

LAW
of 21 June 2000,

**on the Protection of Industrial Designs and the Amendment to Act № 527/1990 of Coll.,
on Inventions, Industrial Designs and Rationalization Proposals,
as amended**

The Parliament has adopted the following Law of the Czech Republic:

PART ONE

PROTECTION OF INDUSTRIAL DESIGNS

Chapter I

PROTECTION OF INDUSTRIAL DESIGNS

Article 1

(1) The Industrial Property Office (hereinafter referred to as the “Office”) shall enter into Register the industrial designs fulfilling conditions according to this Act.

(2) The protection given to the identical objects according to the author, civic, trademark rights, or to another legal regulation, is not affected by provisions of this Act.

Article 2

Definitions

For the purpose of this Act

- a) industrial design means the appearance of the whole or a part of a product resulting from the features of, in particular the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation,
- b) product means any industrial or handicraft item, including parts intended to be assembled into a complex product, packaging, get-up, graphic symbol and typographic typefaces, except computer programs,
- c) complex product means a product which is composed of multiple components, which can be replaced permitting disassembly and reassembly of the product,
- d) designer is a person having created the industrial design by his own creative activity, co-designer is a person, which has participated on the creative activity, during which the industrial design has been created.

Article 3

Conditions of the protection

(1) An industrial design shall be protected, if it is new and has individual character.

(2) An industrial design applied to or incorporated in a product, which constitutes a component part of a complex product, shall only be considered to be new and to have individual character:

- a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter, and
- b) if the visible features of the component fulfil in themselves the requirement of the novelty and individual character.

(3) Normal use within the meaning of paragraph 2a) shall mean use by the end user, excluding maintaining, servicing and repair works.

Article 4

Novelty

An industrial design shall be considered new if no identical design has been made available to the public before the date of filing of the application for registration or the date of priority. Industrial designs shall be considered as identical if their features differ only in immaterial details.

Article 5

Individual character

(1) An industrial design shall have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any industrial design, which has been made available to the public before the date of filing of the application for registration or the date of priority.

(2) In assessing individual character of an industrial design, the degree of freedom of the designer in developing design shall be taken into consideration.

Article 6

Disclosure

(1) For the purpose of assessing according Articles 4 and 5, an industrial design shall be deemed to have been made available to the public if it has been published following registration or exhibited, used in trade or otherwise disclosed. The industrial design shall not, however, be deemed to have been made available to the public in case, when it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

(2) A disclosure shall not be taken into consideration for the purpose of applying Articles 4 and 5 if an industrial design for which protection is claimed has been made available to the public by the designer, his successor in title or a third person as a result of information provided or action taken by the designer or his successor in title, and this during 12-months period preceding the date of filing of the application for registration or the date of priority.

(3) Provisions of the paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse of relation to the designer or his successor in title.

Article 7

Industrial designs dictated by their technical function and designs of interconnections

(1) In assessing the capability of an industrial design to be registered, the features, which are solely dictated by its technical function, are not taken into consideration.

(2) In assessing the capability of an industrial design to be registered, the features, which must necessarily be reproduced in exact form and dimensions, in order to permit the product, in which the industrial design is incorporated or to which it is applied to be mechanically connected to or placed in, round or against another product, so that either product may perform its function, shall not be taken into consideration.

(3) Provisions of the paragraph 2 shall not apply if the purpose of the industrial design, fulfilling otherwise conditions of Articles 4 and 5, is to allow multiple assembly or connection of mutually interchangeable products within a modular system.

Article 8

Contradiction to public policy or morality

The Office shall not enter into Register any industrial design being contrary to public policy or to principles of morality.

Article 9

The Office shall not record into Register an industrial design, if an identical industrial design with the prior right of priority has been already registered in the Czech republic.

Article 10

Scope of protection

(1) The scope of the protection shall be given by the representation of the industrial design as it is registered (Article 38) except features being predestined by the technical function of the design, or which must necessarily be reproduced in exact form and dimensions, in order to permit the product, in which the industrial design is incorporated or to which it is applied to be mechanically connected to or placed in, round or against another product, so that either product may perform its function. The scope of the protection includes any industrial design, which does not produce on the informed user a different overall impression.

(2) In assessing the scope of protection, the degree of freedom of the designer in developing design shall be taken into consideration.

Article 11

Beginning and duration of protection

(1) The protection of a registered industrial design shall last 5 years from the date of filing of the application.

(2) The holder of a registered industrial design can repeatedly renew this period of the protection, scilicet each time for a period of 5 years, up to a total term of 25 years from the date of filing of the application of the industrial design.

(3) The request for renewing can be submitted during the last year of the correspondent 5 years period, at latest on the day, which is by its number and denomination identical with the date of filing of the application of the industrial design. With the request, the holder is obliged to pay the administrative fee according to the special legal regulation¹⁾. If the fee is not paid, the request is considered as non-submitted.

(4) If the request is not submitted in terms of paragraph 3, the holder is authorized to submit it by 6 months after the date, when it was to be presented, at the latest. In this case, he is obliged to pay the corresponding fee in a double amount. If the request is not submitted even in this additional term or if the fee is not paid in demanded amount, the protection of an industrial design expires on the date, when, according to paragraph 3, the request was to be submitted at the latest.

(5) Rights of third persons, which after futile expiration of time to filing of the request for renewing the protection of the industrial design according to paragraph 3, in good faith have begun to make a use of the industrial design or have realized serious and effective preparations to this use, are not affected by the renewal performed on the basis of additional filing of the request for renewing.

Chapter II

RIGHT ON THE INDUSTRIAL DESIGN

Article 12

Right to the industrial design

(1) Right to the industrial design shall rest in the designer or his successor in title. The co-designer shall have the right to the industrial design in the scope corresponding to his participation in the creation of the industrial design.

(2) The application of the industrial design may be filed by person having right to it (hereinafter referred to as the “applicant”).

¹⁾ Law № 368/1992 of Coll., Act on Administrative Fees, as amended.

Employee industrial design

Article 13

(1) If the designer creates an industrial design to fulfil the task resulting from his employment, from membership or other similar relation (thereinafter “employment”), the right to the industrial design shall pass to subject who ordered the creation of the industrial design to the designer (hereinafter referred to as the “principal”), unless it is stipulated differently in a contract. The right to authorship shall remain unaffected.

(2) The designer, having created an industrial design according to paragraph 1, shall be obliged to notify immediately his principal on this fact in written form and to give him documents necessary to assessing of the industrial design.

(3) If the principal does not set up a claim to the industrial design towards designer within the period of 3 months from the notification on the creation of the industrial design, this right shall pass back to the designer. During the aforementioned period, both principal and designer shall be obliged to keep secrecy on the industrial design against third persons. The principal shall be obliged to keep secrecy on the industrial design one more month from the day, when the right to the industrial design passed to the designer.

(4) The designer, having created an industrial design in employment, to which his principal has set up a claim, shall be entitled to reasonable remuneration from the latter. On stipulating of the remuneration amount, the benefit acquired by industrial design using or by its other application shall be taken into consideration, as well as the material share of principal in the creation of the industrial design and the scope of assignment to the designer. If the already paid remuneration comes into apparent disproportion with the benefit resulting from the later usage or other application of the industrial design, the designer shall be entitled to the additional settlement.

Article 14

Rights and obligations, resulting from provisions of paragraph 13 shall remain unaffected after the termination of the employment relation between principal and designer.

Article 15

Litigations concerning right to the industrial design

(1) Litigations concerning determination of the right to the industrial design shall be decided by courts.²⁾

(2) It is possible to institute legal proceedings for determination of entitled applicant or holder of the registered industrial design within the period of 2 years from the registration of the industrial design in the Register; this is not applied, when the applicant has not act in good faith.

²⁾ Article 9 paragraph 2c) of the Act № 99/1963 of Coll., Civil Procedure Act as amended.

Article 16

Deprivation of protection and assignment

(1) On the request, the Office shall deprive the holder of the industrial design protection, if it finds out from the judicial decision that the design right in terms of Article 12 has not belonged to him.

(2) Solely the person having the design right based on the judicial decision or his successor in title shall be entitled to file the request for the deprivation of the protection in terms of paragraph 1.

(3) On the request of the person having the design right in terms of Article 12, the Office shall register this person as holder of the industrial design. The proposal for assignment the industrial design holder shall be accompanied by the judicial decision.

(4) If the proposal for assignment the industrial design holder is not submitted according to paragraph 3, the Office shall cancel the industrial design from the Register ex officio.

Article 17

Effects of judgement in litigation concerning the design right

(1) After the registration of the entitled person into Register according Article 16, paragraph 3, licences and other rights granted to originally registered industrial design holder shall lapse.

(2) If the originally registered industrial design holder or third person, having acquired of the former the licence to exploit the industrial design have commenced or have realized serious preparations to exploit this industrial design before the institution of the legal proceedings in terms of Article 15, paragraph 2, they may continue in using the industrial design, providing that they will ask for a non-exclusive licence in usual conditions within the time limit of 2 months from the day, when the entitled industrial design holder notified them of the change in the registration of industrial design holder. This is not applied, when the originally registered industrial design holder or third person having acquired of the former the licence to use, have not act in good faith.

Article 18

The designer has right to be mentioned in the application of an industrial design and to be registered in the Register.

Chapter III

EFFECT OF REGISTERED INDUSTRIAL DESIGN

Article 19

Rights conferred by the design right upon registration

(1) The registration of an industrial design shall confer on its holder the exclusive right to use it, to prevent any third party not having his consent from using it, to afford his consent to use the industrial design to other persons or to assign the design right to them. The aforementioned use of an industrial design means in particular the making, offering, putting on the market, importing, exporting or using of a product in which the design is incorporated or to which it is applied, or stocking such a product for these purposes.

(2) Rights conferred by the design right upon registration shall have effects from the day of filing of the application. If the industrial design has not been made available to the public, his holder can assert his rights from the registration against third persons only in case, when the industrial design has not been used in good faith.

Article 20

Threatened infringement or infringement of the right

(1) In case of an unauthorized interference to design right upon registration, its holder can claim in court in particular the injunction and removal of consequences of such an infringement. If the aforementioned infringement has caused prejudice, the industrial design holder has right to damages. The provisions of Civil Code will be applied to these damages. If this infringement has caused immaterial prejudice, the industrial design holder has right to appropriate compensation, which may consist in monetary indemnity.

(2) The industrial design holder can demand that the court orders to threatening person or infringer to destroy products, which production or placing on the market would menace or infringe right protected by this Act, or to destroy the material and apparatus destined or used exclusively or mainly in activities, menacing or infringing rights protected by this Act. The court does not order the destruction, if the products in question are not in the possession of the person, against which the proposal is directed or if the menace or infringement of the right could be removed otherwise and the destruction would not be reasonable in comparison with the menace or infringement.

Article 21

Right to the information

The owner of right conferred by the design right upon registration has towards everybody menacing or infringing his right, the right to be informed about the origin of the product in which the design is incorporated or to which it is applied, including information concerning placing of such products on the market; the court shall not adjudicate the right to the information, if it would be disproportional to the severity of the menace or infringement.

Article 22

(1) If the issuing of interlocutory order is demanded in matters concerning the infringement of the rights conferred by a design right upon registration, the court may order to submitter to deposit a security, whose amount should be sufficient to cover eventual indemnification of person, against which the proposal is directed, and thus to prevent the misusing of the protection granted to the holder of the industrial design.

(2) The court competent to ordering the interlocutory order

- a) shall order to the submitter to give security in terms of the paragraph 1 by the 7th day at the latest from the submission of the proposal and decides of the proposal for the interlocutory order within the period of 7 days at the latest after getting knowledge that the submitter has given the security, or
- b) shall decide of the proposal for the interlocutory order within the period of 7 days at the latest after its submission.

Article 23

Limitation of rights conferred by a design right upon registration

(1) The rights conferred by a design right upon registration shall not be exercised in respect of:

- a) acts done by third persons for non-commercial purposes,
- b) acts done by third persons for experimental purposes,
- c) acts done by third persons for the purposes of citation or of teaching, provided that such acts are compatible with fair trade practice and do not unduly prejudice the normal exploitation of the design, and that mention is made of the source.

(2) In addition, the rights conferred by a design right upon registration shall not be exercised in respect of:

- a) the equipment on ships and aircraft registered in another country when these temporary enter the territory of the Czech Republic,
- b) the importation of spare parts and accessories in the Czech Republic for the purpose of repairing such craft,
- c) the execution of repairs of such craft.

Article 24

Exhaustion of rights

(1) The rights conferred by a design right upon registration shall not extend to acts relating to a product in which the industrial design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in the Czech Republic by the holder of the design right upon registration or with his consent.

(2) The rights conferred by a design right upon registration shall not extend to acts relating to a product in which the industrial design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in the European Communities by the holder of the design right upon registration or with his consent.

Article 25

Right of previous user

(1) The rights conferred by a design right upon registration shall not apply to third persons being able to prove that before the date of filing of the application for registration or the date of priority they have commenced or have realized serious preparations to use the industrial design included within the scope of protection of the design right upon registration on the territory of the Czech Republic, if the used industrial design was created independently on the registered industrial design. Those persons are authorized to use the industrial design during their entrepreneurial activity, in which the prior use has been realized or prepared.

(2) The right of previous user cannot be transferred separately from the enterprise or its part, to which it relates.

Chapter IV

LAPSE AND CANCELLATION OF INDUSTRIAL DESIGN

Article 26

Lapse of a right conferred by a design right upon registration

The right conferred by a design right upon registration shall lapse,

- a) if the time of protection has expired, or
- b) if the holder of the design right surrenders it; in this case the right shall lapse on day, when this fact is registered in the Register. If the rights of third persons are attached to the industrial design, the Office shall not indicate the lapse of the industrial design until it obtains from the holder of the design right the evidence that these third persons have been informed on this intention by the holder of the design right.

Cancellation of industrial design

Article 27

(1) The Office shall cancel the registered industrial design from the Register,

- a) if the industrial design does not correspond to the definition of industrial design within the meaning of Article 2, or
- b) if the industrial design does not fulfil the requirements posed on it in terms of Articles 3 to 8 of this Act, or
- c) if its holder is not entitled to this industrial design in terms of Article 12, or
- d) if the industrial design has been already protected in the Czech Republic by a registered industrial design with prior right of priority, or
- e) if in the industrial design a distinctive sign is used, which before creation of the right of priority confers on the right holder of the sign the right to prohibit such use, or
- f) if the design constitutes an unauthorised use of work protected under the copyright, or
- g) if the design constitutes an improper use of any of the items listed in Article 6 ter of the Paris Convention for the Protection of Industrial Property (thereinafter: "Paris

Convention”)³⁾ or of another symbolic signs, flags, escutcheons other than those covered by Article 6 ter of the Paris Convention, which are of particular public interest in the Member State concerned.

(2) The proposal for cancellation according to paragraph 1 (c) may be filed solely by the person who on the basis of judicial decision is entitled to filing of the application for industrial design registration in terms of Article 12.

(3) The proposal for cancellation according to paragraph 1 (d-f) may be filed solely by the person whose rights have been affected

(4) The grounds provided for in paragraph 1 (g) may be invoked solely by the person or entity concerned by the use.

(5) If the registered industrial design is to be cancelled according paragraph 1 (b) or (e-g), it can be cancelled also partially.

(6) If the submitter proves the legal interest, the cancellation in the Register may be executed even after it has become extinct.

Article 28

The cancellation of a registered industrial design in the Register shall have the same effects, as if the industrial design has not been registered into Register.

Article 29

(1) The proposal for cancellation of the registered industrial design in the Register shall be filed with the Office in written form. The proposal for cancellation shall be founded and at the same time, the items of evidence, on which it is based, must be presented. The grounds for the cancellation, inclusive denomination of evidences invoked by it, cannot be additionally changed.

(2) The Office shall invite the holder of the design right to express his opinion to the proposal within stipulated time limit.

(3) If the holder of the design right does not express his opinion to the proposal for cancellation, it shall not represent an obstacle to the decision on the proposal for cancellation.

³⁾ Paris Convention for the Protection of Industrial Property of 20 March 1883, revised in Brussels 14 December 1900, in Washington 2 June 1911, in Haag 6 November 1925, in London 2 June 1934, in Lisbon 31 October 1958, and Stockholm 14 July 1967, published under the number 64/1975 of Coll.”.

Chapter V

REGISTERED INDUSTRIAL DESIGN AS OBJECT OF PROPERTY

Article 30

Transfer of rights to registered industrial design

(1) The rights to registered industrial design shall be transferred by a written contract, entering into force towards third persons by the registration into the Register of industrial designs.

(2) Until the denotation of the transfer in the Register, the legal successor cannot against third persons invoke rights conferred by a design right upon registration.

Article 31

(1) The registered industrial design may be subject of the right of lien. The right of lien is created by the registration into the Register.

(2) The registered industrial design may be subject of the execution of the decision.

Article 32

Licence

(1) The consent (licence) to use of a registered industrial design shall be granted by a licence contract.

(2) The licence may be either exclusive, or non-exclusive.

(3) The licence contract shall come into force against third persons by the registration into the Register of industrial designs.

(4) The provisions of Commercial Code shall be applied to licence contracts and relations caused by them.

Article 33

Co-property of industrial design

(1) If rights conferred by a design right upon registration belong to several persons (hereinafter: “co-proprietors”), the relations between them shall be governed by regulations on co-ownership.

(2) Unless otherwise agreed between co-proprietors, each of them shall be entitled to exploit the industrial design.

(3) Unless otherwise agreed, the consent of all co-proprietors shall be necessary to the valid conclusion of a licence contract. Each of co-proprietors shall be entitled to set up a claim from infringement of menace of design rights separately.

(4) The consent of all co-proprietors shall be necessary to the transfer of the rights to registered industrial design. The co-proprietor shall be entitled to transfer his share without consent of others only to some of co-proprietors; he can transfer his share to a third person

only in case, when none of co-proprietors accepts the written offer of transfer within the time limit of one month.

Chapter VI

PROCEDURE ON APPLICATION OF INDUSTRIAL DESIGN

Article 34

The application of an industrial design shall be filed with the Office in written form.

Article 35

Application of industrial design

(1) To create the right of priority, the application of industrial design shall contain the following items:

- a) request for the registration of an industrial design to the Register,
- b) name and surname or commercial firm of the applicant and the address of the permanent residence of place of business, if the applicant is an individual, and trade name or name and registered office, if the applicant is a corporation,
- c) representation of each industrial design, which registration is demanded in the application, from which the principle of the industrial design can be unambiguously recognized and which can be reproduced.

(2) The application shall furthermore contain:

- a) name of the industrial design,
- b) designation of a product, in which the industrial design is incorporated or to which it is applied, inclusive its classification according to classes of the international classification of industrial designs⁴⁾,
- c) name and surname of the designer, or a declaration of applicant that the designer abandons his right to be mentioned.

(3) The application shall furthermore contain:

- a) description explaining the representation,
- b) application for the deferment of publication of the industrial design according to Article 38, paragraph 4.

(4) The application may contain request for the registration of one industrial design (simple application of industrial design) or request for the registration of several industrial designs (multiple application of industrial design). With the exception of industrial designs consisting in decoration, the multiple application of industrial design may concern only industrial designs included in one class of the international classification of industrial designs.

⁴⁾ The Convention of Locarno on the Establishment of International Classification of Industrial Designs and Models, signed at Locarno, 8 October 1968, published sub № 28/1981 of Coll., amended by the Decree № 85/1985 of Coll.

(5) The multiple application of industrial design shall contain the list of industrial designs, which registration is requested.

(6) The data, contained in the application of industrial design, mentioned in paragraph 2 (a and b) and in paragraph 3 (a) shall have no influence to the scope of protection resulting from the industrial design in itself.

Article 36

Right of priority

(1) The right of priority originates to the applicant on the day of filing of the application of the industrial design, provided that the application contains all requirements mentioned in Article 35, paragraph 1.

(2) The applicant shall claim the right of priority resulting from the Paris Convention³⁾ within the time limit of one month from the filing of the application and prove this right on invitation of the Office in the delay stipulated by them, otherwise the Office shall not take it into consideration.

(3) The right of priority according to paragraph 2 may be claimed from the application of the industrial design demanding the protection in the Member State of the Paris Convention or of the World Trade Organisation; if the state, where the first application of the industrial design is filed, is neither a contractual party of the Paris Convention, nor a member of the World Trade Organisation, the right of priority from this presentation can be awarded only on condition of the reciprocity.

Article 37

Examination of application of industrial design

(1) The Office shall submit the application to the examination.

(2) If the application does not contain the requirements mentioned in Article 35, paragraph 1 and 2, the Office shall invite the applicant to remedy the faults within the stipulated period.

(3) If the faults concern the requirements mentioned in Article 35, paragraph 1, which the applicant has removed within the stipulated period, the day, when this correction was submitted shall be considered as the filing date. Otherwise, the application shall be considered as non-presented.

(4) If the applicant does not remove the faults mentioned in Article 35, paragraph 2 within the stipulated period, the Office shall terminate the proceedings on application of industrial design.

(5) Until the registration in the Register, the applicant is entitled to split the multiple application of industrial design. The right of priority from the original application shall remain preserved even for split applications, provided that they contain only industrial designs mentioned in the original application.

(6) If an industrial design according paragraph 2 is not subject of the application, or if the industrial design does not fulfil requirements in terms of Articles 3 to 5 and 7 to 9, the Office shall reject the application. Before the rejection, the opportunity must be afforded to the applicant to express his opinion to reasons, for which the application should be rejected.

Article 38

Registration of industrial design into Register

(1) If facts mentioned in Articles 3 to 5, 7 to 9 do not inhibit it, the Office shall register an industrial design and issues a certificate on the registration to the applicant.

(2) Simultaneously with the registration of industrial design into Register, the Office shall make the registered industrial design available to the public.

(3) The Office shall publish the registration of industrial design into Register in the Bulletin of the Industrial Property Office (hereinafter referred to as the "Bulletin").

(4) In case when in the application the applicant has demanded an deferment of the industrial design publishing, not exceeding 30 days after the date of filing of the application or the date of priority, the Office shall make the registered industrial design available to the public not before the lapse of the demanded period; together with the notification of the registration in terms of paragraph 3, the Office shall notice the deferment of the industrial design publishing.

(5) The legal proceedings for the infringement of rights conferred by the design right before the registration may be commenced only under conditions that the person, against which the legal action is instituted, has been given informations contained in the Register and in the document concerning the application of the industrial design.

Article 39

Register and data on industrial designs published in the Bulletin

(1) The Office shall keep the Register of industrial designs, in which it shall record the decisive data concerning registered industrial designs.

(2) Namely the following items concerning each industrial design shall be recorded into Register:

- a) number of registration (certificate),
- b) date of registration,
- c) date of publication of industrial design,
- d) name of industrial design and in case of multiple application of industrial designs their number,
- e) date of filing of application and its reference mark,
- f) denomination of a product in which the design is incorporated or to which it is applied, inclusive its classification according to correspondent classes of the international classification of industrial designs ⁴⁾ and in case of an industrial design, registered on basis of a multiple application of industrial designs their list,
- g) applicant of the industrial design (name and surname, commercial firm or name), his residence (headquarters), or his representative,
- h) holder of the industrial design (name and surname, commercial firm or name), his residence (headquarters), or his representative,
- i) designer,
- j) assignment of the industrial design,
- k) licence,
- l) cancellation of the industrial design in the Register,
- m) deprivation or assignment of protection ,
- n) beginning and termination of the right of lien concerning the industrial design,

- o) renewal of the period of protection of the industrial design
- p) extinction of protection.

(3) The Office publishes in the Bulletin facts concerning the registered industrial designs and other data concerning the protection of industrial designs, as well as official notifications and decisions of fundamental character.

Chapter VII

PROVISIONS ON PROCEDURE

Article 40

Administrative procedure

(1) The Administrative Procedure Code applies for procedures on the Office, with exceptions alleged in this Act and with the exception concerning the suspension of procedure, declaration on word of honour, delays for decisions and measures against inactivity.⁵⁾ The procedure on the Office is conducted in Czech language.

(2) For the acts related with the procedure in terms of this Act, the Office collects administrative fees according to special legal regulation.¹⁾

(3) The applicant is obliged to deposit a security for procedure costs, which shall be refunded, if during procedure it shall be proved that the proposal for beginning of the administrative procedure has been justified. The security amounts to 2.500,- Kč.

Article 41

Termination of procedure

(1) If the party to the procedure does not satisfy the invitation of the Office, the latter may terminate the procedure; the party to the procedure shall be noticed to this fact.

(2) The Office may stop the procedure also on the proposal of the party; the proposal for the termination of procedure cannot be withdrawn.

Article 42

Excuse of time limit

(1) The Office shall excuse of failure to observe a time limit on legitimate ground, if the party so requests within 2 months of the day, when the obstacle for failure to observe has ceased to exist, provided that the omitted act has been performed within that period.

(2) Failure to observe a time limit may not be excused after expiry of one year from the day, when the act should have been performed, for claiming the right of priority, as well as for filing a request for the deferment of publication (Article 35, paragraph 3(b)).

⁵⁾ Article 29, 39, 49 and Article 50 of the Law No 71/1967 of Coll., Administrative Procedure Code, as amended.

(3) Rights of third persons acquired during the period from the failure to observe the time limit until its excuse shall remain unaffected.

Article 43

Inspection of files

(1) The Office shall enable the inspection of files to third persons only when they prove the legal interest. Before the registration of an industrial design to the Register, only following data may be communicated: who is designer, applicant of the industrial design, data concerning the right of priority, name of industrial design application and its reference mark.

(2) If the publication of an industrial design was deferred, after the registration and before the publication of the industrial design, the Office allows the inspection of files only to person, designated by the holder of the industrial design as the infringer of the design right.

Article 44

Appeal procedure

(1) Within the time limit of one month after the delivery of the decision, an appeal can be submitted against this decision of the Office, except the decision on excuse of failure to observe a time limit in terms of Article 42.

(2) The appeal shall be decided by president of the Office on the basis of the proposal of a special commission, set up by him.

Article 45

Representation

Persons, which have not the place of residence or headquarter on the territory of the Czech Republic, must be in the procedure on the Office represented by a patent attorney or solicitor.⁶⁾

Chapter VIII

FINAL AND TRANSITIONAL PROVISIONS

Article 46

Transitional provisions

(1) Applications of industrial designs not having been decided before this Act came into force shall be processed according to this Act. The fulfilment of conditions of the registration of industrial design into the Register shall be judged according to the Act in force at time of filing of the application.

(2) Relations issued from the design right upon registration before this Act came into force shall conform to the provisions of this Act. The origin of these relations, as well as

⁶⁾ Law № 237/1991 of Coll., Act on Patent Attorneys, as amended by Law № 14/1993 of Coll. Law № 85/1996 of Coll., Act on Advocacy, as amended by Law № 210/1999 of Coll.

claims issued from them are nevertheless judged according regulations in force at time of their origin.

(3) Determining procedures commenced before this Act came into force, shall be terminated in accordance with the hitherto regulations.

(4) The treatment with industrial designs, concealed in accordance with the hitherto regulations, shall conform to the hitherto regulations.

Article 47

Final provisions

(1) Provisions of the Civil Code shall be reasonably applied to matters unstipulated by this Act.

(2) Provisions of the Commercial Code shall be applied to the licence contract.

PART TWO

Amendment to Act № 527/1990 of Coll., on Inventions, Industrial Designs and Rationalization Proposals as amended

Article 48

The Law № 527/1990 of Coll., Act on Inventions, Industrial Designs and Rationalization Proposals, as amended by the Law № 519/1991 of Coll. and Law № 116/2000 of Coll. is amended as follows:

1. In the name of the Act, the words “, Industrial Designs” are deleted.
2. In Article 1, the words “Industrial Designs” are deleted.
3. Part Two is deleted.
4. In Article 63, paragraph 2, the numeral “62” is deleted.
5. Article 66, inclusive the title reads as follows:

“Article 66

Inspection of files

(1) The Office shall enable the inspection of files to third persons only when they prove the legal interest. Before the publishing of an invention application, only following data may be communicated: who is author of the invention, applicant of the invention, data concerning the right of priority, name of application of the invention and its reference mark.”.

6. In Article 67, paragraph 1, the words “or if external design of a product, represented or described in the application comes under the scope of specific industrial design” are deleted.

7. In the title of Article 69, the words “Register of industrial designs” are deleted.

8. In Article 69, paragraph 1 reads as follows:

(1) The Office keeps the Register of patents, in which it registers the decisive data concerning applications of inventions, procedures on them and decisive data on granted patents.”.

9. In Article 69, paragraph 3, the words “and registered industrial designs” and the words “and industrial designs” are deleted.

10. In Article 72, paragraph 2, the words “or from the registered industrial design” are deleted.

11. In Article 75, paragraph 3, the words “of industrial design” are deleted.

12. In Article 75b, paragraph 1, the words “or industrial designs” and the words “or the owner of industrial design” are deleted.

PART THREE

ENTRY INTO FORCE

Article 49

This Act shall enter into force on 1st October 2000, except Article 24, paragraph 2, which shall enter into force on the date, when the Agreement of Accession of the Czech Republic to the European Union shall enter into force.