**BELARUS**

**Law of the Republic of Belarus**

**On Patents for Inventions, Utility Models, and Industrial Designs**

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## CHAPTER 1. LEGAL PROTECTION OF INVENTION, UTILITY MODEL, AND INDUSTRIAL DESIGN

### Article 1. Patent for Invention, Utility Model, and Industrial Design

1. The right to an invention, utility model, and industrial design is protected by the state and is certified by a patent.

2. The patent for invention, utility model and industrial design certifies the authorship, priority of invention, utility model, and industrial design and the exclusive right to their use.

3. The term of validity of the patent is calculated from the date of submitting the application for the patent for invention, utility model, industrial design (unless otherwise indicated hereinafter – application) to the state institution "The National Center of Intellectual Property" (hereinafter – the patent body) and, subject to compliance with the requirements established by this Law, shall constitute:

patent for invention – within twenty years. If from the date of submission of the application for patent for invention (unless indicated otherwise hereinafter – invention application) relating to a medicine, pesticide or agricultural chemical, for the use of which a permission of the authorized body is required in accordance with the legislation, more than five years have passed, the term of validity of the patent for this invention shall be prolonged by the patent body at the petition of the patentee.

The term of validity of the patent shall be prolonged for the period which has passed from the date of submission of invention application till the date of receipt of the first permission to use the medicine, pesticide or agricultural chemical, in which the invention is used, minus five years. In this instance the term of validity of the patent may not be prolonged for more than five years. The petition for the extension of the validity term of the patent shall be filed within the validity term of the patent prior to the expiration of six months from the date of receipt of the first permission for the use of the medicine, pesticide or agricultural chemical, in which the invention is used, or the date of publication of the data about the patent in the official bulletin of the patent body (hereinafter – the official bulletin) depending on which of these time limits expires later;

the patent for utility model – within five years with a possible prolongation of this term by the patent body at the petition of the patentee, but not more than for five years. The petition about the prolongation of the validity term of the patent for utility model shall be submitted to the patent body prior to the expiry of the validity term of the patent;
the patent for industrial design – within ten years with a possible prolongation of this term by the patent body at the petition of the patentee, but not more than for 5 years.
The petition about the prolongation of the validity term of the patent for industrial design shall be submitted to the patent body prior to the expiry of the validity term of the patent.
The procedure for extension of the validity period of an invention patent, utility model patent, or industrial design patent shall be determined by the Council of Ministers of the Republic of Belarus, unless otherwise established by the President of the Republic of Belarus.
After the termination of the exclusive right over an invention, utility model, or industrial design due to the expiry of the patent validity period, or due to the early termination of the patent on the grounds provided for in Sub-Paragraphs 1.1 and 1.3 of Paragraph 1 of Article 34 of the present Law, the invention, utility model, or industrial design shall fall into public domain and can be freely used by any individual or legal entity without requiring permission or paying for remuneration, provided that the using party complies with copyright law.

4. When computing the time limits mentioned in clause 3 of the present Article in relation to the patent granted on the divisional application with the priority in accordance with clause 6 of Article 16 of the present Law, the date of filing the application is recognized to be the date of filing the first application.

5. The scope of legal protection granted by a patent for invention or utility model is determined by the claim (claims) of the invention or utility model. The claims of an invention (utility model) are a logic definition of the invention (utility model) by the total set of all its essential features. The description and the drawings are used only for interpretation of the claims of the invention (utility model).

6. The scope of legal protection granted by the patent for industrial design is determined by graphic images of the product (by a model, drawing) (hereinafter – images).

7. The procedure for providing legal protection to inventions and utility models that have been classified as secret in the established manner, and the procedure for handling applications for secret inventions and utility models, shall be determined by the Council of Ministers of the Republic of Belarus.

**Article 2. Conditions for Granting Legal Protection to the Invention**

1. The present Law provides legal protection to a technical solution relating to a product or method, as well as to the use of a product or method for a certain purpose in any field, that is novel, involves an inventive step, and is industrially applicable.

For the purposes of the present Law, "product" shall mean an item that is the result of human work, and "method" shall mean a process, way or method of performing interconnected actions with tangible object(s) using tangible means.

The invention is new if it is not a part of the prior art.

The invention has inventive level if it is not derived from the prior art in a manner obvious for a skilled person.

The prior art includes any information that became public in the world before the priority date of the invention. When the novelty of the invention is established, the prior art also include all applications, provided that they have an earlier priority date, filed, and not withdrawn, in the Republic of Belarus by other persons for patents for an invention and utility model, and inventions and utility models patented in the Republic of Belarus.

The invention is industrially applicable if it can be used in the industry, agriculture, healthcare and other spheres of activity.

The disclosure of information relating to the invention by the author, applicant or any person that has received this information from them directly or indirectly, which made public the information of the essence of the invention is not recognized to be a circumstance preventing the patentability of the invention, if the application for the invention is submitted to the patent body not later than 12 months from the date of disclosure of the information. In this instance the burden of proof of this fact is placed on the applicant.

2. The following is not considered inventions:
discoveries and also scientific theories or mathematical methods;
decisions concerning only the appearance of the product and aimed at the satisfaction of esthetic needs;
schemes, rules and methods for performing mental acts, playing games or doing business, and also programs for electronic data processing machines;
simple presentation of information.
The mentioned objects and kinds of activity are not considered inventions in accordance with the present Law only in case if the application for the invention concerns only those objects and kinds of activities as such.

3. The present Law does not grant legal protection as an invention to:
plant varieties and animal breeds;
topologies of integrated circuits.
In accordance with the present Law, methods of providing healthcare (preventive healthcare, diagnostics, treatment, medical rehabilitation, and prosthetics), as well as inventions contrary to public interests or the principles of humanism and morality shall not be recognized as patentable.

**Article 3. Conditions of Granting Legal Protection to the Utility Model**

1. The present Law recognizes as utility model to which the legal protection is granted a technical solution relating to devices and being new and industrially applicable.
The industrial model is new, if the set of its essential features does not form part of the state of the art.
The state of the art includes any information about the devices of the same purpose as the claimed utility model, which has been made available to public in the world before the date of priority of the utility model and also the information about its open use in the Republic of Belarus. When the novelty of a utility model is being established, the state of the art also includes all applications, provided that they have an earlier priority date, filed, and not withdrawn, in the Republic of Belarus by other persons for patents for an invention and utility model, and inventions and utility models patented in the Republic of Belarus.
The utility model is industrially applicable if it can be used in

the industry, agriculture, healthcare and other spheres of activity. The disclosure of information relating to the utility model by the author, applicant or any person that has received this information from them directly or indirectly, which has made the information about the essence of the utility model available to the public is not recognized to be a circumstance preventing the patentability of the utility model, if the application for the patent for the utility model (unless otherwise indicated hereinafter – application for utility model) is submitted to the patent body not later than 12 months from the date of disclosure of the information. In this instance the burden of proof of this fact is placed on the applicant.

2. The legal protection is not granted in accordance with clause 1 of the present Article to:
decisions concerning only the appearance of the product and aimed at the satisfaction of aesthetic needs;
decisions being contrary to public interests, principles of humanity and morality.

**Article 4. Conditions of Granting the Legal Protection to the Industrial Design**

1. The present Law recognizes as industrial design to which the legal protection is granted, an artistic or artistic and engineering solution of a product, which determines its appearance and is novel and original. In this instance the product is understood an article of industrial or handicraft production.
The industrial design is recognized to be new if it is unknown from the information that has been made available to the public in the world before the date of priority of the industrial design.
When establishing the novelty of the industrial design, all applications earlier submitted, and not withdrawn, in the Republic of Belarus by other persons for the patent for industrial design, and also industrial designs patented in the Republic of Belarus, are taken into consideration.
The industrial design is recognized to be original if the specific features of the appearance of the product are its substantial features are derived from the creative work of the author (co-authors) of the industrial design.
The disclosure of information relating to the industrial design by the author, applicant or any person that has received this

information from them directly or indirectly, which has made the information about the essence of the industrial design available to the public is not recognized to be a circumstance affecting the patentability of the industrial design, if the application for the patent for the industrial design (unless otherwise indicated hereinafter – application for industrial design) is submitted to the patent body not later than six months from the date of disclosure of the information. In this instance the burden of proof of this fact is placed on the applicant.

2. The legal protection is not granted in accordance with clause 1 of the present Article to:
solutions derived exclusively from a technical function of the product;
solutions being contrary to public interests, principles of humanity and morality;
objects of architecture (including industrial, hydro-technical and other stationary structures) except for small pieces of architecture;
printed products as such;
objects with unstable shape from liquid, gaseous, free-flowing and similar substances.

## CHAPTER 2 AUTHORS AND PATENT OWNERS

### Article 5. Author of the Invention, Utility Model, and Industrial Design

1. The author of the invention, industrial model and industrial design is recognized to a natural person by whose creative work they are created.
A person indicated as the author in the application is deemed to be the author of the invention, utility model, industrial design, unless otherwise proved.

2. If the invention, utility model, and industrial design are created by joint creative work of two and more natural persons they are recognized co-authors. The order of enjoying the rights belonging to the co-authors is determined by an agreement among them.

3. The natural persons that did not make a personal creative contribution to the creation of the invention, utility model, and industrial design, but who rendered the author (co-authors) only technical, organizational or material assistance or only as facilitated the registration of rights to the invention, industrial model, and industrial design and their use, are not recognized to be co-authors.

### Article 6. Patent Owner

1. The patent owner (patent owners) is (are) a person (persons) to whom the patent for invention, utility model or industrial design is granted.

2. The right to obtain the patent belongs to:
author (co-authors) of the invention, utility model, and industrial design;
natural or legal person being the employer of the author of the invention, utility model, and industrial design in cases provided by clause 3 of the present Article;
A client who entered into a contract for conducting research, development or technological work, with respect to an invention, utility model, or industrial design created in the process of fulfilling the contract, unless otherwise specified in the contract;
Natural and/or legal person or several natural and/or legal persons

to which the right to obtain the patent was transferred by the persons specified in indents two and fourth of this clause before the date of registration of the invention, utility model, and industrial design;
successor (successors) of the persons specified in the present clause.

3. The right to obtain the patent for a service invention, utility model, and industrial design, created by an employee belongs to the employer, unless otherwise stipulated by the contract concluded between them.
Invention, utility model, and industrial design are deemed to be service ones if they relate to the field of activity of the employer provided that the activity that has led to their creation relates to the official duties of the employee or they are created in connection with the execution of a concrete task received by the employee from the employer or in the course of their creation the employee used the experience or means of the employer.
The employee who has created a service invention, utility model, and industrial design is obliged to notify the employer about it in a written form. If the employer within three months from the date of notification by the employee about created invention, utility model, and industrial design does not submit the application to the patent body, does not notify the employee about keeping them secret or about assigning the right to obtain the patent to another person, the right to obtain the patent is transferred to the employee. In this instance the employer is entitled to use the invention, utility model, and industrial design on the conditions determined by a licensing contract.
If the employer obtains a patent for a service invention, utility model, industrial design, or decides to keep them secret or to transfer the right to obtain a patent to another person, the employee has the right to remuneration, and in the event that the employer does not receive a patent on the application submitted by him for reasons within his control, the employee has the right to receive remuneration compensation. Remuneration or compensation shall be paid in the amount and under conditions determined by the agreement between the employee and the employer.
If no agreement has been reached between the parties about the remuneration amount and payment procedure, the dispute shall be taken to court. The procedure and conditions for the remuneration

and compensation payment, as well as their minimal amounts, shall be determined by the Council of Ministers of the Republic of Belarus.
In the case of late payment of the remuneration or compensation determined by the contract, the employer responsible for such delay shall bear the liability in accordance with law.
The right to receive remuneration or compensation for an employee's invention, utility model, or industrial design shall only be transferred to the heirs of the author (co-authors).
Termination of the labor contract does not affect the rights and duties of the employee and the employer, arising in connection with creation of service invention, utility model, and industrial design.
Other relations arising in connection with creation of service invention, utility model, and industrial design are regulated by the legislation.

## CHAPTER 3 RIGHTS TO INVENTION, UTILITY MODEL, AND INDUSTRIAL DESIGN

### Article 7. Author's Rights

1. The author of an invention, utility model, and industrial design possesses moral rights and economic rights related to them.

2. The right to authorship (right to be recognized as the author) is a moral right and is protected indefinitely. The right to authorship is inalienable and non-transferable.

### Article 8. Rights and Duties of the Patent Owner

1. A patent owner shall possess the exclusive right over an invention, utility model, or industrial design.
The exclusive right over an invention, utility model, or industrial design shall include the right to use the invention, utility model, or industrial design at the patent owner's own discretion, provided that it does not violate the rights of other persons; and shall also include the right to allow or prohibit the use of the invention, utility model, industrial design by other persons.

2. A patent owner shall exercise the exclusive right over an invention, utility model, or industrial design during the validity period of the patent, starting from the date when information on the grant of the patent is published in the official bulletin.

3. The patent owner must use the rights granted by the patent without damaging the rights of other persons, interests of the society and the state.

### Article 9. Infringement of the Exclusive Right of a Patent Owner

The use of an invention, utility model, or industrial design without the patent owner's permission, through committing any of the acts specified in Paragraphs 1-3 of Article 36 of the present Law, and excluding the cases stipulated in Articles 10, 35, and 39 of the present Law, shall be deemed to constitute infringement of the exclusive right of the patent owner.

### Article 10. Actions Not Recognized as Infringement of the Exclusive Right of the Patent Owner

The following is not recognized as an infringement of the exclusive right of the patent owner:

application of the means in which inventions, utility models, and industrial designs protected by the patent are used, in the construction or at the exploitation of transportation means (sea, river, air, road and space) of other countries provided that the mentioned means temporarily or accidentally are in the territory of the Republic of Belarus and are used for the needs of the relevant transportation means. Such action is not recognized as infringement of the exclusive right of the patent owner, if the transportation means belong to the citizens or legal persons of the countries granting the same rights to the citizens and legal persons of the Republic of Belarus;

conducting scientific research on a product or method in which an invention or utility model is used, or conducting scientific research on an article in which an industrial design is used, or conducting an experiment on such a product, method or article;

conducting preclinical or clinical trials of a medicinal substance containing an invention, or conducting an experiment on such a medicinal substance;

conducting research on a pesticide or agrochemical containing an invention, or conducting an experiment on such a pesticide or agrochemical for the purpose of its state registration;

using an invention, utility model, or industrial design in emergency situations (natural disasters, catastrophes, accidents, epidemics, epizootics, etc.); in such cases, the patent owner shall be notified as soon as possible and paid a reasonable compensation;

using an invention, utility model, or industrial design for personal, family, household needs or other needs unrelated to business activities if the purpose of the use is not to gain profit or income;

one time manufacturing of the medicines at the chemist drug stores on the prescription of a doctor with application of the invention protected by the patent;

using, importing, offering for sale, selling or storage for these purposes of the product or article containing the invention, utility model, and industrial design protected by the patent and introduced into the civil turnover in the Republic of Belarus without infringement of rights of the patent owner.

**Article 11. Transfer and Assignment of a Right to Obtain a Patent: Transfer, Assignment, and Other Disposition of an Exclusive Right over an Invention, Utility Model, or Industrial Design**

1. The right to obtain a patent and the exclusive right over an invention, utility model, or industrial design shall be inheritable or otherwise acquirable by universal succession.

2. The persons specified in Paragraph 2 of Article 6 of the present Law shall be able to assign the right to obtain a patent under an agreement. An agreement for the transfer of the right to obtain a patent shall be concluded in writing or shall otherwise be deemed invalid.

3. A patent owner shall be able to assign the exclusive right over an invention, utility model, or industrial design under an agreement on the assignment of the exclusive right over an invention, utility model, or industrial design; grant the right to use an invention, utility model, or industrial design under a licence agreement; as well as dispose of the exclusive right over an invention, utility model, or industrial design by concluding an agreement of another type.

4. Property rights confirmed by a patent can be a subject of pledge.

5. Licensing agreements, agreements on the assignment of the exclusive right over an invention, utility model, or industrial design, and amendments to such agreements, as well as, in cases provided by law and by regulations issued by the Council of Ministers of the Republic of Belarus, other agreements providing for the disposal of the exclusive right over an invention, utility model, or industrial design, and amendments to such agreements, shall be registered with the patent body according to the procedure established by law.
The agreements specified in this Paragraph, as well as amendments to the said agreements, shall come into force from the date of their registration with the patent body, unless a later date of coming into force is provided for in the agreements or amendments to the said agreements.

6. If agreements, and amendments to the said agreements, are not registered as required under the first part of Paragraph 5 of the present Law, they shall become invalid.

## CHAPTER 4 OBTAINING THE PATENT

### Article 12. Filing the Application

1. An application shall be filed with the patent body by person(s) having the right to obtain a patent under the present Law (hereinafter referred to as "applicant(s)"). The applicant(s) shall have the right to file an application with the patent body through a patent attorney registered with the patent body.
Interactions with the patent body can be conducted by the applicant(s), or one of the applicants (joint representative), or through a patent attorney registered with the patent body.
Applicants with a permanent address or permanent residency status in foreign countries shall provide an address for correspondence within the territory of the Republic of Belarus upon demand by the patent body.

2. An application filed through a patent attorney, or an application where all procedures are to be conducted by a joint representative, shall be accompanied by a power of attorney provided by the applicant(s).

3. The requirements for application documents, and the procedure for the examination of an application and passing a decision based on the examination results shall be determined by the Council of Ministers of the Republic of Belarus.

### Article 13. Application for the Invention

1. The application for the invention must relate to one or a group of inventions so linked among them as to form a single general inventive concept (requirement of unity of invention).

2. The application for invention must contain:
2.1. request to grant the patent with indication of the author (co-authors) of the invention and the person (persons) on whose behalf the patent is asked and also their place of residence or the place of stay;
2.2. description of the invention disclosing it sufficiently clear and complete to be carried out;
2.3. the claims, which must express its essence, be clear, precise and entirely based on the description;
2.4. drawings if they are necessary for understanding the essence of

the invention;
2.5. abstract.

3. The date of filing the application for invention with the patent body is established according to the date of receipt of the documents necessary for establishing the priority in accordance with clause 1 of Article 16 of the present Law, and if the mentioned documents are submitted not at the same time – according to the date of receipt of the last document.

4. Together with the application for invention or within two months from the date of receipt of such application by the patent body, a document is to be submitted confirming the payment of patent duty in the established amount or the exemption from the payment of patent duty, or a document confirming a partial payment of patent duty simultaneously with the documents confirming the presence of grounds for reducing the duty amount. In case of not presenting the mentioned documents within the established time limit, the decision shall be taken about the refusal to accept the application for invention of which the applicant is notified within five days.

**Article 14. Application for the Utility Model**

1. The application for the utility model must relate to one utility model or a group of utility models linked among them as to form a single general inventive concept (requirement of unity of utility model).

2. The application for utility model must contain:
2.1. request to grant the patent with indication of the author (co-authors) of the utility model and the person (persons) on whose behalf the patent is asked and also their place of residence or the place of stay;
2.2. description of the utility model disclosing it sufficiently clear and complete to be carried out;
2.3. claims of the utility model expressing its essence, be clear, accurate and fully based on description;
2.4. drawings if they are necessary for understanding the essence of the utility model;
2.5. abstract.

3. The date of filing the application for utility model with the

patent body is established according to the date of receipt of the documents necessary for establishing the priority in accordance with clause 1 of Article 16 of the present Law, and if the mentioned documents are submitted not at the same time – according to the date of receipt of the last document.

4. Together with the application for utility model or within two months from the date of receipt of such application by the patent body, a document is to be submitted confirming the payment of patent duty in the established amount or the exemption from the payment of patent duty, or a document confirming a partial payment of patent duty simultaneously with the documents confirming the presence of grounds for reducing the duty amount. In case of not presenting the mentioned documents within the established time limit, the decision shall be taken about the refusal to accept the application for utility model of which the applicant is notified within five days.

**Article 15. Application for the Industrial Design**

1. Application for the industrial design must relate to one industrial design or to a group of industrial designs belonging to one class of the International Classification established by the Locarno Agreement of October 8, 1968 (requirement of the unity of industrial design).

2. Application fro the industrial design must contain:
2.1. request to grant the patent with indication of the author (co-authors) of the industrial design and the person (persons) on behalf of who the patent is asked and also their place of residence or the place of stay;
2.2. a set of images constituting the entire detailed disclosure of the product’s appearance, and its aesthetic features, such as form and configuration, pattern and color combination.

3. The date of filing the application for industrial design with the patent body is established according to the date of receipt of the documents necessary for establishing the priority in accordance with clause 2 of Article 16 of the present Law, and if the mentioned documents are submitted not at the same time – according to the date of receipt of the last document.

4. Together with the application for industrial design or within two

months from the date of receipt of such application by the patent body, a document is to be submitted confirming the payment of patent duty in the established amount or the exemption from the payment of patent duty, or a document confirming a partial payment of patent duty simultaneously with the documents confirming the presence of grounds for reducing the duty amount. In case of not presenting the mentioned documents within the established time limit, the decision shall be taken about the refusal to accept the application for industrial design of which the applicant is notified within five days.

**Article 16. Priority of the Invention, Utility Model, and Industrial Design**

1. The priority of invention, utility model is established on the date of filing with the patent body of the application for invention, utility model, containing a request for the grant of the patent, description, claims of the invention, utility model, and drawings if there is a reference to them in the description.

2. The priority of the industrial design is established on the date of filing with the patent body of the application for industrial design, containing a request for the grant of the patent and a set of images.

3. Priority can be established based on the filing date of the first application in a country party to the Paris Convention on Protection of Industrial Property signed on March 20, 1883 (conventional priority), if the application for an invention or utility model has been filed with the patent body within twelve months, and the application for an industrial design within six months from the filing date of the first application. If a conventional priority application could not be filed within the designated term due to circumstances beyond the applicant’s control, the term may be extended by the patent body, but not by more than two months.
The applicant wishing to use the right of conventional priority in relation to the application for invention is obliged to note that upon the filing of the application for invention or within two months from the date of receipt of the application by the patent body and to present a certified copy of the first application not later than sixteen months from the date of its filing. In case of non-observance of the mentioned time limit, upon the petition of the

applicant filed before its expiration, the right of priority may be restituted provided that the copy of the first application is requested by the applicant not later than fourteen months from the date of filing the first application and is presented to the patent body within two months from the date of its receipt by the applicant.
The applicant wishing to use the right of conventional priority in relation to the application for utility model or industrial design is obliged to note that upon filing the application for utility model or industrial design or within two months from the date of receipt of the application utility model or industrial design by the patent body.

4. The priority may be established according to the date of receipt of additional materials if they are formalized by the applicant as an independent application filed before the expiration of four months term from the date of sending to the applicant of the notification of the patent body about impossibility to take into account of the additional materials in connection with recognition thereof as changing the essence of the claimed invention, utility model or industrial design and on the date of its filing, the application under which the additional materials have been presented, has not been taken any decision to refuse to grant a patent or it has not been withdrawn.

5. The priority may be established on the date of filing with the patent body of an earlier application of the same applicant, disclosing the essence of this invention, utility model, industrial design, unless a decision is made on the earlier application to refuse to grant a patent or it is not withdrawn on the date of filing the application under which such priority is asked if the submission of this application is carried out not later than twelve months from the date of filing the earlier application for invention and not later than six months from the date of filing an earlier application for utility model, industrial design. In case of submitting the application with claiming the mentioned priority on the earlier application, the decision about the refusal of the grant of the patent shall be taken of which the applicant is notified within five days.
The priority may not be established according to the date of filing the application under which the earlier priority has already been

asked.

6. The priority of the invention, utility model, and industrial design at a divisional application is established on the date of filing of the first application disclosing their essence with the patent body by the same applicant, and when there is the right to establish an earlier priority according to the first application – on the date of this priority if on the date of filing the divisional application, the first application has not been withdrawn or it has not been decided to refuse to grant a patent and the filing of the divisional application is carried out before the moment of expiration of the time limit for appealing the decision about the refusal to grant the patent, and in case of taking the decision to grant the patent on the first application – before the date of registration of the invention, utility model, and industrial design in accordance with Article 28 of the present Law.
For the purposes of the present Law the "divisional application" means an application that can be detached from the fist application, if the first application is filed with violation of the requirement of unity of invention, utility model or industrial design. The divisional application for invention may be filed by the applicant of the first application also in the cases, if:
invention was not included into the claims of the invention upon filing the application for invention, but disclosed in the description of the application for invention;
a group of inventions have been claimed for obtaining one patent, but the applicant decided to receive the patent for every invention.

7. The priority of invention, utility model, and industrial design may be established on the basis of several applications filed earlier or additional materials to them subject to observance of the conditions determined by clauses 3 – 6 of the present Article.

8. If, in the course of the examination of an application, it becomes evident that different applicants have filed applications for identical inventions and/or utility models, or applications for identical industrial designs with the same priority date, the patent shall be granted on the application agreed upon between the applicants. The applicants shall inform the patent body about their agreement within two months of receiving a corresponding notice from the patent body. If the applicants fail to reach an agreement, a

decision shall be made to refuse to grant a patent for the applications concerned, and the applicants shall be informed about the said decision within five days.
When a patent is granted, all authors of identical inventions, utility models, or industrial designs shall be listed as co-authors.
If applications for identical inventions and/or utility models, or applications for identical industrial designs, are filed by the same applicant and have the same priority date, the patent shall only be granted for one application, which shall be chosen by the applicant.

**Article 17. Introduction of Changes into Application Materials**

1. The applicant has the right to make corrections and clarifications to the application materials that do not change the essence of the claimed invention, utility model, industrial of the sample, before the patent body decides to grant or refuse to grant a patent on the application.
Additional materials change the essence of the claimed invention, utility model if they contain the features subject to inclusion in the claims of the invention, utility model, absent in the first description (claims) of the invention, utility model.
Additional materials change the essence of the claimed industrial design if they change the appearance of the product present in the first images.

2. Changes to the information about an applicant upon the transfer or assignment of the right to obtain a patent, or changes that occur as a result of assignment to the family name, given name, or patronymic name (if any) of an applicant and/or author, to the name of an applicant if the applicant is a legal entity, and/or to the place of residence (place of stay) or location of an applicant and/or author, as well as correction of any obvious and technical mistakes in application documents, can be made before the registration date of the invention, utility model, or industrial design.

**Article 18. Expert Examination of the Application for Invention**

1. The expert examination of the application for invention is conducted by the patent body in accordance with the present Law and resolutions of the Council of Ministers of the Republic of Belarus.
The expert examination of the application for invention includes the preliminary and patent expert examination.

2. If the applicant presents additional materials of the application for invention, it is checked whether or not they change the essence of the claimed invention.
Additional materials in the part changing the essence of the claimed invention are not taken into account in the course of consideration of the application for invention and may be formalized by the applicant as an independent application.

3. If the application for invention is filed with violation of the requirement of unity of invention, the patent body offers to the applicant to report within three months form the date of sending of the relevant notification which of the inventions shall be considered and, if necessary, to introduce the clarifications to the documents of the application for invention.
In case when the applicant does not report within three months after the sending of the notification of the patent body on violation of the requirement of unity of invention which of the inventions should be considered and does not present the clarified documents, the consideration of the invention mentioned as the first in the claims of the invention shall be effected.

4. The application for invention may be recalled by the applicant before the date of registration of the invention.

**Article 19. Preliminary Expert Examination of the Application for Invention**

1. Preliminary expert examination of the application for invention (hereinafter – preliminary examination) is conducted within three month period from the date of its receipt by the patent body.

2. In the course of conducting the preliminary examination the presence of documents contained in the application for invention, observance of requirements established for them are checked and the question whether or not the claimed solution relates to the objects that can be recognized inventions.

3. The patent body directs to the applicant a notification in the written form about this decision taken according to the results of preliminary examination and also about the date of filing the application established in accordance with Article 16 of the present

Law within five working days from the date of taking the decision.

4. If in the course of preliminary examination it is established that the claimed solution relates to the objects that are not considered inventions in accordance with the present Law, the decision about the refusal to grant the patent shall be taken , of which the applicant is notified within five days.

5. If submitted documents or data contained in them do not conform to the established requirements, the patent body directs a query to the applicant with a proposal to submit materials drawn up duly within a three month period from the date of receipt of the query. Upon a petition of the applicant this time limit may be prolonged, but not more than by three months providing that the petition has arrived before the expiration of this time limit.
If the applicant has not presented required documents or a petition about prolongation of the established time limit, the decision about the refusal to grant the patent for invention shall be taken, about which the applicant shall be informed with in five days.

**Article 20. Publication of Data about Application for Invention**

1. Information on an application for an invention that has passed the preliminary examination successfully shall be published in the official bulletin after the expiration of eighteen months from the filing date of the said application or, if the priority is claimed, from the date of the earliest priority. The information to be published shall include the claims, as well as other items determined by the republican administrative body that implements state policy and exercises regulation and management in the sphere of intellectual property rights protection.

2. At the petition of the applicant, the patent body may publish the data about the application for invention prior to the time limit established by clause 1 of the present Article.

3. After the publication of data about the application for invention, any person is entitled to look through its materials being in the patent body.

4. The data about the application for invention are not published if prior the expiration of the time limit for publication it is

recalled or the decision about the grant of the patent has been taken or its registration in the State Register of Inventions of the Republic of Belarus is effected or the decision about the refusal to grant the patent has been taken, the possibility of appealing which are exhausted.

5. The author of the invention is entitled to refuse to be mentioned as such in the data published about the application for invention, unless he is the applicant.

**Article 21. Patent Expert Examination of the Application for Invention**

1. When filing the application for invention or within three years from the date of filing of the application for invention with the patent body, the applicant or any interested person files the petition to the patent body about holding a patent expert examination of the application for invention (hereinafter – patent examination). In case the petition on holding the patent examination is not received within the mentioned period, the decision about the refusal to grant the patent for invention shall be taken of which the applicant shall be notified within five days.
When filing a divisional application for an invention after the expiry of the period of three years from the filing date of the initial application, a petition for patent examination shall be submitted to the patent body simultaneously with the filing of a divisional application, or within two months from the date the said application was received by the patent body. If a petition for patent examination has not been received within the designated period, a decision shall be made to refuse to grant the patent, and the applicants shall be informed about the said decision within five days.

2. In the course of patent examination the patentability of the invention is checked and the priority of the invention is established.

3. In the period of holding the patent examination in case the data contained in the documents presented in accordance with clause 2 of Article 13 of the present Law do not comply with established requirements, the patent body is entitled to request from the applicant the documents duly drawn up, including the changed claims

of the invention.
The applicant is entitled, within two month form the date of sending of the mentioned request of the patent body, to inquire the patent body about the copies of the materials opposed in the course of the patent examination to his application for invention.
The additional materials requested by the patent body, drawn up in due manner, must be presented without the change of the essence of the invention within three months from the date of sending to the applicant of the request or copies of the materials opposed to the application for invention. Upon a petition of the applicant this time limit may be prolonged, but not more than for twelve months provided that the petition has arrived before the expiration of this time limit.
In case, if the applicant does not present, within the mentioned time limit, the documents duly drawn up or a petition on prolongation of the time limit for presenting the answer to the request of the patent body, the decision about the refusal to grant the patent shall be taken.
Documents duly drawn up, presented by the applicant, are not taken into consideration in the part changing the essence of the claimed invention when processing the application for invention, bout which the applicant shall be informed.

4. If as a result of conducted patent examination it is established that the claimed invention expressed in the claims of the invention offered by the applicant complies with the terms of patentability, the patent body takes the decision about the grant of the patent with such claims and with indication of the established priority.
The decision to grant the patent shall be sent to the applicant, informing them that in order to proceed to the registration of the invention and publication of the patent information, the applicant must submit to the patent body a description of the invention, an abstract, and drawings (if necessary) that should be adjusted in line with the claims cited in the decision to grant the patent, within three months from the date of the sending of the said decision to grant the patent.
If in the course of the patent examination is established that the applicant filed several application for identical inventions, the patent is granted only on the application for invention with the earliest priority.

5. At establishing the non-compliance of the claimed invention expressed by the claims proposed by the applicant with the terms of patentability, the patent body takes the decision to refuse to grant the patent.
The decision about the refusal to grant the patent is taken also in the case when the applicant does not change the claims of the invention after being notified about the fact that the claims proposed by him characterizes the invention complying with the terms of patentability but contain the features absent in the first description (claims) of the invention.

6. The patent body shall send a notification to the applicant in written form within five working days from the date of taking the decision taken according to the results of the patent examination and also about establishing the priority of the invention.

7. The applicant is entitled to request the copies of the materials opposed to his application for invention as a result of conducting the patent examination within two months from the date of sending of the decision on the application for invention.

8. The decision about the grant of the patent may be revised by the patent body before the registration of the invention in connection with the receipt of an application for invention, utility model enjoying an earlier priority in accordance with clauses 3-6 of Article 16 of the present Law and also in connection with detecting an application or a granted patent for identical invention or utility model with the same priority.

9. The patent body may revise the decision on the results of the patent examination if it has been taken with violation of the order of processing the application for invention established by the present Law. The decision about granting the patent may be revised before the registration of the invention in the State Register of Inventions of the Republic of Belarus.

10. When the applicant does not agree with the decision of the patent body about the refusal to grant the patent, the applicant has the right, within four months time limit from the day of sending of the decision or copies of the materials requested by him, which were opposed to the application for invention, to apply to the patent

body with a petition on holding a repeat patent examination.

11. The repeat patent examination is held within six months from the day of receipt by the patent body of the relevant petition of the applicant.

**Article 22. Temporary Legal Protection of Invention**

1. The claimed invention is granted temporary legal protection in the amount of the published claims of invention from the date of publication of the data bout the application for invention till the date of publication of the data about the patent.

2. A natural or legal person using the claimed invention within the period of validity of its temporary legal protection shall pay monetary compensation to the patent owner after the receipt of the patent for invention. The amount and order of paying such compensation are determined by an agreement of the parties, and in case of a dispute – through court proceedings.

3. Temporary legal protection is considered as not existing if the application for invention is recalled or the decision about the refusal to grant the patent has been taken, the possibility of appealing which are exhausted.

**Article 23. Expert Examination of the Application for Utility Model**

1. The expert examination of the application for utility model is conducted by the patent body in accordance with the present Law and resolutions of the Council of Ministers of the Republic of Belarus.

2. In the course of the expert examination of the application for utility model, the compliance of the claimed utility model with the conditions of patentability established by the present Law is not checked.

3. In the course of holding the expert examination of the application for utility model, availability of the necessary documents, observance of the requirements established for them shall be checked and the question whether the claimed proposal relates to subject matters of the utility model shall be considered, and the priority of the utility model is established.

4. The expert examination of the application for utility model is conducted within three months from the date of its receipt by the patent body.

5. If as a result of the expert examination of the application for utility model it is established that the application for utility model is drawn up on the proposal that does not relate to subject matters of the utility model, the patent body takes the decision about the refusal to grant the patent of which the applicant shall be notified within five days.

6. If submitted documents or data contained in them do not conform to the established requirements, the patent body directs a query to the applicant with a proposal to submit duly drawn up or absent documents within a three months period from the date of sending of the query. Upon a petition of the applicant this time limit may be extended, but not more than for twelve months provided that the petition has arrived before the expiration of this time limit.
If the applicant has not presented required documents or a petition for the extension of the established time limit, the decision about the refusal to grant the patent shall be taken, about which the applicant shall be informed within five days.

7. If on the application for utility model the applicant submits additional documents, in the course of the expert examination it is checked whether they change the essence of the claimed utility model.

8. Additional materials in the part changing the essence of the claimed utility model are not taken into account in the course of consideration of the application for utility model and may be formalized by the applicant as an independent application for utility model.

9. If the application for utility model is submitted with violation of the requirement of unity of utility model, the applicant is offered to inform within three months term which of the proposals shall be considered and to specify the relevant description, claims of the utility model and the drawings.
In case when the applicant does not inform within three months after sending of the notification about violation of the requirement of

unity of utility model which of the proposals should be considered and does not present the clarified documents, the decision about the refusal to grant the patent shall be taken of which the applicant is notified within five days.

10. The applicant and interested persons have the right to petition for conducting information search on the application for utility model for determining the state of the art in comparison with which the estimation of the novelty of the utility model can be carried out. The order of holding the information search and presentation of the data about it is determined by the Council of Ministers of the Republic of Belarus.

11. If as a result of expert examination of the application for utility model it is established that the application is submitted for the proposal relating to the subject matters of the utility model and its documents are drawn up accurately, the patent body shall take the decision to grant the patent.

12. The patent body sends to the applicant the notification about the decision taken according to the results of the expert examination of the application for utility model, and also about establishing the priority of the utility model in accordance with Article 16 of the present Law, in a written form within five working days form the day of taking the decision.

13. Before the registration of the utility model, the application has the right to recall the application for utility model.

**Article 24. Expert Examination of the Application for Industrial Design**

1. The expert examination of the application for industrial design is conducted by the patent body in accordance with the present Law and resolutions of the Council of Ministers of the Republic of Belarus.

2. In the course of the expert examination of the application for industrial design, the compliance of the claimed industrial design with the conditions of patentability established by the present Law is not checked.

3. In the course of holding the expert examination of the application for industrial design, availability of the necessary documents, observance of the requirements established for them shall be checked, and the question whether the claimed proposal relates to subject matters of the industrial design shall be considered and the priority of the industrial design is established.

4. The expert examination of the application for industrial design is conducted within three months from the date of receipt of the application for industrial design by the patent body.

5. If as a result of the expert examination of the application for industrial design it is established that the application for industrial design is drawn up on the proposal that does not relate to subject matters protected as industrial designs, the patent body takes the decision about the refusal to grant the patent of which the applicant is notified within five days.

6. If submitted documents or data contained in them do not conform to the established requirements, the patent body directs a query to the applicant with a proposal to submit duly drawn up or absent documents within a three months period from the date of sending of the query. Upon a petition of the applicant this time limit may be extended, but not more than for twelve months provided that the petition has arrived before the expiration of this time limit.
If the applicant has not presented required documents or a petition for the extension of the established time limit, the decision about the refusal to grant the patent shall be taken, about which the applicant shall be informed within five days.

7. In the course of the expert examination of the application for industrial design, additional materials presented by the applicant changing the appearance of the product, presented on the images filed earlier are not taken for consideration. Such materials may be formalized by the applicant as an independent application for industrial design.

8. If the application for industrial design is submitted with violation of the requirement of unity of industrial design, the applicant is offered to inform within three months period which of the industrial designs shall be considered and to specify the

relevant documents.
In case when the applicant does not inform within three months after sending of the notification about violation of the requirement of unity of industrial design which of the industrial designs should be considered and does not present the clarified documents, the decision about the refusal to grant the patent shall be taken of which the applicant shall be notified within five days.

9. If as a result of the expert examination of the application for industrial design it is established that the application for industrial design is drawn up on the proposal that relates to subject matters protected as industrial designs and the documents of the application for industrial design are drawn up accurately, the patent body takes the decision to grant the patent.

10. The patent body sends to the applicant the notification about the decision taken according to the results of the expert examination of the application for industrial design, and also about establishing the priority of the industrial design in accordance with Article 16 of the present Law, in a written form within five working days form the day of taking the decision.

11. Before the registration of the industrial design, the applicant has the right to recall the application for it.

**Article 25. Appeal of the Decision of the Patent Body on the Results of Application Expert Examination**

1. Upon disagreement with the decision of the patent body on the results of the preliminary or patent expert examination, and also with the decision on the results of the expert examination of the application for utility model or industrial design, the applicant has the right to file a motivated complaint with the Appeal Council at the patent body (hereinafter – the Appeal Council) and/or to the court.

2. Filing of the complaint with the Appeal Council or the court is carried out by the applicant within one year from the day of receipt of the relevant decision of the patent body or copies of materials requested from the patent body that oppose his application for invention.

The Appeal Council shall consider the complaint within one month of the date of its receipt. Procedures for complaint filing and the considering of complaints by the Appeal Council shall be determined by the Council of Ministers of the Republic of Belarus.

3. The decision of the Appeal Council may be appealed by the applicant in court within six months from the day of its receipt.

**Article 26. Transformation of Applications for Invention, Utility Model**

1. Before the publication of the data about the application for invention, but not later than the date of sending of the decision on granting the patent for invention, the applicant is entitled to transform it into the application for utility model by filing with the patent body a relevant request.
Transformation of the application for utility model into the application for invention is possible before the date of the decision on granting the patent for utility model, and in case of taking the decision about the refusal to grant the patent – before the moment of expiration of the time limit for appealing such a decision.

2. Upon transformation of the application for invention into the application for utility model, the priority and the date of filing the application for invention, and upon transformation of the application for utility model into the application for invention – the priority and the date of filing of the application for utility model, maintain (maintenance of the priority and the date of filing of the first application).
Upon transformation of the application for utility model into the application for invention, the applicant must, within three months from the date of filing the request about transformation, present a copy of the first application for utility model filed in a state party to the Paris Convention for the Protection of Industrial Property of 20 March 1883 if the conventional priority was claimed on the application for utility model.

**Article 27. Renewal of Missed Time Limits**

1. The time limits provided by clause 5 of Article 19, clauses 1, 3 and 4, 10 of Article 21, clause 2 of Article 25 of this law, missed by the applicant may be renewed, on his petition, by the patent body

provided that the patent duty is paid in the established amount and there are good reasons for missing a relevant time limit.

2. An applicant shall be able to submit to the patent body a petition for renewal of the time limit no later than twelve months from the expiry date of the corresponding time limit, and in the case of the time limits provided for in the second part of Paragraph 1 and the second part of Paragraph 4 of Article 21 of the present Law, no later than six months from the expiry date of such limits.

3. Upon renewal on a petition of the applicant of time limits provided by clause 5 of Article 19 and clause 1, 3 and 4 of Article 21 of this Law, the patent body cancels the decision about the refusal to grant the patent, which was taken earlier of which the applicant shall be notified within five days.

**Article 28. Registration of the Invention, Utility Model, and Industrial Design**

1. On the basis of a decision to grant a patent, provided that a document confirming payment of the established patent fees has been submitted, and in the case of an invention, provided that the documents specified in the second part of Paragraph 4 of Article 21 of the present Law have also been submitted, the patent body shall register an invention in the State Register of Inventions, a utility model in the State Register of Utility Models, or an industrial design in the State Register of Industrial Designs (hereinafter, the State Registers) within one month of the date of submission of the said documents. The procedure for the keeping of the State Registers and the scope of information on inventions, utility models, and industrial designs to be entered therein shall be determined by the republican administrative body that implements state policy and exercises regulation and management in the sphere of intellectual property rights protection. Information related to the registration of inventions, utility models, and industrial designs, as well as changes to such information, shall be entered in the State Registers.

2. When entering of changes in the state registers, the patent owner, simultaneously with the request for entering the changes in the relevant state register, sends to the patent body the documents confirming the grounds for entering these changes.

3. The patent body may, on its own initiative or at the request of the applicant, to enter corrections of grammar, printing or other obvious mistakes into the record about the registration of invention, utility model, and industrial design in the state registers.

4. If a document confirming payment of the established patent fees for the registration of an invention, utility model, or industrial design and for the grant of a patent has not been submitted, and if, in the case of an invention, the documents specified in the second part of Paragraph 4 of Article 21 of the present Law have not been submitted either, the registration of the said invention, utility model, or industrial design in the relevant State Register and the grant of a patent shall not be performed, and a decision to refuse to grant a patent for the corresponding application shall be made, indicating the cancellation of the previous decision to grant a patent. The applicants shall be informed of the above within five days.

**Article 29. Publication of Data on Patent**

1. Information on an invention patent, utility model patent, or industrial design patent shall be published by the patent body in the official bulletin within three months of the registration of the corresponding invention, utility model, or industrial design in the relevant State Register. The scope of information to be published therein shall be determined by the republican administrative body that implements state policy and exercises regulation and management in the sphere of intellectual property rights protection

2. All changes entered in the state registers are also published in the official bulletin.

**Article 30. Grant of the Patent**

1. Grant of the patent to the patent owner is made by the patent body within five days from the day of publication of the data about the patent for invention, utility model, and industrial design.

2. When there are several persons having the right to obtain the patent, they are granted one patent with indication of all patent owners.

3. Upon coincidence of the priority dates of an invention and a utility model identical on applications for the invention and the utility model of the same applicant, after the grant of the patent on one of such applications, the grant of the patent on the other application is possible only subject to filing with the patent body of the request of the patent owner of the paten granted earlier for termination of its effect in relation to the identical invention or identical utility model. The effect of the patent granted earlier in relation to the identical invention or identical utility model is terminated from the date of publication of the data about the grant of the patent on the other application. The data about the grant of the patent on the application for invention or utility model and the data about the termination of the effect of the patent granted earlier in relation to the identical invention or utility model shall be published at one time.

**Article 32. Patenting in Foreign Countries**

1. Individuals with a permanent place of residence (place of stay) in the territory of the Republic of Belarus, and legal entities of the Republic of Belarus, shall have the right to patent inventions, utility models, and industrial designs in foreign countries.

2. Before filing the application for the grant of a patent for an invention, utility model in foreign countries, the applicant is obliged to file such an application in the Republic of Belarus and inform the patent body about the intention to patent the invention, utility model in foreign countries.

If within three months form the date of filing the application, there is no ban of the patent body, the application may be filed in foreign countries.

Filing the application for the grant of a patent for an invention, utility model in foreign countries may be carried out earlier than the mentioned time limit, but after the completing of an inspection, held in the order established by the Council of Ministers of the Republic of Belarus, of the application for availability of the data disclosure of which can inflict harm to the security of the Republic of Belarus.

Inventions and utility models containing the data disclosure of which can inflict harm to the security of the Republic of Belarus must be classified in the manner prescribed by the legislation and

may not be patented in foreign countries.

3. Expenses connected with patenting an invention, utility model, industrial design in foreign countries are borne by the applicant or another natural or legal person under an agreement with him.

4. Applications in accordance with the treaties of the Republic of Belarus are submitted directly to the patent body, unless otherwise established in accordance with the norms of these treaties.

## CHAPTER 5 RECOGNIZING THE PATENT INVALID, PREMATURE LOSS OF EFFECT OF THE PATENT, RESTITUTION OF THE EFFECT OF THE PATENT

### Article 33. Recognizing the Patent Invalid

1. A patent for invention, utility model, and industrial design may, within all term of its validity, be recognized invalid at full or partly in the cases:

1.1. non compliance of the protected invention, utility model, and industrial design with the conditions of patentability established by the present Law;

1.2. presence in the claims of the invention, utility model of features absent in the first description (claims);

1.3. unlawful designation in the patent of the author (co-authors) or patent owner(s).

1.4. granting a patent when there are several applications for identical inventions, violating the requirements provided for in Paragraph 8 of Article 16, or the third part of Paragraph 4 of Article 21 of the present Law;

2. If legal protection is provided for a solution, as an industrial design, which is identical or confusingly similar to a trade mark (service mark) having an earlier priority, the exclusive right to which belongs to another person in respect of homogeneous products, a patent granted during the validity period of the said trade mark may be declared invalid, in whole or in part, without consent from such a person.

3. The patent body shall publish in the official bulletin the data on recognition of the patent invalid.

4. Any individual or legal entity may file a reasoned objection to the grant of a patent with the Appeal Council on the grounds provided for in Sub-Paragraphs 1.1, 1.2 and 1.4 of Paragraph 1 of this Article. An objection to the grant of a patent on the grounds provided for in Paragraph 2 of this Article may be filed with the Appeal Council by the individual or legal entity concerned.
An objection to the grant of a utility model patent on the grounds provided for in Sub-paragraph 1.1 of Paragraph 1 of this Article shall be filed simultaneously with a request for examination of the utility model for compliance with the patentability conditions established by this Law or, if such examination was carried out

earlier upon request of the same person or a successor in title of the person filing the objection, with a copy of the decision on the said examination. The examination of a utility model for compliance with the patentability conditions shall be conducted within three months of the date of the petition receipt. The requirements for a petition for the examination of a utility model for compliance with the patentability conditions, and the procedures for conducting such examination and passing a decision based on its results shall be determined by the Council of Ministers of the Republic of Belarus.
An objection to the grant of a patent shall be examined by the Appeal Council within six months of the date of its receipt, while an objection to the grant of a utility model patent on the grounds provided for in Sub-Paragraph 1.1 of Paragraph 1 of this Article, filed simultaneously with a petition for examination of the utility model for conformity with patentability conditions as established by this Act, shall be considered within six months of the date of the decision based on the results of the examination of the utility model for conformity with patentability conditions. The person who filed the objection, as well as the patent owner, shall have the right to participate in its consideration. The procedures for filing an objection to the grant of a patent and for its consideration by the Appeal Council shall be determined by the Council of Ministers of the Republic of Belarus.
A decision of the Appeal Council on the objection against the grant of the patent may be appealed by the person that submitted the objection against the grant of the patent or by the patent owner in court within six months from the day of receipt of such a decision.

5. An objection to the grant of a patent on the grounds provided for in Sub-Paragraph 1.3 of Paragraph 1 of this Article may be brought before a court by the individual or legal entity concerned.

6. A patent for invention, utility model, and industrial design recognized invalid in full or in part is deemed to be invalid from the date of filing the application with the patent body.

7. Licensing contracts concluded on the basis of the patent later recognized invalid cease their effect from the date of taking the decision about the invalidity of this patent.

8. Information on the invalidation of a patent based on the decision of the Appeal Council or the court shall be entered in the relevant State Register and published by the patent body in the official bulletin.

**Article 34. Premature Loss of Effect of the Patent**

1. The effect of the patent is terminated prematurely:
1.1. on the ground of a request of the patent owner filed with the patent body;
1.2. when the patent duty for maintaining the patent in effect is not paid in the established time limit.
1.3. in the event of the termination of a legal entity or death of an individual who is a patent owner, if the exclusive right certified by the patent has not been transferred to the legal successors.

2. Information on early termination of a patent shall be entered in the relevant State Register and published by the patent body in the official bulletin.

**Article 35. Reinstatement of the Validity of a Patent: Right for Subsequent Use**

1. If the effect of the patent has been terminated as a result of not payment of the patent duty for maintaining the patent in force within the established time limit and the term of validity of the patent has not expired, so on the petition of the patent owner the effect of such a patent may be restituted by the patent body subject to payment of the patent duty indebtedness and the patent duty for restituting the effect of the patent in the established amount.

2. Any individual or any legal entity who, from the date of termination of the validity of an invention patent, utility model patent, or industrial design patent until the date of its reinstatement in accordance with Paragraph 1 of this Article, has used an identical solution in the territory of the Republic of Belarus, or has made necessary preparations for such use, shall retain the right to continue to such use free of charge without extending the scope of such use (right for subsequent use).
The scope of the permitted use of an invention, utility model, or industrial design by a person possessing a right for subsequent use established before the date of reinstatement of the patent, or

resulting from preparations made before that date, shall be reflected in an agreement reached between such a person and the patent owner or, if no agreement can be reached, determined by a court.

## CHAPTER 6 USE OF INVENTION, UTILITY MODEL, AND INDUSTRIAL DESIGN

### Article 36. Order of Use of Invention, Utility Model, and Industrial Design

1. The following actions shall be recognized as the use of an invention:
producing, applying, importing, offering for sale, selling, or otherwise marketing or storing for such purposes a product in which the invention is utilized, as well performing such actions in respect to a device, the functioning or operation of which, in accordance with its intended use, automatically implements the method protected by the patent;
the use of a method protected by an invention patent, or marketing or storage for this purpose of a product made directly using the method protected by an invention patent. If the product is new, any identical product shall be deemed obtained by the patented method until proven otherwise.
An invention shall be deemed utilized in a product or method if such a product or method employs each feature of the invention included in an independent claim, or a feature which is equivalent to it and which became known as an equivalent feature in this field of technology before the priority date of the invention.

2. The following actions shall be recognized as the use of a utility model: producing, applying, importing, offering for sale, selling, or otherwise marketing or storing for such purposes a device in which the utility model is utilized.
A utility model shall be deemed utilized in a device if the said device employs every feature of the utility model included in the independent claim, or a feature which is equivalent to it and which became known as an equivalent feature in this field of technology before the priority date of the utility model.

3. The following actions shall be recognized as the use of an industrial design: producing, applying, importing, offering for sale, selling, or otherwise marketing or storing for such purposes a product that contains the industrial design.
A product shall be deemed to contain a patented industrial design if its appearance does not differ from the appearance of the product shown in the images,or if the product gives the same general

impression as the patented industrial design, provided that the products have a similar purpose of use.

4. Any natural or legal person wishing to use an invention, utility model, industrial design is obliged to conclude with the patent holder a license or other transfer agreement providing for the right to use the invention, utility model, industrial design

5. Relations on use of the invention, utility model, and industrial design, the patent on which belong to several persons are determined by an agreement among them. In the absence of the agreement each of these persons has the right to use the invention, utility model, and industrial design at his discretion except for the conclusion of contracts provided for in paragraphs 3 and 4 of Article 11 of this Law

6. In case when a Eurasian patent and a patent of the Republic of Belarus for identical inventions or identical invention and utility model, having the same priority date belong to different patent owners, such inventions or invention and utility model may be used only with observance of rights of all patent owners.

**Article 36-1. Dependent Invention and Dependent Utility Model**

1. An invention or utility model, the use of which is impossible without the use of another invention or another utility model protected by a patent and having an earlier priority, shall respectively be a dependent invention and a dependent utility model.
An invention whose subject matter is the use, for a particular purpose, of a product which employs another invention protected by a patent and having an earlier priority shall be, in particular, deemed to be dependent.
An invention or utility model shall also be dependent if the claims of such an invention or utility model differ from the claims of another patented invention or another patented utility model having an earlier priority only in the purpose of use of the product, method or device.

2. A dependent invention or dependent utility model may not be used without the permission of the patent owner who possesses the exclusive right over the invention or the utility model in relation to which they are dependent.

**Article 37. Open License**

1. A patent owner may submit to the patent body for official publication a statement about granting the right to use the invention, utility model, or industrial design to any individual or legal entity on the terms of a simple (non-exclusive) license (hereinafter referred to as an open license), the announcement of which shall be officially published within three months of the date of receipt of the statement. An open license announcement published in the official bulletin containing the terms and conditions of the subject matter, price and term of the licensing agreement shall be a public offer.

2. A person wishing to use the mentioned invention, utility model, and industrial design has the right to request from the patent owner to conclude a licensing contract with him on the terms corresponding with those mentioned in the declaration about the open license.

**Article 38. Compulsory License**

In case of failure to use or insufficient use of the invention by the patent owner and of the utility model or industrial design within three years from the date of publication of the data about the patent leading to insufficient supply of the relevant goods, works or services on the market, any person wishing and ready to use the patented invention, utility model, and industrial design in the event of refusal of the patent owner to conclude a licensing contract on terms consistent with established practice, may go to court with a request for granting him a compulsory simple (non-exclusive) license. If the patent owner does not prove that failure to use or insufficient use of the invention, utility model, and industrial design is caused by good reasons, the court shall grant a compulsory simple (non-exclusive) license, determining the scope of use, and amounts, time limits and procedure of payments.

The right to use the invention Utility model, and industrial design obtained under such a license, can not be transferred to other persons.

The patent owner shall be able to take legal action to demand termination of the compulsory simple (non-exclusive) license when the circumstances which gave rise to that license cease to exist.

2. If a patent owner of a dependent invention or dependent utility model cannot use the invention or utility model, over which they have an exclusive right, without infringing the rights of another person who is the patent owner of an invention or utility model and who has refused to conclude a licensing agreement on terms corresponding to established practice, the patent owner of the dependent invention or dependent utility model shall have the right to file a motion in court requesting the grant of a compulsory simple (non-exclusive) license to use the invention or utility model, the right over which belongs to the other person. If the patent owner of a dependent invention or dependent utility model proves that such a dependent invention or dependent utility model constitutes an important technical achievement and has significant economic advantages over the invention or utility model to which they are dependent, the court shall decide to grant a compulsory simple (non-exclusive) license determining the scope of use, the amount, timing and procedure for payment. The right to use an invention or utility model obtained under such a license may not be transferred to others.

In the event that the court decides to grant a compulsory simple (non-exclusive) license in accordance with the first part of this Paragraph, the patent owner who is bound by the said license shall have the right to require the grant of a compulsory simple (non-exclusive) license for the dependent invention or dependent utility model, in connection with which the aforementioned compulsory simple (non-exclusive) license has been granted, on terms corresponding to established practice and, if no agreement can be reached, to file a motion in court requesting the grant of a compulsory simple (non-exclusive) license to use the dependent invention or the dependent utility model.

**Article 39. Right of Prior Use**

1. Any individual or any legal entity who, prior to the priority date of an invention, utility model, or industrial design, has bona fide used in the territory of the Republic of Belarus an identical solution created independently of the author of the said invention, utility model, or industrial design, or has made the necessary preparations for such use, shall retain the right to further use free of charge without extending the scope of such use (right of prior use). The scope of allowed use of an invention, utility model, or industrial design by a person possessing the right of prior use

established before the priority date, or resulting from the preparations made before that date, shall be reflected in the agreement reached between such a person and the patent owner or, if no agreement can be reached, determined by a court.

2. The right of prior use may be transferred to another natural or legal person as a part of the enterprise of the property complex, where the use of the identical solution has taken place or where the preparations necessary for it have been made.

## CHAPTER 7 ORGANIZATIONAL BASICS OF LEGAL PROTECTION OF INVENTIONS, UTILITY MODELS, AND INDUSTRIAL DESIGNS.INFRINGEMENTS OF RIGHTS OF AUTHORS AND PATENT OWNERS, ENTAILING THE LIABILITY, PROTECTION OF THEIR RIGHTS

### Article 40. Functions of the Patent Body

1. The patent body in accordance with the present Law accepts for consideration the applications, carries out the state registration of inventions, utility models, and industrial designs, grants the patents effective in the territory of the Republic of Belarus, within its powers carries out control over the observance of the patent legislation, gives clarifications about the order of its application, generalizes the practice of application of the patent legislation, renders the methodical assistance to the interested natural and legal persons on the mentioned matters, carries out the preparation of the patent engineers, conducts the patent information work, conducts the state attestation and registration of the patent agents, carries out other functions in accordance with the legislation.

3. Employees of the patent body have no right, within the period of the service and within one year after its end has, to file an application, to acquire directly or indirectly the right to a patent, and also to draw up an application for anybody.

### Article 40-1. Official Bulletin

1. The official bulletin is an official printed edition of the patent body.

2. The official bulletin is issued in electronic form. The official bulletin in an electronic form is placed on the official site of the patent body in the global computer network Internet.

### Article 41. Infringements of Right of Authors and Patent Owners Entailing the Liability, protection of their rights

1. Appropriation of the authorship, coercion into the co-authorship, unlawful disclosure of the essence of suggested invention, utility model, and industrial design before the filing of the application for them without the consent of the author, and also infringement of exclusive rights of the patent owners, entail the liability in accordance with the legislation.

2. Employees of the patent body shall be liable for disclosing the subject matter of an application before publication, in accordance with the statutory provisions.

3. For the protection of infringed rights, the author (co-authors) of an invention, utility model, or industrial design and the patent owner shall apply to a court and other authorities according to their competence in accordance with the established procedure.

4. In addition to the methods of protecting the exclusive rights provided for by law, a patent owner or a person who possesses the right to use an invention, utility model, or industrial design under a licensing contract providing for an exclusive license, may at their own choice, instead of claiming damages, claim compensation from a person who has infringed the exclusive right over the invention, utility model or industrial design in any amount from one to fifty thousand basic units determined by a court, taking into account the nature of the violation.

## CHAPTER 8 FINAL PROVISIONS

### Article 42. Treaties

If a treaty of the Republic of Belarus establishes other rules than those contained in the present Law, the rules of the treaty are applied.

### Article 43. Rights of Foreign Citizens, Stateless Persons, and Foreign Legal Persons

Foreign citizens, stateless persons, and foreign legal persons enjoy the rights provided by the present Law and other acts of legislation on patents for inventions, utility models, and industrial designs, and bear liability equally to the citizens and legal persons of the Republic of Belarus, unless otherwise determined by laws of the Republic of Belarus and treaties.

### Article 44. Entry of the Present Law into Force

1. The present Law enters into force in six months after its official publication with the exception of Article 46 that enters into force from the day of official publication of the present Law.

2. Till the bringing the legislation of the Republic of Belarus in compliance with the present Law, normative legal acts of the Republic of Belarus are applied in that part in which they do not contradict the present Law, unless otherwise provided by the Constitution of the Republic of Belarus.

### Article 45. Invalidation of certain legislative acts

In connection with the entry into force of this Law, the following shall be repealed:
Law of the Republic of Belarus of February 5, 1993 "On Patents for Industrial Designs" ;
Law of the Republic of Belarus of July 8, 1997 "On Patents for Inventions and Utility Models" ;
Law of the Republic of Belarus of 6 January 1998 amending and supplementing the Law of the Republic of Belarus “On Patents for Inventions and Utility Models” ;
Articles 1 and 3 of the Law of the Republic of Belarus of July 16, 2001 "On Amendments to Certain Legislative Acts of the Republic of Belarus in the Field of Industrial Property" ;
Resolution of the Supreme Council of the Republic of Belarus of

February 5, 1993 "On the Procedure for Enacting the Law of the Republic of Belarus On Patents for Industrial Designs"

**Article 46. Bringing the Legislation of the Republic of Belarus in Compliance with the Present Law**

The Council of Ministers of the Republic of Belarus shall, within a six month period:

bring the decisions of Government of the Republic of Belarus in accordance with the present Law;

ensure the bringing by the republican bodies of state administration of their normative legal acts in compliance with the present Law;

ensure the adoption of normative legal acts necessary for implementation of the present Law.