals Commission**

1. The Appeals Commission shall be a collegiate body of the NIPA, which is formed to consider complaints of candidates for representatives in cases of intellectual property (patent attorneys) against the decisions of the Personnel Review Commission, complaints against the actions of representatives in cases of intellectual property (patent attorneys) as well as to control that the patent attorneys meet the requirements of the legislation.

2. The Appeals Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, prominent scientists working in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Appeals Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Appeals Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

4) in [Article 14](#):

in indent one of subparagraph 3, the words "which shall enter into force after its approval by the Institution" are deleted, and the words "A decision of the Institution shall be sent" are replaced with the words "Decisions of the NIPA together with the conclusion of expert examination shall be sent";

in subparagraph 6:

in indent two, the word "establishment" is deleted, and the word "it" is replaced with the word "NIPA";

in indent three, the word "establishment" is deleted;

5) in [subparagraph 1](#) of Article 17, the words "central executive authority, which ensures formulation of the state policy in the field of intellectual property," are replaced with the word "NIPA";

6) in [Article 19](#):

in subparagraph 4, the words "central executive authority, which ensures formulation of the state policy in the field of intellectual property" are replaced with the word "NIPA";

subparagraph 8 is deleted;

7) in [indent two](#) of subparagraph 6 of Article 20, the words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” are replaced with the word “NIPA”;

8) in [Article 28](#):

in paragraph two, the words “to the State Budget of Ukraine” are replaced with the words “to the budgets under the procedure prescribed by the [Budget Code of Ukraine](#)”;

paragraph four is amended as follows:

“The fees stipulated by this Law shall be paid to the NIPA’s current accounts”;

in paragraph five, the words “according to the orders of the Institution” are deleted;

9) in the text of the [Law](#):

the words “Institution” and “expert examination institution” in all cases are replaced with the word “NIPA”;

words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” in all cases are replaced with the words “central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property” in a relevant case.

2. In the [Law of Ukraine](#) “On Protection of Rights to Marks for Goods and Services” (Herald of the Verkhovna Rada of Ukraine, 1994, No. 7, Article 36, as further amended):

1) in [Article 1](#):

indents two and twelve are amended as follows:

"National Intellectual Property Authority (hereinafter referred to as the “NIPA”) shall be a public organization included in the state system of legal protection of intellectual property defined at the national level by the Cabinet of Ministers of Ukraine as exercising powers in the field of intellectual property, which are defined by this Law and other laws in the field of intellectual property, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association, and has the right to represent Ukraine in international and regional organizations”;

"Appeals Chamber shall be a collegiate body of NIPA for consideration of objections against NIPA’s decisions on acquisition of rights to intellectual property, statements of invalidation of rights to intellectual property in whole or in part, statements of recognizing a trademark well known in Ukraine and consideration of other issues falling within its competence in accordance with this Law, other laws and regulatory legal acts of Ukraine”;

indent thirteen is deleted;

indent fourteen is amended as follows:

"the state system of legal protection of intellectual property shall be the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, NIPA and a combination of scientific, educational, information and other state enterprises, institutions and organizations of relevant specialization, which are managed by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

indents seventeen and eighteen are inserted:

"Personnel Review Commission shall be a NIPA's collegiate body whose major activity is the review of personnel who have shown their intentions to acquire the right to engage in activities of a representative in intellectual property cases (patent attorney).

Appeals Commission shall be a NIPA's collegiate body whose major activity is the consideration of complaints of candidates for representatives in intellectual property cases (patent attorneys) against decisions of the personnel review commission and consideration of complaints against actions of intellectual property representatives (patent attorneys)";

2) [Article 2](#) is amended as follows:

"Article 2. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property

1. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall include the following:

ensuring the regulatory legal governance in the sphere of protecting the rights to marks for goods and services;

defining the priority areas of developing the field of protecting the rights to marks for goods and services;

interaction and coordination with central executive authorities, other governmental authorities in the process of formulation and implementation of state policy in the field of intellectual property, as well with a view to strengthening the protection of intellectual property rights;

development of proposals to improve legislation in the field of legal protection of intellectual property;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to the marks for goods and services at international organizations;

conclusion in accordance with the law of international treaties on cooperation in the field of legal protection of intellectual property;

ensuring the implementation of international programs and projects in the field of legal protection of intellectual property in accordance with international treaties;

ensuring the fulfillment of obligations arising from Ukraine's membership in international organizations in the field of legal protection of intellectual property;

interaction, in due course, with the relevant authorities of foreign states and international organizations;

approval of regulations on representatives in intellectual property cases (patent attorneys), on the Personnel Review Commission of the NIPA and the procedure for the review of representatives in intellectual property cases (patent attorneys), on the Appeals Commission, on the State Register of Representatives in Intellectual Property Cases (patent attorneys);

coordination of NIPA's activities in the field of intellectual property;

exercising control over the NIPA's observance of the legislation in the field of intellectual property, use of proceeds from the collection of fees for actions related to the protection of intellectual property rights.

2. Central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property shall perform other powers pursuant to the Law";

3) Articles 2<sup>1</sup> through 2<sup>4</sup> are inserted as follows:

"Article 2<sup>1</sup>. Powers of the National Intellectual Property Authority in the field of protecting the rights to marks for goods and services (trademarks):

1. Functions of the NIPA shall be performed by the legal entity of public law (public organization) established by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and designated by the Cabinet of Ministers of Ukraine.

2. The powers delegated to the NIPA shall include:

receipt of applications, their expert examination, decision-making on them;

issuance of certificates for trademarks and the state registration of trademarks;

publication of official information on trademarks and submitted applications for trademarks in the Bulletin, maintaining the Register and the Database of Applications, entering information into the Information Register, providing extracts and excerpts in electronic and (or) paper form;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to trademarks at the World Intellectual Property Organization and international organizations in accordance with the law;

preparation, attestation and registration of representatives in intellectual property cases (patent attorneys);

maintenance of the State Register of Representatives in Intellectual Property Cases (Patent Attorneys);

informing and giving explanations on implementation of the state policy in the field of protection of rights to trademarks.

3. NIPA shall also perform:

functions of the “National Agency” envisaged by the [Madrid Agreement Concerning the International Registration of Marks](#) and the [Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks](#);

information and publishing activities in the field of legal protection of intellectual property;

generalization of national and international practice of application of legislation in the field of protection of rights to trademarks, elaboration of proposals for improvement of legislation in this area and submission of such proposals to the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

approval of guidelines for the expert examination of applications and state registration of trademarks;

organization and performance of work on training, retraining and qualification improvement of personnel of the state system for legal protection of intellectual property;

other functions and powers provided for in this Law, other laws and regulatory legal acts as well as the articles of association.

NIPA shall be entitled to receive information, documents and materials, which are necessary for it to perform the powers vested in it, from ministries, other central and local executive authorities and local self-government authorities on a free-of-charge basis.

4. NIPA shall act in accordance with this Law, other laws of Ukraine, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

5. In order to ensure the fulfillment by NIPA of delegated powers, the head of NIPA shall be empowered to sign title documents.

6. To develop recommendations on matters falling within the competence of the NIPA, the body shall perform scientific research, involve experts and consultants.

7. NIPA shall be headed by the head appointed to and dismissed from the post by the central executive body, which ensures the formulation and implements the state policy in the field of intellectual property.

The head of NIPA may be a citizen of Ukraine, who has lived in Ukraine for the last five years, is fluent in the state language, speaks one of the official languages of the World Intellectual Property Organization (WIPO), has a complete higher legal education and/or education in the field of intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPA shall not be a person who, in accordance with a court judgement, is deprived of the right to carry out activities related to the performance of state functions or hold corresponding positions, and has been subjected to an administrative penalty for a corruption or corruption-related offense within three years upon the day of entry into force of the relevant court judgement.

The head of NIPA shall be appointed based on the results of an open competition conducted by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of economic entities in the public sector of economy.

The head of NIPA shall have one deputy and two deputies to be appointed to the position by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, upon the recommendation of the head of NIPA.

8. The supervisory board shall be the supervisory body of the NIPA and consist of the following members:

two representatives of the Verkhovna Rada of Ukraine;

two representatives of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

one representative of the central executive authority, which ensures the formulation of state policy in the fields of science and education;

one representative of community organizations of representatives in cases of intellectual property (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The supervisory board may consist of two representatives of international and/or regional intellectual property organizations having an advisory vote.

Personal composition of the supervisory board shall be approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The members of the supervisory board shall perform their duties on a voluntary basis.

The head of the supervisory board and his/her deputies shall be elected by the members of the supervisory board from among them: a representative of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall not be the head of the supervisory board.

The powers of the supervisory board shall include supervision over the financial and economic activities of the NIPA, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

The supervisory board shall have the following rights:

request any information, except for the restricted information, from the NIPA and receive such information;

hear the reports of the head of the NIPA on the state of implementing powers by the NIPA, on the conduct of financial and economic activities, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights, as well as the plan of NIPA's activities;

submit recommendations to the NIPA that are mandatory for consideration;

inform the executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, about the violations detected.

The term of office of supervisory board members, except for the head, shall be two years and may be extended by no more than one term. Upon expiration of the term of office of a supervisory board member, the relevant body or organization that has delegated him/her shall, within one month, delegate a new representative to the supervisory board or make a decision to extend the term of office of the supervisory board member.

Powers of a member of the supervisory board may be terminated early upon the recommendation of the body that has delegated him/her. The powers of a member of the supervisory board shall also be terminated at the initiative of the supervisory board in the case of:

submission of an application for termination of powers at own discretion;

inability to perform personal duties, including due to health problems;

termination of relations with the body that has delegated him/her;

entry into force of a guilty verdict against him/her;

death or on the basis of a court judgement declaring him/her incapable, partially incapable, missing or declared dead;

application of an administrative penalty for a corruption or corruption-related offense.

The body that has delegated a member of the supervisory board, whose powers have been terminated early, shall be obliged to delegate a new representative to the supervisory board within one month from the day the powers of the previous representative are terminated early.

The supervisory board shall act in accordance with this Law and regulation on the supervisory board approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The form of work of the supervisory board shall be a meeting, resulting in drawing up the minutes, a copy of which is sent to the NIPA and the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property. A meeting of the supervisory board shall be considered valid if a simple majority of the members of the supervisory board are present.

Placement and organizational and material support of the supervisory board shall be provided by the NIPA.

9. The NIPA shall publish annually on its official website the financial statements, in particular, the annual financial statements, auditor's opinions on the annual financial statements, its performance report, including the budget execution report, and the budget for the next year.

The financial or consolidated financial statements of the NIPA shall be audited by decision of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

10. NIPA cannot intend to receive profit generated by its operations. NIPA's activities shall be funded from the proceeds of collecting fees for actions related to the protection of intellectual property rights as well other sources not prohibited by law.

NIPA shall procure goods, works and services in the manner and using the procedures established by the [Law of Ukraine](#) "On Public Procurement"

11. A qualified electronic signature may be affixed to the documents received or approved by the NIPA in compliance with the Law. Submission of documents electronically to the NIPA and issuance of documents electronically by it shall be carried out in compliance with the legislation in the sphere of electronic documents and electronic document circulation, electronic trust services this Law and rules established by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

Article 2<sup>2</sup>. Guarantees of independence of the Appeals Chamber and experts of the National Intellectual Property Authority

1. The activities of the Appeals Chamber shall be based on the principles of legitimacy, impartiality, independence, transparency, reliability, collegiality and qualified staffing.

2. The main principles of consideration of objections and applications by the Appeals Chamber are the rule of law, legitimacy, equality of participants in the consideration before the law and the Appeals Chamber.

3. The powers of the Appeals Chamber, the requirements for its members, the procedure for consideration of objections against NIPA's decisions on acquisition of intellectual property rights by the Appeals Chamber, the procedure for organizational and technical support for activities of the Appeals Chamber and resolution of other issues falling within its competence shall be determined by the Rules of Procedure of the Appeals Chamber approved by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

4. Independence of a NIPA's expert and correctness of his/her opinion shall be ensured by:

compliance with the procedure established by law for the appointment and conduct of expert examination;

prohibition of interference in the expert examination process by anyone;

creation of conditions necessary for the activities of the NIPA's expert, his/her financial, social and other support;

ensuring the possibility for the Appeals Chamber to review the conclusions of the expert examination;

ensuring the possibility of the applicant and third parties to participate in the expert examination in the cases prescribed by law.

#### Article 2<sup>3</sup>. Personnel Review Commission

1. The Personnel Review Commission shall be a collegiate body of the NIPA, which is established with the purpose of determining the level of professional training of persons who have shown their intention to acquire the right to engage in activities of a representative in cases of intellectual property (patent attorney).

2. The Personnel Review Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Personnel Review Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Personnel Review Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

#### Article 2<sup>4</sup>. Appeals Commission

1. The Appeals Commission shall be a collegiate body of the NIPA, which is formed to consider complaints of candidates for representatives in cases of intellectual property (patent attorneys) against the decisions of the Personnel Review Commission, complaints against the actions of representatives in cases of intellectual property (patent attorneys) as well as to control that the patent attorneys meet the requirements of the legislation.

2. The Appeals Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, prominent scientists working in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Appeals Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Appeals Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

4) in [Article 10](#):

in indent one of subparagraph 3, the words "which shall enter into force after its approval by the Institution" are deleted, and the words "A decision of the Institution shall be sent" are replaced with the words "Decisions of the NIPA together with the conclusion of expert examination shall be sent";

in subparagraph 6:

in indent two, the word "establishment" is deleted, and the word "it" is replaced with the word "NIPA";

in indent three, the word "establishment" is deleted;

in indent three of subparagraph 8, the word "Institution" is replaced with the word "it";

5) in [Article 15](#):

in subparagraph 4, the words "central executive authority, which ensures formulation of the state policy in the field of intellectual property" are replaced with the word "NIPA";

subparagraph 8 is deleted;

6) in [indent two](#) of subparagraph 9 of Article 16, the words "central executive authority, which ensures formulation of the state policy in the field of intellectual property" are replaced with the word "NIPA";

7) in [Article 23](#):

in paragraph two, the words "to the State Budget of Ukraine" are replaced with the words "to the budgets under the procedure prescribed by the [Budget Code of Ukraine](#)";

paragraph four is amended as follows:

"The fees stipulated by this Law shall be paid to the NIPA's current accounts";

in paragraph five, the words "according to the orders of the Institution" are deleted;

8) in the text of the [Law](#):

the words "Institution" and "expert examination institution" in all cases are replaced with the word "NIPA";

words "central executive authority, which ensures formulation of the state policy in the field of intellectual property" in all cases are replaced with the words "central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property" in a relevant case.

3. In the [Law of Ukraine](#) “On Protection of Rights to the Layouts of Semiconductor Products” (Herald of the Verkhovna Rada of Ukraine, 1998, No. 8, Article 28, as further amended):

1) in [paragraph one](#) of Article 1:

subparagraphs 2 and 5 are amended as follows:

"2) Appeals Chamber shall be a collegiate body of NIPA for consideration of objections against NIPA’s decisions on acquisition of rights to intellectual property, statements of invalidation of rights to intellectual property in whole or in part, statements of recognizing a trademark well known in Ukraine and consideration of other issues falling within its competence in accordance with this Law, other laws and regulatory legal acts of Ukraine";

"5) the state system of legal protection of intellectual property shall be the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, NIPA and a combination of scientific, educational, information and other state enterprises, institutions and organizations of relevant specialization, which are managed by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

subparagraph 6 is deleted;

add subparagraph 12<sup>1</sup> as follows:

"121) National Intellectual Property Authority (hereinafter referred to as the “NIPA”) shall be a public organization included in the state system of legal protection of intellectual property defined at the national level by the Cabinet of Ministers of Ukraine as exercising powers in the field of intellectual property, which are defined by this Law and other laws in the field of intellectual property, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association, and has the right to represent Ukraine in international and regional organizations";

subparagraph 17 is deleted;

subparagraphs 18 and 19 are inserted as follows:

"18) Personnel Review Commission shall be a NIPA’s collegiate body whose major activity is the review of personnel who have shown their intentions to acquire the right to engage in activities of a representative in intellectual property cases (patent attorney).

19) Appeals Commission shall be a NIPA’s collegiate body whose major activity is the consideration of complaints of candidates for representatives in intellectual property cases (patent attorneys) against decisions of the personnel review commission and consideration of complaints against actions of intellectual property representatives (patent attorneys)";

2) [Article 2](#) is amended as follows:

“Article 2. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property

1. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall include the following:

ensuring the regulatory and legal governance in the sphere of protection of rights to layouts;

defining the priority areas of developing the field of protection of rights to layouts;

interaction and coordination with central executive authorities, other governmental authorities in the process of formulation and implementation of state policy in the field of intellectual property, as well with a view to strengthening the protection of intellectual property rights;

development of proposals to improve legislation in the field of legal protection of intellectual property;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to layouts at international organizations;

conclusion in accordance with the law of international treaties on cooperation in the field of legal protection of intellectual property;

ensuring the implementation of international programs and projects in the field of legal protection of intellectual property in accordance with international treaties;

ensuring the fulfillment of obligations arising from Ukraine's membership in international organizations in the field of legal protection of intellectual property;

interaction, in due course, with the relevant authorities of foreign states and international organizations;

approval of regulations on representatives in intellectual property cases (patent attorneys), on the Personnel Review Commission and the procedure for the review of representatives in intellectual property cases (patent attorneys), on the Appeals Commission, on the State Register of Representatives in Intellectual Property Cases (patent attorneys);

coordination of NIPA's activities in the field of intellectual property;

exercising control over the NIPA's observance of the legislation in the field of intellectual property, use of proceeds from the collection of fees for actions related to the protection of intellectual property rights.

2. Central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property shall perform other powers pursuant to the Law";

3) Articles 2<sup>2</sup> through 2<sup>5</sup> are inserted as follows:

"Article 2<sup>2</sup>. Powers of the National Intellectual Property Authority in the field of protecting rights to layouts

1. Functions of the NIPA shall be performed by the legal entity of public law (public organization) established by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and designated by the Cabinet of Ministers of Ukraine.

2. The powers delegated to the NIPA shall include:

receipt of applications, their expert examination, decision-making on them;

issuance of certificates for layouts and the state registration of layouts;

publication of official information about a registered layout in the Bulletin, maintenance of the Register, entering information into it, providing extracts and excerpts in electronic and (or) paper form;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to layouts at the World Intellectual Property Organization and international organizations in accordance with the law;

preparation, attestation and registration of representatives in intellectual property cases (patent attorneys);

maintenance of the State Register of Representatives in Intellectual Property Cases (Patent Attorneys);

informing and giving explanations on implementation of the state policy in the field of protection of rights to layouts.

3. NIPA shall also perform:

information and publishing activities in the field of legal protection of intellectual property;

generalization of national and international practice of application of legislation in the field of protection of rights to layouts, elaboration of proposals for improvement of legislation in this area and submission of such proposals to the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

approval of guidelines for the expert examination of applications and registration of layouts;

organization and performance of work on training, retraining and qualification improvement of personnel of the state system for legal protection of intellectual property;

other functions and powers provided for in this Law, other laws and regulatory legal acts as well as the articles of association.

NIPA shall be entitled to receive information, documents and materials, which are necessary for it to perform the powers vested in it, from ministries, other central and local executive authorities and local self-government authorities on a free-of-charge basis.

4. NIPA shall act on the basis of this Law, other laws, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

5. In order to ensure the fulfillment by NIPA of delegated powers, the head of NIPA shall be empowered to sign title documents.

6. To develop recommendations on matters falling within the competence of the NIPA, the body shall perform scientific research, involve experts and consultants.

7. NIPA shall be headed by the head appointed to and dismissed from the post by the central executive body, which ensures the formulation and implements the state policy in the field of intellectual property.

The head of NIPA may be a citizen of Ukraine, who has lived in Ukraine for the last five years, is fluent in the state language, speaks one of the official languages of the World Intellectual Property Organization (WIPO), has a complete higher legal education and/or education in the field of intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPA shall not be a person who, in accordance with a court judgement, is deprived of the right to carry out activities related to the performance of state functions or hold corresponding positions, and has been subjected to an administrative penalty for a corruption or corruption-related offense within three years upon the day of entry into force of the relevant court judgement.

The head of NIPA shall be appointed based on the results of an open competition conducted by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of economic entities in the public sector of economy.

The head of NIPA shall have one deputy and two deputies to be appointed to the position by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, upon the recommendation of the head of NIPA.

8. The supervisory board shall be the supervisory body of the NIPA and consist of the following members:

two representatives of the Verkhovna Rada of Ukraine;

two representatives of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

one representative of the central executive authority, which ensures the formulation of state policy in the fields of science and education;

one representative of community organizations of representatives in cases of intellectual property (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The supervisory board may consist of two representatives of international and/or regional intellectual property organizations having an advisory vote.

Personal composition of the supervisory board shall be approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The members of the supervisory board shall perform their duties on a voluntary basis.

The head of the supervisory board and his/her deputies shall be elected by the members of the supervisory board from among them: a representative of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall not be the head of the supervisory board.

The powers of the supervisory board shall include supervision over the financial and economic activities of the NIPA, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

The supervisory board shall have the following rights:

request any information, except for the restricted information, from the NIPA and receive such information;

hear the reports of the head of the NIPA on the state of implementing powers by the NIPA, on the conduct of financial and economic activities, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights, as well as the plans of NIPA's activities;

submit recommendations to the NIPA that are mandatory for consideration;

inform the executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, about the violations detected.

The term of office of supervisory board members, except for the head, shall be two years and may be extended by no more than one term. Upon expiration of the term of office of a supervisory board member, the relevant body or organization that has delegated him/her shall, within one month, delegate a new representative to the supervisory board or make a decision to extend the term of office of the supervisory board member.

Powers of a member of the supervisory board may be terminated early upon the recommendation of the body that has delegated him/her. The powers of a member of the supervisory board shall also be terminated at the initiative of the supervisory board in the case of:

submission of an application for termination of powers at own discretion;

inability to perform personal duties, including due to health problems;

termination of relations with the body that has delegated him/her;

entry into force of a guilty verdict against him/her;

death or on the basis of a court judgement declaring him/her incapable, partially incapable, missing or declared dead;

application of an administrative penalty for a corruption or corruption-related offense.

The body that has delegated a member of the supervisory board, whose powers have been terminated early, shall be obliged to delegate a new representative to the supervisory board within one month from the day the powers of the previous representative are terminated early.

The supervisory board shall act in accordance with this Law and regulation on the supervisory board approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The form of work of the supervisory board shall be a meeting, resulting in drawing up the minutes, a copy of which is sent to the NIPA and the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property. A meeting of the supervisory board shall be considered valid if a simple majority of the members of the supervisory board are present.

Placement and organizational and material support of the supervisory board shall be provided by the NIPA.

9. The NIPA shall publish annually on its official website the financial statements, in particular, the annual financial statements, auditor's opinions on the annual financial statements, its performance report, including the budget execution report, and the budget for the next year.

The financial or consolidated financial statements of the NIPA shall be audited by decision of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

10. NIPA cannot intend to receive profit generated by its operations. NIPA's activities shall be funded from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

NIPA shall procure goods, works and services in the manner and using the procedures established by the [Law of Ukraine](#) "On Public Procurement"

11. A qualified electronic signature may be affixed to the documents received or approved by the NIPA in compliance with the Law. Submission of documents electronically to the NIPA and issuance of documents electronically by it shall be carried out in compliance with the legislation in the sphere of electronic documents and electronic document circulation, electronic trust services this Law and rules established by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

Article 2<sup>3</sup>. Guarantees of independence of the Appeals Chamber and experts of the National Intellectual Property Authority

1. The activities of the Appeals Chamber shall be based on the principles of legitimacy, impartiality, independence, transparency, reliability, collegiality and qualified staffing.

2. The main principles of consideration of objections and applications by the Appeals Chamber are the rule of law, legitimacy, equality of participants in the consideration before the law and the Appeals Chamber.

3. The powers of the Appeals Chamber, the requirements for its members, the procedure for consideration of objections against NIPA's decisions on acquisition of intellectual property rights by the Appeals Chamber, the procedure for organizational and technical support for activities of the Appeals Chamber and resolution of other issues falling within its competence shall be determined by the Rules of Procedure of the Appeals Chamber approved by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

4. Independence of a NIPA's expert and correctness of his/her opinion shall be ensured by:

compliance with the procedure established by law for the appointment and conduct of expert examination;

prohibition of interference in the expert examination process by anyone;

creation of conditions necessary for the activities of the NIPA's expert, his/her financial, social and other support;

ensuring the possibility for the Appeals Chamber to review the conclusions of the expert examination;

ensuring the possibility of the applicant and third parties to participate in the expert examination in the cases prescribed by law.

#### Article 2<sup>4</sup>. Personnel Review Commission

1. The Personnel Review Commission shall be a collegiate body of the NIPA, which is established with the purpose of determining the level of professional training of persons who have shown their intention to acquire the right to engage in activities of a representative in cases of intellectual property (patent attorney).

2. The Personnel Review Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Personnel Review Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Personnel Review Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

#### Article 2<sup>5</sup>. Appeals Commission

1. The Appeals Commission shall be a collegiate body of the NIPA, which is formed to consider complaints of candidates for representatives in cases of intellectual property (patent attorneys) against the decisions of the Personnel Review Commission, complaints against the actions of representatives in cases of intellectual property (patent attorneys) as well as to control that the patent attorneys meet the requirements of the legislation.

2. The Appeals Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, prominent scientists working in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Appeals Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Appeals Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

4) in [Article 9](#):

in subparagraph 2, the words "Institution and its expert body" are replaced with the word "NIPA";

in subparagraphs 5 and 6, the word "Institution" is replaced with the words "to NIPA";

5) in [Article 11](#):

in subparagraph one, the words "shall have the status of the scientific and technical expert examination and" are deleted;

in subparagraph 3, the words "which shall enter into force after its approval by the Institution" are deleted, and the word "Institution" is replaced with the words "the NIPA together with the conclusion of expert examination";

in subparagraph 6:

in indent one, the words "Expert examination institution" are replaced with the word "NIPA";

in indent two, the word "establishment" is deleted, and the word "it" is replaced with the word "NIPA";

in indent three, the word "establishment" is deleted;

6) in [indent two](#) of subparagraph 5 of Article 16, the words "central executive authority, which ensures formulation of the state policy in the field of intellectual property" are replaced with the word "NIPA";

7) in [Article 23](#):

paragraph four is amended as follows:

"The fees stipulated by this Law shall be paid to the NIPA's current accounts";

in paragraph five, the words "according to the orders of the Institution" are deleted;

8) in the text of the [Law](#):

the words "Institution" and "expert examination institution" in all cases are replaced with the word "NIPA";

words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” in all cases are replaced with the words “central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property” in a relevant case.

4. In the [Law of Ukraine](#) "On Legal Protection of Geographical Indications" (Herald of the Verkhovna Rada of Ukraine, 1999, No. 32, Article 267, as further amended):

1) in [paragraph one](#) of Article 1:

subparagraphs 1 and 5 are amended as follows:

"1) Appeals Chamber shall be a collegiate body of NIPA for consideration of objections against NIPA’s decisions on acquisition of rights to intellectual property, statements of invalidation of rights to intellectual property in whole or in part, statements of recognizing a trademark well known in Ukraine and consideration of other issues falling within its competence in accordance with this Law, other laws and regulatory legal acts of Ukraine";

"5) the state system of legal protection of intellectual property shall be the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, NIPA and a combination of scientific, educational, information and other state enterprises, institutions and organizations of relevant specialization, which are managed by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

subparagraph 6 is deleted;

insert subparagraph 101 as follows:

"101) National Intellectual Property Authority (hereinafter referred to as the “NIPA”) shall be a public organization included in the state system of legal protection of intellectual property defined at the national level by the Cabinet of Ministers of Ukraine as exercising powers in the field of intellectual property, which are defined by this Law and other laws in the field of intellectual property, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association, and has the right to represent Ukraine in international and regional organizations";

subparagraph 16 is deleted;

subparagraphs 17 and 18 are inserted as follows:

"17) Personnel Review Commission shall be a NIPA’s collegiate body whose major activity is the review of personnel who have shown their intentions to acquire the right to engage in activities of a representative in intellectual property cases (patent attorney).

18) Appeals Commission shall be a NIPA’s collegiate body whose major activity is the consideration of complaints of candidates for representatives in intellectual property cases (patent attorneys) against decisions of the personnel review commission and consideration of complaints against actions of intellectual property representatives (patent attorneys)";

2) [Article 3](#) is amended as follows:

“Article 3. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property

1. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall include the following:

ensuring the regulatory and legal governance in the sphere of protection of rights to geographical indications;

defining the priority areas of developing the field of protection of rights to geographical indications;

interaction and coordination with central executive authorities, other governmental authorities in the process of formulation and implementation of state policy in the field of intellectual property, as well with a view to strengthening the protection of intellectual property rights;

development of proposals to improve legislation in the field of legal protection of intellectual property;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to geographical indications at international organizations;

conclusion in accordance with the law of international treaties on cooperation in the field of legal protection of intellectual property;

ensuring the implementation of international programs and projects in the field of legal protection of intellectual property in accordance with international treaties;

ensuring the fulfillment of obligations arising from Ukraine's membership in international organizations in the field of legal protection of intellectual property;

interaction, in due course, with the relevant authorities of foreign states and international organizations;

approval of regulations on representatives in intellectual property cases (patent attorneys), on the Personnel Review Commission and the procedure for the review of representatives in intellectual property cases (patent attorneys), on the Appeals Commission, on the State Register of Representatives in Intellectual Property Cases (patent attorneys);

coordination of NIPA's activities in the field of intellectual property;

exercising control over the NIPA's observance of the legislation in the field of intellectual property, use of proceeds from the collection of fees for actions related to the protection of intellectual property rights.

2. Central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property shall perform other powers pursuant to the Law";

3) Articles 3<sup>1</sup> through 3<sup>4</sup> are inserted as follows:

"Article 3<sup>1</sup>. Powers of the National Intellectual Property Authority in the field of protecting rights to geographical indications

1. Functions of the NIPA shall be performed by the legal entity of public law (public organization) established by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and designated by the Cabinet of Ministers of Ukraine.

2. The powers delegated to the NIPA shall include:

receipt of applications, their expert examination, decision-making on them;

state registration of geographical indications;

publication of official information about geographical indications in the Bulletin, maintenance of the Register, entering information into it, providing extracts and excerpts in electronic and (or) paper form;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to geographical indications at the World Intellectual Property Organization and international organizations in accordance with the law;

preparation, attestation and registration of representatives in intellectual property cases (patent attorneys);

maintenance of the State Register of Representatives in Intellectual Property Cases (Patent Attorneys);

informing and giving explanations on implementation of the state policy in the field of protection of rights to geographical indications.

3. NIPA shall also perform:

information and publishing activities in the field of legal protection of intellectual property;

generalization of national and international practice of application of legislation in the field of protection of rights to geographical indications, elaboration of proposals for improvement of legislation in this area and submission of such proposals to the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

approval of guidelines for the expert examination of applications and state registration of geographical indications;

organization and performance of work on training, retraining and qualification improvement of personnel of the state system for legal protection of intellectual property;

other functions and powers provided for in this Law, other laws and regulatory legal acts as well as the articles of association.

NIPA shall be entitled to receive information, documents and materials, which are necessary for it to perform the powers vested in it, from ministries, other central and local executive authorities and local self-government authorities on a free-of-charge basis.

4. NIPA shall act on the basis of this Law, other laws of Ukraine, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

5. In order to ensure the fulfillment by NIPA of delegated powers, the head of NIPA shall be empowered to sign title documents.

6. To develop recommendations on matters falling within the competence of the NIPA, the body shall perform scientific research, involve experts and consultants.

7. NIPA shall be headed by the head appointed to and dismissed from the post by the central executive body, which ensures the formulation and implements the state policy in the field of intellectual property.

The head of NIPA may be a citizen of Ukraine, who has lived in Ukraine for the last five years, is fluent in the state language, speaks one of the official languages of the World Intellectual Property Organization (WIPO), has a complete higher legal education and/or education in the field of intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPA shall not be a person who, in accordance with a court judgement, is deprived of the right to carry out activities related to the performance of state functions or hold corresponding positions, and has been subjected to an administrative penalty for a corruption or corruption-related offense within three years upon the day of entry into force of the relevant court judgement.

The head of NIPA shall be appointed based on the results of an open competition conducted by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of economic entities in the public sector of economy.

The head of NIPA shall have one deputy and two deputies to be appointed to the position by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, upon the recommendation of the head of NIPA.

8. The supervisory board shall be the supervisory body of the NIPA and consist of the following members:

two representatives of the Verkhovna Rada of Ukraine;

two representatives of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

one representative of the central executive authority, which ensures the formulation of state policy in the fields of science and education;

one representative of community organizations of representatives in cases of intellectual property (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The supervisory board may consist of two representatives of international and/or regional intellectual property organizations having an advisory vote.

Personal composition of the supervisory board shall be approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The members of the supervisory board shall perform their duties on a voluntary basis.

The head of the supervisory board and his/her deputies shall be elected by the members of the supervisory board from among them: a representative of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall not be the head of the supervisory board.

The powers of the supervisory board shall include supervision over the financial and economic activities of the NIPA, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

The supervisory board shall have the following rights:

request any information, except for the restricted information, from the NIPA and receive such information;

hear the reports of the head of the NIPA on the state of implementing powers by the NIPA, on the conduct of financial and economic activities, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights, as well as the plans of NIPA's activities;

submit recommendations to the NIPA that are mandatory for consideration;

inform the executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, about the violations detected.

The term of office of supervisory board members, except for the head, shall be two years and may be extended by no more than one term. Upon expiration of the term of office of a supervisory board member, the relevant body or organization that has delegated him/her shall, within one month, delegate a new representative to the supervisory board or make a decision to extend the term of office of the supervisory board member.

Powers of a member of the supervisory board may be terminated early upon the recommendation of the body that has delegated him/her. The powers of a member of the supervisory board shall also be terminated at the initiative of the supervisory board in the case of:

submission of an application for termination of powers at own discretion;

inability to perform personal duties, including due to health problems;

termination of relations with the body that has delegated him/her;

entry into force of a guilty verdict against him/her;

death or on the basis of a court judgement declaring him/her incapable, partially incapable, missing or declared dead;

application of an administrative penalty for a corruption or corruption-related offense.

The body that has delegated a member of the supervisory board, whose powers have been terminated early, shall be obliged to delegate a new representative to the supervisory board within one month from the day the powers of the previous representative are terminated early.

The supervisory board shall act in accordance with this Law and regulation on the supervisory board approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The form of work of the supervisory board shall be a meeting, resulting in drawing up the minutes, a copy of which is sent to the NIPA and the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property. A meeting of the supervisory board shall be considered valid if a simple majority of the members of the supervisory board are present.

Placement and organizational and material support of the supervisory board shall be provided by the NIPA.

9. The NIPA shall publish annually on its official website the financial statements, in particular, the annual financial statements as well as auditor's opinions on the annual financial statements, its performance report, including the budget execution report, and the budget for the next year.

The financial or consolidated financial statements of the NIPA shall be audited by decision of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

10. NIPA cannot intend to receive profit generated by its operations. NIPA's activities shall be funded from the proceeds of collecting fees for actions related to the protection of intellectual property rights as well as from other sources not prohibited by law.

NIPA shall procure goods, works and services in the manner and using the procedures established by the [Law of Ukraine](#) "On Public Procurement"

11. A qualified electronic signature may be affixed to the documents received or approved by the NIPA in compliance with the Law. Submission of documents electronically to the NIPA and issuance of documents electronically by it shall be carried out in compliance with the legislation in the sphere of electronic documents and electronic document circulation, electronic trust services this Law and rules established by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

Article 3<sup>2</sup>. Guarantees of independence of the Appeals Chamber and experts of the National Intellectual Property Authority

1. The activities of the Appeals Chamber shall be based on the principles of legitimacy, impartiality, independence, transparency, reliability, collegiality and qualified staffing.

2. The main principles of consideration of objections and applications by the Appeals Chamber are the rule of law, legitimacy, equality of participants in the consideration before the law and the Appeals Chamber.

3. The powers of the Appeals Chamber, the requirements for its members, the procedure for consideration of objections against NIPA's decisions on acquisition of intellectual property rights by the Appeals Chamber, the procedure for organizational and technical support for activities of the Appeals Chamber and resolution of other issues falling within its competence shall be determined by the Rules of Procedure of the Appeals Chamber approved by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

4. Independence of a NIPA's expert and correctness of his/her opinion shall be ensured by:

compliance with the procedure established by law for the appointment and conduct of expert examination;

prohibition of interference in the expert examination process by anyone;

creation of conditions necessary for the activities of the NIPA's expert, his/her financial, social and other support;

ensuring the possibility for the Appeals Chamber to review the conclusions of the expert examination;

ensuring the possibility of the applicant and third parties to participate in the expert examination in the cases prescribed by law.

### Article 3<sup>3</sup>. Personnel Review Commission

1. The Personnel Review Commission shall be a collegiate body of the NIPA, which is established with the purpose of determining the level of professional training of persons who have shown their intention to acquire the right to engage in activities of a representative in cases of intellectual property (patent attorney).

2. The Personnel Review Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Personnel Review Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Personnel Review Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

## Article 3<sup>4</sup>. Appeals Commission

1. The Appeals Commission shall be a collegiate body of the NIPA, which is formed to consider complaints of candidates for representatives in cases of intellectual property (patent attorneys) against the decisions of the Personnel Review Commission, complaints against the actions of representatives in cases of intellectual property (patent attorneys) as well as to control that the patent attorneys meet the requirements of the legislation.

2. The Appeals Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, prominent scientists working in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Appeals Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Appeals Commission shall act on the basis of this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

4) in [Article 11](#):

in indent one of paragraph one, the words "shall have the status of the scientific and technical expert examination and" are deleted;

in indent one of paragraph two, the words "which shall enter into force after its approval by the Institution" are deleted, and the words "Institution shall be sent" are replaced with the words "NIPA together with the conclusion of expert examination shall be sent";

in indent two of paragraph five, the word "facility" is deleted;

5) the first sentence of [paragraph four](#) of Article 13 is amended as follows: "NIPA's decision shall be appealed with the Appeals Chamber by submitting an objection to the decision under the procedure established in this Law and in accordance with the rules of procedure of the Appeals Chamber approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

6) in [Article 26](#):

paragraph four is amended as follows:

"The fees stipulated by this Law shall be paid to the NIPA's current accounts";

in paragraph five, the words "according to the orders of the Institution" are deleted;

7) in the text of the [Law](#):

the words “Institution” and “expert examination institution” in all cases are replaced with the word “NIPA”;

words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” in all cases are replaced with the words “central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property” in a relevant case.

5. In the [Law of Ukraine](#) “On Protection of Rights to Inventions and Utility Models” (Herald of the Verkhovna Rada of Ukraine, 2000, No. 37, Article 307, as further amended):

1) in [Article 1](#):

indents two and three are amended as follows:

"National Intellectual Property Authority (hereinafter referred to as the “NIPA”) shall be a public organization included in the state system of legal protection of intellectual property defined at the national level by the Cabinet of Ministers of Ukraine as exercising powers in the field of intellectual property, which are defined by this Law and other laws in the field of intellectual property, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association, and has the right to represent Ukraine in international and regional organizations;

Appeals Chamber shall be a collegiate body of NIPA for consideration of objections against NIPA’s decisions on acquisition of rights to intellectual property, statements of invalidation of rights to intellectual property in whole or in part, statements of recognizing a trademark well known in Ukraine and consideration of other issues falling within its competence in accordance with this Law, other laws and regulatory legal acts of Ukraine”;

indent thirty-two is deleted;

indent thirty-three is amended as follows:

"the state system of legal protection of intellectual property shall be the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, NIPA and a combination of scientific, educational, information and other state enterprises, institutions and organizations of relevant specialization, which are managed by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property”;

insert indents thirty-four and thirty-five as follows:

"Personnel Review Commission shall be a NIPA’s collegiate body whose major activity is the review of personnel who have shown their intentions to acquire the right to engage in activities of a representative in intellectual property cases (patent attorney).

Appeals Commission shall be a NIPA’s collegiate body whose major activity is the consideration of complaints of candidates for representatives in intellectual property cases (patent attorneys) against decisions of the personnel review commission and consideration of complaints against actions of intellectual property representatives (patent attorneys)”;

2) [Article 3](#) is amended as follows:

“Article 3. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property

1. Powers of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall include the following:

ensuring the regulatory and legal governance in the sphere of protection of rights to inventions and utility models;

defining the priority areas of developing the field of protection of rights to inventions and utility models;

interaction and coordination with central executive authorities, other governmental authorities in the process of formulation and implementation of state policy in the field of intellectual property, as well with a view to strengthening the protection of intellectual property rights;

development of proposals to improve legislation in the field of legal protection of intellectual property;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to inventions and utility models at international organizations;

conclusion in accordance with the law of international treaties on cooperation in the field of legal protection of intellectual property;

ensuring the implementation of international programs and projects in the field of legal protection of intellectual property in accordance with international treaties;

ensuring the fulfillment of obligations arising from Ukraine's membership in international organizations in the field of legal protection of intellectual property;

interaction, in due course, with the relevant authorities of foreign states and international organizations;

approval of regulations on representatives in intellectual property cases (patent attorneys), on the Personnel Review Commission and the procedure for the review of representatives in intellectual property cases (patent attorneys), on the Appeals Commission, on the State Register of Representatives in Intellectual Property Cases (patent attorneys);

coordination of NIPA's activities in the field of intellectual property;

exercising control over the NIPA's observance of the legislation in the field of intellectual property, use of proceeds from the collection of fees for actions related to the protection of intellectual property rights.

2. Central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property shall perform other powers pursuant to the Law”;

3) Articles 31 through 34 are inserted as follows:

"Article 3<sup>1</sup>. Powers of the National Intellectual Property Authority in the field of protecting rights to inventions and utility models

1. Functions of the NIPA shall be performed by the legal entity of public law (public organization) established by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and designated by the Cabinet of Ministers of Ukraine.

2. The powers delegated to the NIPA shall include:

receipt of applications, their expert examination, decision-making on them;

state registration of inventions and utility models, issuance of patents for inventions and utility models;

invalidation of rights to inventions and utility models in the manner prescribed by law;

publication of official information about inventions and utility models in the Bulletin, maintenance of the Register, entering information into it, providing extracts and excerpts in electronic and (or) paper form;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to inventions and utility models at the World Intellectual Property Organization and international organizations in accordance with the law;

preparation, attestation and registration of representatives in intellectual property cases (patent attorneys);

maintenance of the State Register of Representatives in Intellectual Property Cases (Patent Attorneys);

informing and giving explanations on implementation of the state policy in the field of protection of rights to inventions and utility models.

3. NIPA shall also perform:

functions of the "department that receives", "International Search Authority" and "International Preliminary Examination Authority" in accordance with the [Patent Cooperation Agreement](#);

information and publishing activities in the field of legal protection of intellectual property;

generalization of national and international practice of application of legislation in the field of protection of rights to inventions and utility models, elaboration of proposals for improvement of legislation in the above-mentioned area and submission of such proposal to the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

approval of guidelines for the expert examination of applications and state registration of inventions and utility models;

organization of work on training, retraining and qualification improvement of personnel of the state system for legal protection of intellectual property;

other functions and powers provided for in this Law, other laws and regulatory legal acts as well as the articles of association.

NIPA shall be entitled to receive information, documents and materials, which are necessary for it to perform the powers vested in it, from ministries, other central and local executive authorities and local self-government authorities on a free-of-charge basis.

4. NIPA shall act on the basis of this Law, other laws, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

5. In order to ensure the fulfillment by NIPA of delegated powers, the head of NIPA shall be empowered to sign title documents.

6. To develop recommendations on matters falling within the competence of the NIPA, the body shall perform scientific research, involve experts and consultants.

7. NIPA shall be headed by the head appointed to and dismissed from the post by the central executive body, which ensures the formulation and implements the state policy in the field of intellectual property.

The head of NIPA may be a citizen of Ukraine, who has lived in Ukraine for the last five years, is fluent in the state language, speaks one of the official languages of the World Intellectual Property Organization (WIPO), has a complete higher legal education and/or education in the field of intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPA shall not be a person who, in accordance with a court judgement, is deprived of the right to carry out activities related to the performance of state functions or hold corresponding positions, and has been subjected to an administrative penalty for a corruption or corruption-related offense within three years upon the day of entry into force of the relevant court judgement.

The head of NIPA shall be appointed based on the results of an open competition conducted by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of economic entities in the public sector of economy.

The head of NIPA shall have one deputy and two deputies to be appointed to the position by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, upon the recommendation of the head of NIPA.

8. The supervisory board shall be the supervisory body of the NIPA and consist of the following members:

two representatives of the Verkhovna Rada of Ukraine;

two representatives of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

one representative of the central executive authority, which ensures the formulation of state policy in the fields of science and education;

one representative of community organizations of representatives in cases of intellectual property (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The supervisory board may consist of two representatives of international and/or regional intellectual property organizations having an advisory vote.

Personal composition of the supervisory board shall be approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The members of the supervisory board shall perform their duties on a voluntary basis.

The head of the supervisory board and his/her deputies shall be elected by the members of the supervisory board from among them: a representative of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall not be the head of the supervisory board.

The powers of the supervisory board shall include supervision over the financial and economic activities of the NIPA, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

The supervisory board shall have the following rights:

request any information, except for the restricted information, from the NIPA and receive such information;

hear the reports of the head of the NIPA on the state of implementing powers by the NIPA, on the conduct of financial and economic activities, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights, as well as the plan of NIPA's activities;

submit recommendations to the NIPA that are mandatory for consideration;

inform the executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, about the violations detected.

The term of office of supervisory board members, except for the head, shall be two years and may be extended by no more than one term. Upon expiration of the term of office of a supervisory board member, the relevant body or organization that has delegated him/her shall, within one month, delegate a new representative to the supervisory board or make a decision to extend the term of office of the supervisory board member.

Powers of a member of the supervisory board may be terminated early upon the recommendation of the body that has delegated him/her. The powers of a member of the supervisory board shall also be terminated at the initiative of the supervisory board in the case of:

submission of an application for termination of powers at own discretion;

inability to perform personal duties, including due to health problems;

termination of relations with the body that has delegated him/her;

entry into force of a guilty verdict against him/her;

death or on the basis of a court judgement declaring him/her incapable, partially incapable, missing or declared dead;

application of an administrative penalty for a corruption or corruption-related offense.

The body that has delegated a member of the supervisory board, whose powers have been terminated early, shall be obliged to delegate a new representative to the supervisory board within one month from the day the powers of the previous representative are terminated early.

The supervisory board shall act in accordance with this Law and regulation on the supervisory board approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The form of work of the supervisory board shall be a meeting, resulting in drawing up the minutes, a copy of which is sent to the NIPA and the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property. A meeting of the supervisory board shall be considered valid if a simple majority of the members of the supervisory board are present.

Placement and organizational and material support of the supervisory board shall be provided by the NIPA.

9. The NIPA shall publish annually on its official website the financial statements, in particular, the annual financial statements, auditor's opinions on the annual financial statements, its performance report, including the budget execution report, and the budget for the next year.

The financial or consolidated financial statements of the NIPA shall be audited by decision of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

10. NIPA cannot intend to receive profit generated by its operations. NIPA's activities shall be funded from the proceeds of collecting fees for actions related to the protection of intellectual property rights as well as from other sources not prohibited by law.

NIPA shall procure goods, works and services in the manner and using the procedures established by the [Law of Ukraine](#) "On Public Procurement"

11. A qualified electronic signature may be affixed to the documents received or approved by the NIPA in compliance with the Law. Submission of documents electronically to the NIPA and issuance of documents electronically by it shall be carried out in compliance with the legislation in the sphere of electronic documents and electronic document circulation, electronic trust services this Law and rules established by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

Article 3<sup>2</sup>. Guarantees of independence of the Appeals Chamber and experts of the National Intellectual Property Authority

1. The activities of the Appeals Chamber shall be based on the principles of legitimacy, impartiality, independence, transparency, reliability, collegiality and qualified staffing.

2. The main principles of consideration of objections and applications by the Appeals Chamber are the rule of law, legitimacy, equality of participants in the consideration before the law and the Appeals Chamber.

3. The powers of the Appeals Chamber, the requirements for its members, the procedure for consideration of objections against NIPA's decisions on acquisition of intellectual property rights by the Appeals Chamber, the procedure for organizational and technical support for activities of the Appeals Chamber and resolution of other issues falling within its competence shall be determined by the Rules of Procedure of the Appeals Chamber approved by the central executive authority, which ensures formulation of the state policy in the field of intellectual property.

4. Independence of a NIPA's expert and correctness of his/her opinion shall be ensured by:

compliance with the procedure established by law for the appointment and conduct of expert examination;

prohibition of interference in the expert examination process by anyone;

creation of conditions necessary for the activities of the NIPA's expert, his/her financial, social and other support;

ensuring the possibility for the Appeals Chamber to review the conclusions of the expert examination;

ensuring the possibility of the applicant and third parties to participate in the expert examination in the cases prescribed by law.

Article 3<sup>3</sup>. Personnel Review Commission

1. The Personnel Review Commission shall be a collegiate body of the NIPA, which is established with the purpose of determining the level of professional training of persons who have shown their intention to acquire the right to engage in activities of a representative in cases of intellectual property (patent attorney).

2. The Personnel Review Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Personnel Review Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Personnel Review Commission shall act in accordance with this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

#### Article 3<sup>4</sup>. Appeals Commission

1. The Appeals Commission shall be a collegiate body of the NIPA, which is formed to consider complaints of candidates for representatives in cases of intellectual property (patent attorneys) against the decisions of the Personnel Review Commission, complaints against the actions of representatives in cases of intellectual property (patent attorneys) as well as to control that the patent attorneys meet the requirements of the legislation.

2. The Appeals Commission shall consist of employees of the NIPA, the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, prominent scientists working in the field of intellectual property, and representatives in cases of intellectual property (patent attorneys) who have practical experience in the field of legal protection of intellectual property for at least 10 years.

3. The powers of the Appeals Commission, its composition, formation procedure, requirements for its members, term of office as well as rules and procedures of its activities shall be determined by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

4. The Appeals Commission shall act in accordance with this Law and the regulation approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

4) in [paragraph six](#) of Article 14, the word "it" is replaced with the word "it";

5) in [paragraph two](#) of Article 15:

in the first indent, the words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” are replaced with the word “NIPA”;

in the third indent, the words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” are replaced with the word “NIPA”;

in the fourth indent, the words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” are replaced with the word “NIPA”;

6) in [Article 16](#):

in paragraph three, the words “which shall enter into force after its approval by the Institution” are deleted, and the word “Institution” is replaced with the words “the NIPA together with the conclusion of expert examination”;

in paragraph six:

in indent two, the word “establishment” is deleted, and the word “it” is replaced with the word “NIPA”;

in indent three, the word “establishment” is deleted;

indent three of paragraph fourteen is amended as follows:

“patent for the utility model – decision of the NIPA on state registration of the utility model”;

in the first indent of paragraph sixteen, the words “defined by it” are replaced with the words “defined by it”;

in the third indent of paragraph seventeen, the words "approved by the Institution" are deleted;

7) [paragraph eight](#) of Article 24 is deleted;

8) in [Article 36](#):

in paragraph three, the words “to the State Budget of Ukraine” are replaced with the words “to the budgets under the procedure prescribed by the [Budget Code of Ukraine](#)”;

paragraph four is amended as follows:

“The fees stipulated by this Law shall be paid to the NIPA’s current accounts”;

in paragraph five, the words “according to the orders of the Institution” are deleted;

9) in the text of the [Law](#):

the words “Institution” and “expert examination institution” in all cases are replaced with the word “NIPA”;

words “central executive authority, which ensures formulation of the state policy in the field of intellectual property” in all cases are replaced with the words “central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property” in a relevant case.

6. In the [Law of Ukraine](#) "On Copyright and Related Rights" (Herald of the Verkhovna Rada of Ukraine, 2001, No. 43, Article 214, as further amended):

1) in [Article 1](#):

in indent fifty-eight, the words “which implements” are replaced with the words “which ensures the formulation and implements”;

indent sixty-one is amended as follows:

"the state system of legal protection of intellectual property shall be the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, NIPA and a combination of other scientific, educational, information and other state enterprises, institutions and organizations of relevant specialization, which are managed by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property";

the following term is inserted, taking into account the alphabetical order:

"National Intellectual Property Authority (hereinafter referred to as the "NIPA") shall be a public organization included in the state system of legal protection of intellectual property defined at the national level by the Cabinet of Ministers of Ukraine as exercising powers in the field of intellectual property, which are defined by this Law and other laws in the field of intellectual property, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association, and has the right to represent Ukraine in international and regional organizations";

2) in [paragraph one](#) of Article 4:

in the first indent, the words "ensures formulation of the state policy" are replaced with the words "ensures the formulation and implements the state policy";

indents eight, nine, ten and thirteen are deleted;

3) Article 4<sup>1</sup>. is inserted as follows:

"Article 4<sup>1</sup>. Powers of the National Intellectual Property Authority in the field of protecting copyright and related rights

1. Functions of the NIPA shall be performed by the legal entity of public law (public organization) established by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and designated by the Cabinet of Ministers of Ukraine.

2. The powers delegated to the NIPA shall include:

receipt and consideration of applications for state registration of author's rights to works of science, literature and art as well as to the registration of agreement relating to the rights of authors to works, their registration;

issuing certificates of registration of work copyright;

publications in the official bulletin for the protection of copyright and related rights;

international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of copyright and related rights to industrial designs at the World Intellectual Property Organization and international organizations in accordance with the law;

informing and giving explanations on implementation of the state policy in the field of protection of copyright and related rights.

3. NIPA shall also perform:

information and publishing activities in the field of legal protection of intellectual property;

provision of methodical assistance to collective management organizations and monitoring of their activities;

generalization of national and international practice of application of legislation in the field of protection of rights to copyright and related rights, elaboration of proposals for improvement of legislation in the above-mentioned area and submission of such proposals to the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

organization and performance of work on training, retraining and qualification improvement of personnel of the state system for legal protection of intellectual property;

other functions and powers provided for in this Law, other laws and regulatory legal acts as well as the articles of association.

NIPA shall be entitled to receive information, documents and materials, which are necessary for it to perform the powers vested in it, from ministries, other central and local executive authorities and local self-government authorities on a free-of-charge basis.

4. NIPA shall act on the basis of this Law, other laws, acts of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, and the articles of association approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

5. In order to ensure the fulfillment by NIPA of delegated powers, the head of NIPA shall be empowered to sign title documents.

6. To develop recommendations on matters falling within the competence of the NIPA, the body shall perform scientific research, involve experts and consultants.

7. NIPA shall be headed by the head appointed to and dismissed from the post by the central executive body, which ensures the formulation and implements the state policy in the field of intellectual property.

The head of NIPA may be a citizen of Ukraine, who has lived in Ukraine for the last five years, is fluent in the state language, speaks one of the official languages of the World Intellectual Property Organization (WIPO), has a complete higher legal education and/or education in the field of intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPA shall not be a person who, in accordance with a court judgement, is deprived of the right to carry out activities related to the performance of state functions or hold corresponding positions, and has been subjected to an administrative penalty for a corruption or corruption-related offense within three years upon the day of entry into force of the relevant court judgement.

The head of NIPA shall be appointed based on the results of an open competition conducted by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of economic entities in the public sector of economy.

The head of NIPA shall have one deputy and two deputies to be appointed to the position by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, upon the recommendation of the head of NIPA.

8. The supervisory board shall be the supervisory body of the NIPA and consist of the following members:

two representatives of the Verkhovna Rada of Ukraine;

two representatives of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

one representative of the central executive authority, which ensures the formulation of state policy in the fields of science and education;

one representative of community organizations of representatives in cases of intellectual property (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The supervisory board may consist of two representatives of international and/or regional intellectual property organizations having an advisory vote.

Personal composition of the supervisory board shall be approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The members of the supervisory board shall perform their duties on a voluntary basis.

The head of the supervisory board and his/her deputies shall be elected by the members of the supervisory board from among them: a representative of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, shall not be the head of the supervisory board.

The powers of the supervisory board shall include supervision over the financial and economic activities of the NIPA, budget execution, use of funds generated from the proceeds of collecting fees for actions related to the protection of intellectual property rights.

The supervisory board shall have the following rights:

request any information, except for the restricted information, from the NIPA and receive such information;

hear the reports of the head of the NIPA on the state of implementing powers by the NIPA, on the conduct of financial and economic activities, budget execution, use of funds generated from the

proceeds of collecting fees for actions related to the protection of intellectual property rights, as well as the plans of NIPA's activities;

provide recommendations to the NIPA that are mandatory for consideration;

inform the executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, about the violations detected.

The term of office of supervisory board members, except for the head, shall be two years and may be extended by no more than one term. Upon expiration of the term of office of a supervisory board member of the NIPA, the relevant body or organization that has delegated him/her shall, within one month, delegate a new representative to the supervisory board or make a decision to extend the term of office of the supervisory board member.

Powers of a member of the supervisory board may be terminated early upon the recommendation of the body that has delegated him/her. The powers of a member of the supervisory board shall also be terminated at the initiative of the supervisory board in the case of:

submission of an application for termination of powers at own discretion;

inability to perform personal duties, including due to health problems;

termination of relations with the body that has delegated him/her;

entry into force of a guilty verdict against him/her;

death or on the basis of a court judgement declaring him/her incapable, partially incapable, missing or declared dead;

application of an administrative penalty for a corruption or corruption-related offense.

The body that has delegated a member of the supervisory board, whose powers have been terminated early, shall be obliged to delegate a new representative to the supervisory board within one month from the day the powers of the previous representative are terminated early.

The supervisory board shall act in accordance with this Law and regulation on the supervisory board approved by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

The form of work of the Supervisory Board shall be a meeting, resulting in drawing up the minutes, a copy of which is sent to the NIPA and the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property. A meeting of the Supervisory Board shall be considered valid if a simple majority of its members are present.

Placement and organizational and material support of the supervisory board shall be provided by the NIPA.

9. The NIPA shall publish annually on its official website the financial statements, in particular, the annual financial statements, auditor's opinions on the annual financial statements, its performance report, including the budget execution report, and the budget for the next year.

The financial or consolidated financial statements of the NIPA shall be audited by decision of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property.

10. NIPA cannot intend to receive profit generated by its operations. NIPA's activities shall be funded from the proceeds of collecting fees for actions related to the protection of intellectual property rights as well as from other sources not prohibited by law.

NIPA shall procure goods, works and services in the manner and using the procedures established by the [Law of Ukraine](#) "On Public Procurement"

11. A qualified electronic signature may be affixed to the documents received or approved by the NIPA in compliance with the Law. Submission of documents electronically to the NIPA and issuance of documents electronically by it shall be carried out in compliance with the legislation in the sphere of electronic documents and electronic document circulation, electronic trust services this Law and rules established by the central executive authority, which ensures formulation of the state policy in the field of intellectual property";

4) [indents two to four](#) of paragraph five of Article 11 are amended as follows:

"The state registration of copyright and agreements concerning the author's right to a work shall be carried out by the NIPA in accordance with the procedure approved by the Cabinet of Ministers of Ukraine. NIPA shall make periodically publish catalogues of all state registrations.

The preparation by the NIPA for the state registration of copyright and agreements related to the author's right to a work shall be subject to the payment of fees the amount of which shall be determined by the Cabinet of Ministers of Ukraine. Funds from the collection of these fees shall be credited to the budgets in the manner prescribed by the [Budget Code of Ukraine](#).

The NIPA shall issue the work copyright registration certificate. A state duty shall be paid for the issuance of a certificate, the funds from the payment of which are transferred to the budgets in accordance with the procedure established by the [Budget Code of Ukraine](#). The amount and procedure of payment of the state duty for certificate issuance shall be established by law".

7. In the text of the [Law of Ukraine](#) "On Peculiarities of State Regulation of Economic Entities Associated with the Production, Export, Import of Disks for Laser Reading Systems" (Herald of the Verkhovna Rada of Ukraine, 2002, No. 17, Article 121, as further amended), the words "central executive authority, which implements the state policy in the field of intellectual property" in all cases are replaced with the words "central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property" in a relevant case.

8. In [indent twenty](#) of Article 2 of the Law of Ukraine "On Distribution of Copies of Audiovisual Works, Phonograms, Videograms, Computer Software, Databases" (Herald of the Verkhovna Rada of Ukraine, 2004, No. 7, Article 46; 2014, No. 2-3, Article 41), the words "central executive authority, which implements the state policy in the field of intellectual property" are replaced with the words "central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property".

9. [Paragraph two](#) of Article 2 of the Law of Ukraine "On Administrative Services" (Herald of the Verkhovna Rada of Ukraine, 2013, No. 32, Article 409, as further amended) is supplemented with subparagraph 17 as follow:

“17) performance of actions related to the protection of rights to intellectual property items (inventions, utility models, industrial designs, layouts of semiconductor products, trademarks (marks for goods and services), geographical indications, objects of copyright and other related rights, registration and accreditation of collective management organizations)”.

10. In [Section VI](#) "Final and Transitional Provisions" of the Law of Ukraine "On Effective Management of the Property Rights of Copyright Holders in the Field of Copyright and (or) Related Rights" (Herald of the Verkhovna Rada of Ukraine, 2018, No. 32, Article 242):

in [indent one](#) of subparagraph 2, figures "15" are replaced with the figures "16".

in indents [two](#) and [three](#) of subparagraph 3 and in [subparagraph 5](#), figures "11" are replaced with the figures "12".

## II. Final and Transitional Provisions

1. This Law shall enter into force three months after its publication, except [subparagraph 7](#) of this section, which shall enter into force on the day following the day of publication of this Law.

2. The National Intellectual Property Authority shall be the functional legal successor of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, regarding certain functions and powers in implementing the state policy in the field of intellectual property as defined by this Law.

3. Expert examination of applications received by the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property, prior to the entry into force of this Law, which is pending at the time of entry into force of this Law, shall be conducted under the procedure envisaged by this Law. Compliance of intellectual property with the conditions for acquiring legal protection (patentability) shall be determined in accordance with the legislation in force as of the date of filing the application.

4. Applications for registration of copyright and agreements relating to the author's right to a work, the paper work on which has not been completed as of the day of entry into force of this Law, shall be considered by the National Intellectual Property Authority in the manner prescribed by this Law.

5. Applications for invalidation of intellectual property rights may be submitted to the Appeals Chamber of the National Intellectual Property Authority with respect to objects, the rights to which have been acquired before the day of entry into force of this Law. Compliance of objects with the conditions for the provision of legal protection (patentability) shall be determined in accordance with the legislation in force as of the day of filing the application.

6. Documents regarding entering in the state registers of data on the objects of intellectual property rights, the paperwork on which has not been completed as of the date of entry into force of this Law, shall be considered by the National Intellectual Property Authority in accordance with the procedure established by this Law and legislation in the field of intellectual property. The fact whether the

documents meet the established requirements shall be determined in accordance with the legislation that was in effect as of the date of submission thereof.

7. The Cabinet of Ministers of Ukraine shall:

1) within three months upon entry into force of this Law, ensure the designation of the state organization, which performs functions of the National Intellectual Property Authority, upon the recommendation of the central executive authority, which ensures the formulation and implements the state policy in the field of intellectual property;

2) within six months from the day of publication of this Law:

bring its regulatory legal acts into line with this Law;

ensure that the central executive authorities bring their regulatory legal acts into line with this Law.

8. Before bringing the regulatory legal acts adopted prior to the entry into force of this Law into line with this Law, they shall be valid to the extent that does not contradict this Law.

9. The Cabinet of Ministers of Ukraine shall incorporate information about the execution of this Law in the progress and results of fulfillment of the [Action Program of the Cabinet of Ministers of Ukraine for 2020](#).

President of Ukraine  
Kyiv  
16 June 2020  
No. 703-IX

V. ZELENSKYY