

CZECH REPUBLIC
Patent Regulations

Decree of the Industrial Property Office on the Procedure in Matters of
Inventions and Industrial Designs

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PART ONE PROCEDURE ON INVENTIONS

Chapter One Application for an Invention

Section 1

The application shall be filed in writing with the Industrial Property Office (hereinafter referred to as "the Office") in the Czech language.

Section 2

(1) The application for an invention shall contain a request for grant of a patent in two copies, a description of the invention, also drawings thereof, at least one patent claim and an abstract in original and two copies and necessary appendices. The original shall enable high-grade copying or printing.

(2) If the applicant is not the inventor himself, or if he has no right to a patent according to provisions of Section 9 of the Law, a document on acquisition of the right to the patent shall be attached to the application for an invention.

Section 3 Request for Grant of a Patent

(1) The request for grant of a patent shall contain the following:

- (a) the surname, first name, address and nationality of the applicant; if the applicant is a legal person, its name and headquarters;
- (b) the surname, first name, address and nationality of the inventor, if the inventor is not the applicant;
- (c) the surname, first name and domicile of a representative, if the applicant is represented; if the applicant is represented by a legal person, its name and headquarters shall be given;
- (d) the title of the invention;
- (e) an expression of the will of the applicant that he is requesting the grant of a patent;
- (f) the signature of the applicant or his representative.

(2) The execution of the request for the grant of a patent shall correspond to the specified standard.

Section 4

(1) If the applicant is claiming the priority right under the international treaty according to Section 27 of the Law, he shall state in the request

the date of filing of the application from which he is deriving the priority right, its number and state in which this application was filed or the authority with which the application was filed under the international treaty.

(2) If the applicant is claiming several priority rights, he shall state, at the same time to which patent claim the priority right appertains.

Section 5

When several co-applicant are filing a request for the grant of a patent and they do not have a joint representative, they shall stipulate in the request to which of them information and decisions of the Office shall be sent.

Section 6 Description of the Invention

(1) The description of the invention shall contain the following:

- (a) the title of the invention;
- (b) the technical field which the invention concerns;
- (c) the characteristics of the existing state of the art;
- (d) a disclosure of the nature of the invention and its advantages or, possibly, disadvantages as against the existing state of the art;
- (e) a clarification of drawings, if attached;
- (f) examples of performance of the invention;
- (g) methods of industrial application of the invention.

(2) One of the copies of the description of the invention shall be signed by the applicant or his representative.

(3) The execution of the description of the invention shall correspond to the specified standard.

Section 7 Special Requirements Placed on the Description of Production Micro-Organisms Invention

(1) When the subject matter of an invention is an industrial micro-organism for the purposes of production or some other biotechnological product, or the method of its production or use, its morphological and physiological characteristics shall be delimited, its deposit number in a public collection listed, and proof presented in the form of a reproducible example that it is obtained artificially.

(2) On invitation of the Office the applicant shall be obliged to attest to the fulfilment of obligations according to Section 26, paragraph 2 of the Law.

Section 8 Patent Claims

(1) Patent claims shall define the subject matter for which protection is requested. They shall be clear, concise and be supported by the description. One of the copies of the patent claims shall be signed by the applicant or his representative.

(2) Execution of the patent claims shall correspond to the specified standard.

Section 9 Drawings

The nature of the invention shall, if necessary, be illustrated by a schematic diagram of the principle and all characteristics on which the invention is based. Execution of the drawing shall correspond to the specified standard; one of the copies of the drawing shall be signed by the applicant or his representative.

Section 10 Abstract

(1) The abstract serves exclusively for technical information purposes.

(2) The abstract shall contain the title of the invention and a brief summary of what is presented in the description, patent claims and drawings.

(3) The execution of the abstract shall correspond to the specified standard. The abstract may be modified ex officio.

Chapter Two Procedure on the Application for an Invention

Section 11

(1) The Office shall mark the application for an invention with the date of its filing, assign it a reference number and issue the applicant a certificate of the filing of the application for an invention.

(2) The application for an invention shall be deemed to be filed if it contains the indication of the applicant, an expression of his will to have a patent granted, a section obviously presenting a description of the invention and a patent claim.

Section 12

The Office shall record the filed application for an invention in the Register of Applications for Inventions. The following shall be recorded in the Register of Applications for Inventions:

- (a) the reference number of the application;
- (b) the classification of the invention according to the International Patent Classification;
- (c) the filing date of the application;
- (d) the surname, first name and address of the inventor;
- (e) the indication of the applicant and his representative, if he is so represented;
- (f) the title of the invention;
- (g) information on claimed priority right under the international treaty, if this applies;
- (h) the name of the Office examiner to whom the application was assigned for processing;
- (i) an offer of license;
- (j) information on the individual filings in matters and acts of the Office.

Section 13 Excluded Application for an Invention

(1) If the Office ascertains that the application for an invention does not comply with the requirements of Section 26(1) of the Law, it shall invite the applicant to remedy this defect within a set time limit. Excluded application for an invention possesses the priority right of the original application if the applicant files them within three months after remedying the defect from the original application. The applicant may also divide the application for an invention up to the date of grant of patent, in his own initiative.

(2) If the application is excluded or divided after initiation of the full examination in accordance with Section 33 of the Law, the excluded application shall be deemed to be an application for which a request was filed for full examination.

(3) In the case of an excluded application, the applicant shall be obliged to pay administrative fees corresponding to the state of procedure on the original application at the time of its exclusion.

Section 14 Admissible Changes in the Application for an Invention

Modifications and changes made in the application for an invention during

the course of patent procedure shall not exceed the framework of the original filing.

Section 15 Full Examination

(1) If the full examination of the application for an invention was initiated at the request of a person other than the applicant, or if it was initiated ex officio, the Office shall inform the applicant of this fact.

(2) If several persons independently of each other request a full examination of the application for an invention the Office shall initiate the full examination on the basis of the request which arrived first. The Office shall inform persons who filed such requests later of this fact.

Section 16 Patent Register

(1) The Office shall record invention for which a patent has been granted in the Patent Register.

(2) The following data of each invention shall be recorded in the Patent Register:

- (a) number of the patent;
- (b) the date of grant of the patent;
- (c) the date of publication of grant of the patent in the Official Bulletin of the Industrial Property Office - hereinafter referred to as "the Bulletin";
- (d) the title of the invention;
- (e) the date of filing of the application for an invention and its reference number;
- (f) the date of publication of the application for an invention;
- (g) information on priority right under the international treaty, if this applies;
- (h) the owner of the patent, his address or the address of his representative;
- (i) classification of the invention according to the International Patent Classification;
- (j) the surname, first name and address of the inventor;
- (k) assignment of the patent;
- (l) license;
- (m) offer of license;
- (n) compulsory license;
- (o) the right of a prior user;

- (p) annulment or partial annulment of the patent;
- (q) payment of administrative fees for the patent;
- (r) lapse of the patent;
- (s) other decisive data.

Section 17 Registration of License

(1) A request for recording a license contract in the Patent Register shall be filed with the Office in writing.

(2) The request shall be accompanied by two copies of the license contract from which shall be clear the indications of the invention for which the license is being given the acquirer of the license rights and the extent of granted rights.

Chapter Three Procedure on International Application for an Invention

Section 18

International applications for inventions (hereinafter referred to as "International Applications") in accordance with Section 24(2), of the Law shall be filed with the Office in three copies in English, German, French or Russian, in dependence on the prescribed language of the international searching authority.

Section 19

(1) The applicant of an International Application by which grant of a patent in the Czech Republic is sought under the international treaty shall be obliged to submit to the Office - if it is Designated Office - three copies of a Czech translation of the application and pay the respective fees according to special regulations within a time limit of 21 months from the rise of the priority right.

If the Office is the Elected Office, the applicant shall submit three copies of a Czech translation of the application and pay the respective fees according to special regulations within a time limit of 30 months as from the rise of the priority right.

(2) If the applicant fulfils the condition stated in paragraph (1), the Office may, upon a request of the applicant, initiate procedure on the International Application even before the time limits stated in paragraph (1).

Chapter Four Declaratory Judgement Procedure, Patent Annulment Procedure,

Compulsory License Procedure and Procedure for Transformation of an Inventor's Certificate to a Patent

Section 20 Declaratory Judgement Procedure

(1) A request for determining whether a given subject matter falls or does not fall within the scope of a given patent shall be filed with the Office in writing in two copies.

(2) The request shall contain a proof of the legal interest in a declaratory judgement, the necessary data and attached documents necessary for issuing a declaratory judgement. The documents shall be submitted in four copies.

(3) The Office shall invite the parties of the procedure to submit observations to the request and, if necessary, to submit necessary documents. If they do not submit observations within the set time limit, this shall not prevent taking a decision on the request.

Section 21 Patent Annulment Procedure

(1) A proposal for annulment of a patent shall be submitted to the Office in writing in two copies.

(2) The proposal shall be justified in a matter-of-fact way and at the same time material proof shall be substantiated or offered.

(3) The Office shall invite the owner of the patent to submit observations to the proposal; if he fails to do so within the set time limit this shall not prevent taking a decision on the proposal.

Section 22 Compulsory License Procedure

(1) A request for granting a compulsory license shall be filed with the Office in two copies.

(2) The request shall be justified in a matter-of-fact way and shall be substantiated.

(3) In this decision on grant of a compulsory license, the Office shall specify the extent of the license.

Section 23 Procedure for Transformation of an Inventor's Certificate into a Patent

(1) The inventor defined by provisions of Section 81(4) of the Law shall

file his request for transformation of a valid inventor's certificate into a patent with the Office in two copies.

(2) If the invention specified in paragraph (1) was made by the joint creative effort of several co-inventors, they shall file a joint application for transformation of the inventor's certificate into a patent. If the co-inventors do not have a joint representative, they shall specify the name and address of that co-inventor to whom decisions of the Office are to be forwarded.

(3) The request for transformation of the inventor's certificate into a patent shall contain the title of the invention, the number of the inventor's certificate and date of its grant and the name of the organization which belongs the right to dispose the invention or which has been obtained by such a right.

(4) The Office shall publish the request for transformation of the inventor's certificate into a patent in the Bulletin. Anybody may file an objection to transformation of the inventor's certificate into a patent within three months from the date of publication of the request for transformation of the inventor's certificate into a patent. Failure to comply with this time limit cannot be excused.

(5) The Office shall publish its decision on transformation of the inventor's certificate into a patent in the Bulletin.

(6) The patent granted on the basis of a request for transformation of an inventor's certificate into a patent shall be valid for a period of 15 years from the date of filing the application for an invention; patent rights granted on the basis of the request for transformation of an inventor's certificate into a patent commence on the day of publication of the request for transformation of the inventor's certificate into a patent in the Bulletin.

PART TWO PROCEDURE ON INDUSTRIAL DESIGN

Chapter One Industrial Design Application

Section 24

(1) The application for an industrial design shall be filed in writing with the Office executed in the Czech language.

(2) A multiple application for an industrial design may, at most, include twenty solutions of the appearance of products of the same type or a set of products intended for joint use, belonging into the same product class.

Section 25

(1) The application for an industrial design shall contain a request for recording the industrial design in the Register, an original illustration and four copies of the industrial design or five copies of its description.

(2) In the case of a multiple application for an industrial design the illustration of the industrial design or its description shall be submitted for each appearance. Each appearance shall be numbered in Arabic numerals.

(3) Attached to a multiple application for an industrial design shall be a list of products contained in the application.

(4) In the event that the applicant is not the creator of the industrial design or is not entitled to file an application for an industrial design according to the stipulation in Section 44 of the Law, the application shall include a document on the applicant's right to file the application for an industrial design.

Section 26 Request for Recording an Industrial Design in the Register

The request for recording an industrial design shall contain the following:

- (a) the surname, first name, address and nationality of the applicant; if the applicant is a legal person, its name and headquarters;
- (b) the surname, first name, address and nationality of the creator of the industrial design in the event that he is not the applicant for the industrial design;
- (c) if the applicant is being represented the surname, first name and domicile of the representative; if the applicant is represented by a legal person, its name and headquarters shall be given;

- (d) the title of the industrial design;
- (e) expression of the will of the applicant that he is applying for the recording of the industrial design in the Register;
- (f) the signature of the applicant or his representative.

Section 27

If the applicant claims the priority right under the international treaty according to Section 48(2) of the Law, he shall list in the application the date of application from which he is deriving his priority right, its number and state in which this application was filed.

Section 28

(1) The Office may accord individual exhibitions held on the territory of the Czech Republic the right for creators of industrial designs to claim priority rights (exhibition priority) for products exhibited at these exhibitions.

(2) The Office shall publish the right to claim exhibition priority at individual exhibitions in the Bulletin.

Section 29

(1) If the applicant is claiming exhibition priority in accordance with provisions of Section 49 of the Law, he shall state in his application the date when the product was entered into the exhibition and the period over which the exhibition was held.

(2) An application in which the exhibition priority is claimed shall include confirmation by the organizer of the exhibition that the product illustrated or described in the application is identical with the product displayed at the exhibition and information on the date when the product was entered into or demonstrated at the exhibition.

Section 30

If the application for an industrial design is filed by several co-applicants and they do not have a joint representative, they shall name one of the co-applicants as the person to whom reports and decisions of the Office shall be posted.

Section 31 Illustrations

All characteristic features of the appearance of the product shall be clearly illustrated by photographs or drawings (however, not shop or design),

concretely in as many views as necessary to clearly depict the shape, outline or colour specifics of the appearance of the product. One of the copies of the drawing shall be signed by the applicant or his representative.

Section 32

(1) The photographs or drawings shall meet the printing and copying requirements.

(2) The photograph or drawing shall be of at least size A6 or at most A5. If the subject of protection is to be the colour rendering of the appearance of a product, colour illustrations shall be submitted.

(3) Photographs of the appearance of the product shall be submitted in five copies. One original and four copies shall be submitted of drawings of the appearance of the product.

(4) The individual components shown in the drawings shall be sequentially marked with reference signs (Arabic numeral or standard symbols) in agreement with the designation used in the description. No written texts and explanations may be used on the photographs or in the drawings.

Section 33 Description of the Industrial Design

(1) The description of the industrial design should contain a written summary of those features which mainly constitute the specifics of the appearance of the product. The applicant or his representative shall sign one copy of the industrial design description.

(2) The special terminology employed shall be the terminology which is in general use.

(3) The execution of the description of the industrial design shall meet the printing and copying requirements.

Chapter Two Procedure on the Application for an Industrial Design

Section 34

(1) The Office shall mark the date of filing on the application for an industrial design, record it in the Register of Industrial Design Applications and issue the applicant a receipt on filing the application for the industrial design.

(2) The application for the industrial design shall be deemed to be filed if it contains the designation of the applicant, his will to have the industrial design recorded in the Register of Industrial Designs and an illustration of the appearance of the product for which protection is being sought.

Section 35

The following data shall be recorded in the Register of Industrial Designs:

- (a) the reference number of the application for an industrial design;
- (b) the title and class of the industrial design in accordance with the international classification;
- (c) the data of filing of the application of the industrial design and, possibly, also data of its priority rights;
- (d) the surname, first name and address of the creator of the industrial design;
- (e) the indication of the applicant or his representative, if the applicant is so represented;
- (f) the title of the industrial design;
- (g) data on the claimed priority right under the international treaty, if this applies, or an exhibition priority right;
- (h) the name of the Office examiner to whom the application was assigned for processing;
- (i) information on individual filing of matters concerning the application and on Office actions.

Section 36

A multiple application for an industrial design shall be processed by the Office as a single entity.

Section 37

At the request of the applicant, the Office shall not record an industrial design, about which it has decided that it fulfils all the conditions stipulated by law, in the Register of Industrial Designs earlier than six months from the day of filing the application for the industrial design.

Section 38

The following data shall be recorded about each industrial design in the Register of Industrial Designs:

- (a) the registration number of the industrial design and the data of decision on its registration by the Office;
- (b) the title and class of the industrial design in accordance with the international classification;
- (c) the date of filing the application for the industrial design or data on its priority right;
- (d) the surname, first name and address (name and headquarters) of the owner of the industrial design or his representative;
- (e) the reference number of the industrial design;
- (f) the surname, first name and address of the creator of the industrial design;
- (g) assignment of the industrial design;
- (h) license agreements;
- (i) the rights of a prior user;
- (j) cancellation of the industrial design from the Register;
- (k) prolongation of the validity of the registration of the industrial design in the Register;
- (l) lapse of registration of the industrial design in the Register.

Section 39

In the certificate on the registration of an industrial design the Office shall list data listed in Section 38 under letters (a) to (f).

Section 40

Prolongation of the registration validity of the industrial design in the Register shall be applied for in writing.

Chapter Three Declaratory Judgement, Procedure on Cancellation of an Industrial Design from the Register and Registration of a License

Section 41 Declaratory Judgement Procedure

(1) A request for declaration whether the appearance illustrated or described in the application lies or does not lie within the scope of a given registered industrial design shall be filed with the Office in two copies.

(2) In the application, the applicant shall prove his legal interest in the declaration and include data and documents necessary for issuing the declaratory judgement. Documents are submitting in four copies.

(3) The Office shall invite the parties in the procedure to submit

observation to the application and, if necessary, to present pertinent documents. If they fail to do so within the set time limit, this shall not prevent taking a decision on the application.

Section 42 Procedure on Cancellation of an Industrial Design from the Register

(1) A proposal shall be filed with the Office in writing, including appendices, in two copies.

(2) The proposal shall be justified in a matter-of-fact way and at the same time material proof shall be substantiated or offered.

(3) The Office shall invite the owner of the industrial design to submit observations to the proposal. If they fail to do so within the set time limit, this shall not prevent taking decision on the proposal.

Section 43 Registration of a License

(1) The request for recording a license contract in the Register of Industrial Designs shall be filed with the Office in writing.

(2) The request shall be supplemented with two copies of the license from which shall clearly follow the indication of the registered industrial design for the utilisation of which the license is being granted, the name of the acquirer of rights following from the license and the extent of the rendered rights.

PART THREE FINAL PROVISIONS

Section 44

This Decree shall enter into force on January 1, 1991.