

**FRANCE**  
**Intellectual Property Regulations**  
Amended on 1 April 2023

**TABLE OF CONTENTS**

BOOK IV Administrative and Professional Organization

TITLE I Institutions

CHAPTER I National Institute of Industrial Property

SECTION I Organization of the National Institute of Industrial Property

Article R411-1

Article R411-1-1

Article R411-1-2

Article R411-1-3

Article R411-1-4

Article R411-2

Article R411-3

Article R411-4

Article R411-5

Article R411-6

Article R411-8

Article R411-9

Article R411-10

Article R411-11

Article R411-12

Article R411-13

Article R411-16

SECTION II Fees Levied by the National Institute of Industrial Property

Article R411-17

Article R411-17-1

Article R411-18

SECTION III Appeals Lodged before the Appeal Court against Decisions by the director general of the National Industrial Property Institute

Article R411-19  
Article R411-19-1  
Article R411-19-2  
Article R411-20  
Article R411-21  
Article R411-22  
Article R411-23  
Article R411-24  
Article R411-25  
Article R411-26  
Article R411-27  
Article R411-28  
Article R411-29  
Article R411-30  
Article R411-31  
Article R411-32  
Article R411-33  
Article R411-34  
Article R411-35  
Article R411-36  
Article R411-37  
Article R411-38  
Article R411-39  
Article R411-40  
Article R411-41  
Article R411-42  
Article R411-43

## CHAPTER II The National Plant Variety Authority

### SECTION I Organization and Functioning of the National Plant Variety Authority

Article R412-7  
Article R412-9  
Article R412-10  
Article R412-11  
Article R412-12  
Article R412-13

### SECTION II Appeal against the decisions of the National Plant Variety Authority

Article R412-15  
Article R412-16  
Article R412-17  
Article R412-18  
Article R412-19  
Article R412-20  
Article R412-21

TITLE II Qualification with Respect to Industrial Property

CHAPTER I Entry in the List of Persons Qualified with Respect to Industrial Property

Article R421-1  
Article R421-1-1  
Article R421-1-2  
Article R421-2  
Article R421-3  
Article R421-4  
Article R421-5  
Article R421-6  
Article R421-7  
Article R421-8  
Article R421-9  
Article R421-10  
Article R421-10-1  
Article R421-10-2  
Article R421-11  
Article R421-12

CHAPTER II Conditions for Exercising the Profession of Industrial Property Attorney

SECTION I Entry in the List of Industrial Property Attorneys

Article R422-1  
Article R422-2  
Article R422-3  
Article R422-3-1  
Article R422-3-2  
Article R422-4  
Article R422-5  
Article R422-6

Article R422-7

SECTION I bis Free Provision of Service by Representatives in Industrial Property Established within the Territory of a Member State of the EU or a State Party of the Agreement on the European Economic Area

Article R422-7-1

Article R422-7-2

SECTION II The National Society of Industrial Property Attorneys

Article R422-8

Article R422-9

Article R422-10

Article R422-11

SECTION III Exercise in the Form of a Company

SUBSECTION I Professional Civil Company

Article R422-12

Article R422-13

Article R422-14

Article R422-15

Article R422-16

Article R422-17

Article R422-18

Article R422-19

Article R422-20

Article R422-21

Article R422-22

Article R422-23

Article R422-24

Article R422-24-1

Article R422-25

Article R422-26

Article R422-27

Article R422-28

Article R422-29

Article R422-30

Article R422-31

Article R422-32

Article R422-33

Article R422-34  
Article R422-35  
Article R422-36  
Article R422-37  
Article R422-38  
Article R422-39  
Article R422-40  
Article R422-40-1

SUBSECTION II Professional Partnerships

Article R422-41  
Article R422-42  
Article R422-44  
Article R422-46  
Article R422-47  
Article R422-48  
Article R422-49

SUBSECTION III Trading Partnership

Article R422-50  
Article R422-51

SUBSECTION IV Financial Holding Company of Independent Profession of  
Industrial Property Attorneys

Article R422-51-1  
Article R422-51-2  
Article R422-51-3  
Article R422-51-5  
Article R422-51-7  
Article R422-51-8  
Article R422-51-9  
Article R422-51-11  
Article R422-51-12  
Article R422-51-13  
Article R422-51-14

SUBSECTION V Multi-Professional Partnerships

Article R422-51-15  
Article R422-51-16  
Article R422-51-17  
Article R422-51-18

Article R422-51-19

SECTION IV Professional Obligations

Article R422-52

Article R422-53

Article R422-54

Article R422-55

Article R422-55-1

SECTION IV bis Audit of practice of the profession

Article R422-55-2

Article R422-55-3

Article R422-55-4

Article R422-55-5

SECTION V Disciplinary Measures

Article R422-56

Article R422-57

Article R422-57-1

Article R422-58

Article R422-58-1

Article R422-58-2

Article R422-58-3

Article R422-59

Article R422-60

Article R422-61

Article R422-62

Article R422-63

Article R422-64

Article R422-65

Article R422-66

CHAPTER III Miscellaneous Provisions

Article R423-1

Article R423-2

BOOK V Designs and Models

TITLE I Acquisition of Rights

CHAPTER I Rights and Works Protected

SECTION Specific Regulatory Measures for Certain Industries

Article R511-1

Article R511-2

Article R511-3

Article R511-4

Article R511-5

CHAPTER II Formalities for Filing

Article R512-1

Article R512-2

Article R512-3

Article R512-3-1

Article R512-4

Article R512-5

Article R512-6

Article R512-7

Article R512-8

Article R512-9

Article R512-9-1

Article R512-9-2

Article R512-9-3

Article R512-10

Article R512-11

Article R512-12

Article R512-12-1

Article R512-12-2

Article R512-13

Article R512-14

Article R512-15

Article R512-16

Article R512-17

Article R512-18

Article R512-18-1

Article R512-18-2

Article R512-19

CHAPTER III Term of Protection

Article R513-1

Article R513-1-1

Article R513-1-2

Article R513-2  
Article R513-2-1  
Article R513-2-2  
Article R513-3

#### CHAPTER IV Common Provisions

##### SECTION I Procedure

Article R514-1  
Article R514-2  
Article R514-3  
Article R514-4  
Article R514-5  
Article R514-5-1

##### SECTION II Transitional Provisions

Article R514-6

#### TITLE II Disputes

#### CHAPTER I Litigation concerning national designs or models

##### SECTION I Provisional and protective measures

Article R521-1

##### SECTION II Investigative measures

Article R521-2  
Article R521-3  
Article R521-4  
Article R521-5

##### SECTION III Ordinary provisions

Article R521-6

#### CHAPTER II Litigation concerning EU designs and models

Article R522-1

#### CHAPTER III Withholding at customs

Article R523-1

#### BOOK VI Protection of Inventions and Technical Knowledge



TITLE I Invention Patents

CHAPTER I Field of Application

SECTION II Right to Title

SUBSECTION I Employee Inventions

Article R611-1

Article R611-2

Article R611-3

Article R611-4

Article R611-5

Article R611-6

Article R611-7

Article R611-8

Article R611-9

Article R611-10

SUBSECTION II Inventions by Officials and Public Servants

Article R611-11

Article R611-12

Article R611-14

Article R611-14-1

Article Annex art. R611-14-1

SUBSECTION III Designation of Inventor and Claim to Ownership

Article R611-15

Article R611-16

Article R611-17

Article R611-18

Article R611-19

Article R611-20

CHAPTER II Filing and Processing of Applications

SECTION I Filing of Applications

Article R612-1

Article R612-2

Article R612-3

Article R612-3-1

Article R612-3-2  
Article R612-4  
Article R612-5  
Article R612-6  
Article R612-7  
Article R612-8  
Article R612-9  
Article R612-10  
Article R612-11  
Article R612-12  
Article R612-13  
Article R612-14  
Article R612-15  
Article R612-16  
Article R612-17  
Article R612-17-1  
Article R612-18  
Article R612-19  
Article R612-20  
Article R612-21  
Article R612-22  
Article R612-24  
Article R612-25

## SECTION II Processing of Applications

### SUBSECTION I Applications Affecting Defense

Article R612-26  
Article R612-27  
Article R612-28  
Article R612-29  
Article R612-30  
Article R612-31  
Article R612-32

### SUBSECTION II Division of Application

Article R612-33  
Article R612-34  
Article R612-35

### SUBSECTION III Correction, Withdrawal and Publication of the

Application

Article R612-36

Article R612-37

Article R612-37-1

Article R612-38

Article R612-39

Article R612-39-1

Article R612-40

Article R612-41

Article R612-42

Article R612-43

Article R612-44

SUBSECTION IV Refusal of Application

Article R612-45

Article R612-46

Article R612-47

Article R612-48

Article R612-49

Article R612-50

Article R612-51

Article R612-52

SUBSECTION V Drawing-up of the Search Report

Article R612-53

Article R612-54

Article R612-55

Article R612-56-1

Article R612-57

Article R612-58

Article R612-59

Article R612-60

Article R612-61

Article R612-62

Article R612-63

Article R612-64

Article R612-65

Article R612-66

Article R612-67

Article R612-68

Article R612-69

SUBSECTION VI Grant and Publication of Patent

Article R612-70

Article R612-70-1

Article R612-70-2

Article R612-71

Article R612-72

Article R612-73

Article R612-73-1

Article R612-73-2

Article R612-73-3

SECTION III Statutory Dissemination of Inventions

Article R612-74

Article R612-75

CHAPTER III Rights Deriving from Patents

SECTION I Exploitation Rights

SUBSECTION I Compulsory Licenses

Article R613-4

Article R613-5

Article R613-6

Article R613-7

Article R613-8

Article R613-9

SUBSECTION II Ex officio Licenses in the Interests of Public Health

Article R613-10

Article R613-11

Article R613-12

Article R613-13

Article R613-14

Article R613-15

Article R613-16

Article R613-17

Article R613-18

Article R613-19

Article R613-20

Article R613-21

Article R613-22

Article R613-23

Article R613-24

Article R613-25

SUBSECTION III Compulsory licenses for patents covering the manufacture of pharmaceutical products intended for export to countries experiencing public health problems

Article R613-25-1

Article R613-25-2

Article R613-25-3

Article R613-25-4

SUBSECTION IV Ex officio Licenses in the Interest of Economic Development

Article R613-26

Article R613-27

Article R613-28

Article R613-29

Article R613-30

Article R613-31

Article R613-32

Article R613-33

SUBSECTION V Ex officio Licenses and Expropriation for the Requirements of Defense

Article R613-34

Article R613-35

Article R613-36

Article R613-37

Article R613-38

Article R613-39

Article R613-40

Article R613-41

Article R613-42

SUBSECTION VI Miscellaneous Provisions

Article R613-43

Article R613-43-1

SECTION II Transfer and Loss of Rights

SUBSECTION I Opposition

Article R613-44

Article R613-44-1

Article R613-44-2

Article R613-44-3

Article R613-44-4

Article R613-44-5

Article R613-44-6

Article R613-44-7

Article R613-44-8

Article R613-44-9

Article R613-44-10

Article R613-44-11

Article R613-44-12

SUBSECTION II Waiver or limitation

Article R613-45

Article R613-45-1

Article R613-45-2

Article R613-45-3

SUBSECTION III Continuation in force or forfeiture of the title

Article R613-46

Article R613-47

Article R613-48

Article R613-49

Article R613-49-1

Article R613-50

Article R613-51

SECTION IV Appeal for Reinstatement

Article R613-52

Article R613-52-1

Article R613-52-2

SECTION V National Patent Register

Article R613-53

Article R613-54

Article R613-55

Article R613-56

Article R613-57  
Article R613-58  
Article R613-58-1  
Article R613-58-2  
Article R613-59

SECTION VI Establishment of the Documentary Report

Article R613-60  
Article R613-61  
Article R613-62

SECTION VII Reduction of Fees and Free Assistance

Article R613-63

CHAPTER IV Application of International Conventions

SECTION I European Patents

Article R614-1  
Article R614-4  
Article R614-5  
Article R614-6  
Article R614-7  
Article R614-11  
Article R614-12  
Article R614-13  
Article R614-14  
Article R614-15  
Article R614-16  
Article R614-17  
Article R614-18  
Article R614-19  
Article R614-20

SECTION II International Applications

Article R614-21  
Article R614-23  
Article R614-24  
Article R614-25  
Article R614-26  
Article R614-27  
Article R614-29

Article R614-31  
Article R614-32  
Article R614-33  
Article R614-34  
Article R614-35

CHAPTER IV bis Withholding

Article R614-36  
Article R614-37

CHAPTER V Legal Proceedings

SECTION I Provisional and protective measures

Article R615-1

SECTION II Investigative Measures

Article R615-2  
Article R615-2-1  
Article R615-3  
Article R615-4  
Article R615-5

SECTION III Joint Conciliation Board

Article R615-6  
Article R615-7  
Article R615-8  
Article R615-9  
Article R615-10  
Article R615-11  
Article R615-12  
Article R615-13  
Article R615-14  
Article R615-15  
Article R615-16  
Article R615-17  
Article R615-18  
Article R615-19  
Article R615-20  
Article R615-21  
Article R615-22  
Article R615-23



Article R615-24  
Article R615-25  
Article R615-26  
Article R615-27  
Article R615-28  
Article R615-29  
Article R615-30  
Article R615-31

#### CHAPTER VI Utility Certificates

Article R616-1  
Article R616-2  
Article R616-3

#### CHAPTER VII Supplementary Protection Certificates

Article R617-1  
Article R617-2  
Article R617-2-1  
Article R617-2-2

#### CHAPTER VIII Common Provisions

##### SECTION Procedure

Article R618-1  
Article R618-2  
Article R618-3  
Article R618-4  
Article R618-5  
Article R618-6

#### TITLE II Protection of Technical Knowledge

##### CHAPTER II Semiconductor Products

Article R622-1  
Article R622-2  
Article R622-3  
Article R622-3-1  
Article R622-3-2  
Article R622-4  
Article R622-5  
Article R622-6

Article R622-7  
Article R622-8  
Article R622-9

### CHAPTER III New Plant Varieties

#### SECTION I The Issue and Renewal of New Plant Variety Certificates

##### SUBSECTION I Filing of Applications for New Plant Variety Certificates

Article R623-1  
Article R623-2  
Article R623-3  
Article R623-4  
Article R623-5  
Article R623-6  
Article R623-7  
Article R623-8  
Article R623-9  
Article R623-10  
Article R623-11  
Article R623-12  
Article R623-13  
Article R623-14  
Article R623-15

##### SUBSECTION II Examination of Applications for New Plant Variety Certificates

Article R623-16  
Article R623-17  
Article R623-18  
Article R623-19  
Article R623-20  
Article R623-21  
Article R623-22  
Article R623-23  
Article R623-24

##### SUBSECTION III Issue of New Plant Variety Certificates

Article R623-25  
Article R623-26

Article R623-27

Article R623-28

Article R623-29

Article R623-30

#### SUBSECTION IV Annual Fees

Article R623-30-1

Article R623-31

Article R623-32

Article R623-33

Article R623-34

Article R623-35

#### SUBSECTION V Surrender - Forfeiture

Article R623-36

Article R623-37

#### SUBSECTION VI National Registers

Article R623-38

Article R623-39

Article R623-40

Article R623-40-1

Article R623-41

Article R623-42

#### SUBSECTION VII Applications for New Plant Variety Certificates with Defense Implications

Article R623-43

Article R623-44

Article R623-45

Article R623-46

Article R623-47

#### SUBSECTION VIII Miscellaneous Provisions

Article R623-48

Article R623-49

Article R623-50

Article R623-50-1

Article R623-51

Article R623-51-1

Article R623-52

Article R623-53  
Article R623-53-1  
Article R623-54

SECTION II Scope of Application of New Plant Variety Certificates,  
Duration and Scope of the Breeder's Right

Article R623-58  
Article R623-58-1

SECTION II bis Farm-saved seed

Article R623-59

SECTION III Withholding

Article R623-60

TITLE III Courts Competent to Hear Proceedings Relating to  
Inventions and Technical Knowledge

CHAPTER

Article R631-1  
Article R631-2

BOOK VII Trademarks, Service Marks and Other Distinctive Signs

TITLE I Trademarks and Service Marks

CHAPTER I Elements constitutes Trademarks

Article R711-1

CHAPTER II Acquisition of Rights in Trademarks

Article R712-1  
Article R712-2  
Article R712-3  
Article R712-3-1  
Article R712-4  
Article R712-5  
Article R712-6  
Article R712-7  
Article R712-8  
Article R712-9  
Article R712-10

Article R712-11  
Article R712-12  
Article R712-12-1  
Article R712-12-2  
Article R712-13  
Article R712-14  
Article R712-15  
Article R712-16  
Article R712-16-1  
Article R712-16-2  
Article R712-17  
Article R712-18  
Article R712-19  
Article R712-20  
Article R712-21  
Article R712-23  
Article R712-23-1  
Article R712-23-2  
Article R712-24  
Article R712-24-1  
Article R712-24-2  
Article R712-26  
Article R712-27  
Article R712-28  
Article R712-28-1  
Article R712-28-2  
Article R712-29  
Article R712-30

#### CHAPTER IV Transfer and Loss of Rights in Trademarks

Article R714-1  
Article R714-1-1  
Article R714-1-2  
Article R714-2  
Article R714-3  
Article R714-4  
Article R714-4-1  
Article R714-5  
Article R714-6  
Article R714-7  
Article R714-7-1

Article R714-7-2

Article R714-8

Article R714-9

## CHAPTER V Certificate Mark and Collective Mark

### SECTION I Certificate Mark

Article R715-1

### SECTION II Collective Mark

Article R715-2

## CHAPTER VI Disputes

### SECTION I Disputes regarding the Invalidity and Revocation of a Trademark

#### SUBSECTION I Application for Declaration of Invalidity or for Revocation

Article R716-1

Article R716-2

#### SUBSECTION II Administrative Proceedings for Declaration of Invalidity or for Revocation

Article R716-3

Article R716-4

Article R716-5

Article R716-6

Article R716-7

Article R716-8

Article R716-9

Article R716-10

Article R716-11

Article R716-12

#### SUBSECTION III Relationship between Judicial and Administrative Proceedings

Article R716-13

Article R716-14

### SECTION II Provisional and Protective Measures

Article R716-15

SECTION III Investigative Measures

Article R716-16

Article R716-17

Article R716-18

Article R716-19

SECTION IV Withholding at Customs

Article R716-20

SECTION V Miscellaneous Provisions

Article R716-21

Article R716-22

CHAPTER VII International Trademarks and EU Trademarks

SECTION I International Trademarks

Article R717-1

Article R717-1-1

Article R717-2

Article R717-3

Article R717-4

Article R717-5

Article R717-6

Article R717-7

Article R717-8

SECTION II EU Trademarks

Article R717-9

Article R717-10

Article R717-10-1

Article R717-11

CHAPTER VIII Common Provisions

SECTION I

Article R718-1

Article R718-2

Article R718-3

Article R718-4

Article R718-5

SECTION II Transitional Provisions

Article R718-6

Article R718-7

TITLE II Geographical indications

CHAPTER I General aspects

SECTION Geographical indications protecting industrial and craft products

Article R721-1

Article R721-2

Article R721-3

Article R721-4

Article R721-5

Article R721-6

Article R721-6-1

Article R721-7

Article R721-8

Article R721-9

Article R721-10

Article R721-11

Article R721-12

CHAPTER II Litigation

SECTION I Civil proceedings

Article R722-1

Article R722-2

Article R722-3

Article R722-4

Article R722-5

Article R722-6

SECTION II Withholding

Article R722-7

BOOK VIII Provisions specific to Mayotte, Saint-Barthelemy, Saint-Pierre-et-Miquelon, the Wallis and Futuna Islands, New Caledonia and



the French Austral and Antarctic Territories

Article R811-1

Article R811-1-1

Article D811-1-2

Article R811-2

Article R811-3

Article R811-4

## **BOOK IV Administrative and Professional Organization**

### **TITLE I Institutions**

#### **CHAPTER I National Institute of Industrial Property**

##### **SECTION I Organization of the National Institute of Industrial Property**

###### **Article R411-1**

The National Institute of Industrial Property shall have the following duties, in particular:

1. examining patent applications, granting patents and issuing any relevant documents concerning these, as well as examining oppositions;
- 1-2. On the advice of the Minister of Defense, authorizations for the disclosure and right to the free exploitation of the patents of invention mentioned in Article L612-9 as well as the extension and lifting of the prohibitions on disclosure or the right to the free exploitation of patents mentioned in Articles L612-10, L614-5 and L614-21 are granted upon request from the Minister of Defense;
2. registering and publishing trademarks for goods or services, as well as examining the applications for declaration of invalidity of trademarks and the applications for revocation of trademarks referred to in item 2 of Article L411-1;
3. issuing certificates of identity and the provision of information concerning anticipations with respect to trademarks for goods or services;
4. organizing deposits, storage and making available to the public of culture deposits of Microorganisms used by an invention for which patent has been granted;
5. centralizing of deposits of industrial designs and their publication;
6. keeping of registers of patents, of trademarks and of designs, entering of all deeds modifying the ownership of patents, trademarks for goods or services and designs;
7. implementing the provisions contained in the laws and regulations concerning temporary protection of industrial property at exhibitions, concerning industrial awards and concerning marks of origin;
8. implementing international agreements and cooperation actions

with respect to industrial property, particularly administrative relations with the World Intellectual Property Organization, the European Patent Organization, the EU Intellectual Property Office and the national or regional industrial property offices of the EU;

9. Operation of the National Register of Companies;

10. Entries are kept until December 31, 2022 in the National Register of Trade and Companies and the documents filed up to the same date are kept in the annex to the said register;

11. Information and documents contained in the registers mentioned in 9. and 10. are made available to the public, according to the rules applicable to these registers;

12. centralizing, storing and making available to the public of all technical and legal documentation concerning industrial property;

13. administering the Official Bulletin of Industrial Property.

14. Examination of the applications for approval and applications for modification of geographical indication specifications as defined in article L721-2, approval and withdrawal of approval of these specifications.

15. In its capacity as a single body, provided for by Article L123-33 Commercial Code, the management of the IT department mentioned in Article R123-2 of the code, as well as the management of the IT department mentioned in article R123-30-9 of the same code;

16. Registration and, where applicable, the conservation and return of envelopes intended to facilitate proof of the content and specify the precise date of applications annexed to the industrial property, under the terms and conditions set by decision of its general manager. This decision may require that filing, as well as any transfer or communication relating to this procedure, is made solely in electronic form.

In order to exploit its documentary holdings, the Institute may set up databases, where appropriate, in conjunction with other files or registers. It may, for that purpose, set up subsidiary firms or enter into financial participation.

#### **Article R411-1-1**

Publishing the decisions, instruments and documents as stipulated in the Official Industrial Property Gazette disseminated in electronic form, in conditions that can guarantee authenticity, produces the same de jure effects as publishing them in print.

**Article R411-1-2**

The National Industrial Property Institute organizes public and free consultation of industrial property titles and of the Official Industrial Property Gazette. The terms, locations and conditions of such consultation are determined by decision of the director general of the National Industrial Property Institute.

**Article R411-1-3**

The public information of the National Industrial Property Institute concerning industrial property titles and the National Business Register can be made available to the public on request, by electronic means or on an electronic medium, for the purposes of reuse.

The reuse or some or all of this public information is subject to the applicant accepting a license including the undertaking not to make use of personal data in contradiction with the provisions of book III of the Code on Relations between the Public and the Authorities. For reuse of the information from the National Business Register, the license includes the undertaking to comply with the restrictions concerning search criteria by order of the Minister responsible for industrial property.

The terms of dissemination and provision to the public of the information from the National Business Register are in line with the provisions relating to the communication of court decisions and accounting documents as provided for in articles R123-154 to R123-154-1 of the Commercial Code and the provisions relating to the declaration of beneficiary information about the real owner set forth in (1) to (3) of article L561-46, articles R561-57 and R561-58 of the Monetary and Financial Code.

A description of the information made available to the public and the license templates can be accessed on the National Industrial Property Institute website.

**Article R411-1-4**

The National Industrial Property Institute organizes public, free, electronic format access to the following:

1. The list of geographical indications defined in article L721-2, accompanied by the date and reference of publication in the Official Industrial Property Gazette of decisions to approve specifications and, where applicable, the decision to withdraw approval;
2. Specifications approved in accordance with article L721-3;

3. The updated list of operators as specified in article L721-5 of each geographical indication.

The terms and conditions of such access will be determined by decision of the director general of the institute.

#### **Article R411-2**

The director general of the National Industrial Property Institute shall represent the Institute in all civil acts.

The staff of the Institute shall be under his orders.

He shall take all steps necessary for the operation of the Institute.

He shall prepare and implement the budget. He shall establish the receipt titles. He shall commit, liquidate and order expenditure within the limit of the budget appropriations.

He may delegate his power of signature, in particular for award of contracts, to one or more officers of the Institute that he shall designate.

#### **Article R411-3**

The board of directors comprises fourteen members:

1. A personality from the economic world, acting as chair, appointed by order of the minister for industrial property for a period of three years, renewable once;
2. The director of civil affairs of the ministry of justice or their representative;
3. The budget director at the ministry of the economy and finances or their representative;
4. Two representatives of the minister for industrial property, including the director of legal affairs or their representative, and a representative of the minister for research;
5. The managing director of the public company BPI-Group or their representative;
6. The chairperson of the French Patent and Trademark Attorneys Company and a corporate industrial property practitioners' representative appointed by order of the minister for industrial property for a period of three years, renewable once;
7. Three representatives of the industrial contexts interested in protecting industrial property appointed by order of the minister for industrial property for a period of three years, renewable once;
8. Two representatives of the personnel in the establishment, elected in conditions determined by order of the minister for

industrial property.

The chair is assisted by a vice-chair appointed in the same conditions as they are and chosen from among the members of the board of directors.

The position of member of the board of directors is not remunerated. It does provide an entitlement to travel and accommodation allowances as stipulated by decree no. 2006-781 of 3 July 2006.

If one of the board of directors' members' positions, as appointed by order of the minister for industrial property, becomes vacant due to death, resignation or any other cause, they are replaced for the term of their mandate still to run.

The director general, budget controller and accounting agent attend the meetings of the board of directors for consultation.

The chair can call any person whose presence they consider useful to participate in the meetings, for consultation.

The secretarial duties of the board of directors are carried out by an agent of the institute designated for this purpose by the director general.

#### **Article R411-4**

The Board of Directors shall lay down the general policy of the establishment within the framework of the orientations set out by the supervisory Ministers. It shall have, in particular, the following duties:

1. It shall approve the budget and its modifications, the financial account of the closed financial year and the allocation of the result and give its opinion on the annual work report;
2. It shall determine the orientations of the price policy, the general conditions for grant of contracts entered into by the establishment, the general conditions of employment and remuneration of the personnel, the rules of procedure of the establishment;
3. It shall decide on creation or dissolution of subsidiary companies, acquisitions or transfers of participations, purchase, sale or lease of buildings;
4. It shall authorize loans and accept gifts and legacy;
5. It shall decide to bring law suits and conclude out-of-court settlements. It may delegate these powers to the Director General of the establishment.

#### **Article R411-5**

The board of directors meets at least twice a year. It is convened

by its chair, who sets the agenda.

The quorum is reached if at least seven of its members are present or represented. When the quorum is not reached, the board deliberates validly without quorum condition after the meeting is convened a second time to discuss the same agenda, specifying that no quorum will be required.

In the event that the votes are split, the chair has the casting vote. If the chair is absent or unavailable, their powers are exercised by the vice-chair. Each member of the board can give a proxy to another member. No one person can have more than one proxy. The board of directors can adopt internal regulations.

#### **Article R411-6**

The numbers of contractual staff belonging to the Institute shall be laid down each year within the limits of the budget appropriations for that establishment.

The status of the staff shall be laid down by decree.

#### **Article R411-8**

The institute is subject to the provisions of sections I and III of decree no. 2012-1246 of 7 November 2012 concerning budget management and public accounting.

#### **Article R411-9**

The Director General of the Institute shall submit for approval to the industrial property and budget ministers, accompanied where applicable by the opinion of the member of the general economic and financial inspectorate, the decisions made by the board of directors in the exercise of the following powers: approval of the budget and its modifications, the financial statement for the concluded financial year and allocation of the profit or loss, setting the guidelines for the pricing policy, the general conditions of employment and remuneration of personnel, decisions to create and eliminate subsidiaries, acquisition or assignment of holdings, purchase, sale or lease of property, authorization of loans and acceptance of gifts and legacies.

The decisions regarding the general conditions of employment and remuneration of personnel shall also be communicated to the minister in charge of civil service. These decisions shall be enforceable by operation of law no later than one month after they are received by the industrial property, budget and public service ministers if none

of them have opposed them within this period.

The other decisions shall be enforceable by operation of law no later than one month after they are received by the industrial property and budget ministers if none of them have opposed them within this period.

Decisions concerning the budget and the financial statements shall be enforceable in the conditions laid down by Title III of Decree no. 2012-1246 of 7 November 2012 concerning budget management and public accounting.

The minister in charge of the budget can delegate his signature to a member of the general economic and financial inspectorate for the approval decisions set forth in this article.

#### **Article R411-10**

The resources of the National Institute of Industrial Property shall be constituted by:

1. The proceeds of all authorized levies with regard to industrial property, the registers of commerce and trades and the filing of company statutes;
2. All revenue that may be levied by the Institute as remuneration for services rendered;
3. The proceeds from the sale of publications;
4. Revenue from assets and the proceeds of their sale;
5. The proceeds of any refunds made by international industrial property organisms in which France participates;
6. Funds deriving from authorized loans;
7. Any other resources deriving in particular from donations, legacies, gifts and assistance funds.

#### **Article R411-11**

The costs of the National Institute of Industrial Property shall comprise:

1. The expenditure for running and equipping the Institute;
2. The expenditure related to participation by France in the international industrial property organisms.

#### **Article R411-12**

The contracts for work and supplies issued by the Institute shall be governed by the legislative and regulatory provisions applicable to State contracts.



**Article R411-13**

The director general of the National Industrial Property Institute shall keep accounts of the issue of vouchers for receipts, commitment, liquidation and payment orders for the expenditure.

**Article R411-16**

The rules with regard to accounting, to the form of budgets and accounts, to the books and to the entries made by the authorizing officer and the accountant shall be laid down in one or more orders signed by the Minister responsible for finance, the Minister responsible for the budget and the Minister concerned.

## **SECTION II Fees Levied by the National Institute of Industrial Property**

### **Article R411-17**

I. The National Industrial Property Institute collects fees; their amount and the terms and conditions of application are set by joint order of the minister for industrial property and the minister for the budget, for the following procedures and formalities:

1. For invention patents, utility certificates and supplementary protection certificates:

- filing;
- search report or additional search report;
- additional claim from the eleventh;
- request to correct errors;
- request to continue the procedure;
- request for limitation;
- issue and printing of specifications;
- opposition
- maintenance in force;
- petition for reinstatement;

2. For European patents:

- publication of translation or revised translation of claims for patent application or claims of a European patent;
- drawing up and forwarding copies of the European patent application to the addressee states;

3. For international applications (patent cooperation treaty, PCT):

- submitting an international application;
- supplement for late payment;
- preparation of additional copies;

4. For trademarks of goods or services:

- filing;
- product or service class;
- adjustment or correction of material error;
- opposition;
- renewal;
- application for registration in the International Trademarks Registry;
- statement of revocation of rights;
- application for declaration of invalidity or for revocation;
- additional right claimed under an opposition or an application for declaration of invalidity, in addition to the first right claimed;

- division of the application for registration or of the registration;

5. For designs and models:

-filing;

-extension;

-adjustment, correction, statement of revocation of rights;

6. Fees common to invention patents, utility certificates, supplementary protection certificates, software, trademarks, designs or models, prizes and rewards:

-supplement for late request, late payment or completing a formality late;

-surrender;

-request for registration on the national register;

-record of a prize, reward or transcription of statement of assignment or transfer;

7. For neighboring rights to industrial property:

-topographies of semi-conductor products:

filing and saving; registration of a deed modifying or transferring the rights;

The institute collects the fees; their amount and the terms and conditions of application are set by joint order of the minister for industrial property, the minister for craft and the minister for the budget, for the following procedures and formalities:

-application for approval of specifications of geographical indications defined in article L721-2;

-application to modify approved specifications.

If inadmissible, the following fees are reimbursed:

-for invention patents, utility certificates and supplementary protection certificates: filing;

-for trademarks of goods or services: filing, class of product or service, renewal;

-for designs and models: filing, extension;

-for the geographical indications defined in Article L721-2:

application for approval, application to modify approved specifications.

The following shall also be reimbursed:

- the search report fee for an invention patent when the procedure for the issuance of the patent is terminated or if the prohibitions on disclosure and free exploitation are extended, if the procedure to draw up the search report has not been undertaken;

-the fee for an application for limitation of an invention patent

when the limitation procedure is terminated under the conditions set forth in Article R613-45-3.

II. The National Institute of Industrial Property collects royalties, the amount and terms of application of which are set by deliberation of its board of directors, upon carrying out the following procedures and formalities:

1. Communication of the documents and statements of which it ensures their conservation;
2. Registration and, where applicable, the conservation and the return of envelopes intended to facilitate proof of the content and specify the precise date on applications annexed to industrial property.

**Article R411-17-1**

The National Institute of Industrial Property collects the fees provided for in II of Article L123-54 of the Commercial Code.

**Article R411-18**

The miscellaneous income which the National Institute of Industrial Property may collect upon the use of information from its holdings and the sale of its publications are established by decision of its Director General who determines the methods of collection and the amount.

**SECTION III Appeals Lodged before the Appeal Court against Decisions  
by the director general of the National Industrial Property  
Institute**

**Article R411-19**

The appeals lodged against the decisions mentioned in the first paragraph of Article L411-4 are annulment appeals.

The appeals lodged against the decisions mentioned in the second paragraph of the same Article L411-4 are reversal appeals. They grant the court jurisdiction to hear the entire dispute. The court shall rule de facto and de jure.

**Article R411-19-1**

The court of appeal with territorial jurisdiction to directly hear appeals made against the decisions of the Director General of the National Institute of Industrial Property referred to in Article R411-19 is the court at the location where the party bringing the appeal resides.

**Article R411-19-2**

The seat and jurisdiction of the courts of appeal that are competent to hear the proceedings specified in Article R411-19 are set in accordance with table XVI attached to Article D311-8 of the Judicial Organization Code.

When the party bringing the appeal resides in another country, Paris Court of Appeal has jurisdiction. Domicile must be chosen in the jurisdiction of this court.

However, Paris Court of Appeal alone has jurisdiction to directly hear appeals brought against the decisions of the director general of the National Industrial Property Institute concerning the issue, rejection, opposition or maintenance of invention patents, utility certificates, supplementary protection certificates and topographies of semi-conductor products.

**Article R411-20**

Subject to the special provisions of this Section, the appeals referred to in Article R411-19 shall be lodged, heard and ruled on in accordance with the provisions of the Code of Civil Procedure.

**Article R411-21**

The appeals referred to in Article R411-19 shall be lodged within

one month from the notification of the decisions concerned.

**Article R411-22**

Every party must appoint a lawyer.

The appointment of a lawyer entails a choice of domicile.

**Article R411-23**

The National Institute of Industrial Property shall not be a party to the court proceedings.

The court of appeal shall rule after having heard the Director General of the National Institute of Industrial Property or after having summoned the Director General and enabled him/her to submit written or verbal observations.

The public prosecutor's office may be informed about the cases in which it deems it should intervene.

**Article R411-24**

Under penalty of ex officio inadmissibility, procedural documents shall be submitted to the court by electronic means.

If this is not possible for reasons not attributable to their author, the documents shall be submitted in hard copy to the registry of the court or addressed to the registry by registered mail with request for an acknowledgment of receipt. In this case, the notice of appeal shall be submitted or addressed to the registry of the court in a number of counterparts equal to the number of recipients plus three. The submission shall be ascertained by a mention of its date and the registrar's stamp on every counterpart, of which one shall be immediately returned.

If the notice of appeal is addressed by mail, the registry of the court shall register the document on the date indicated by the stamp of the sending office and shall transmit by any means to the sender an acknowledgment of receipt.

Notices, reminders or convocations shall be transmitted to the lawyers of the parties by electronic means, unless this is impossible for reasons not attributable to the sender. Communication by electronic means was provided for by the order of the Minister of Justice referred to in Article 930-1 of the Code of Civil Procedure.

**Article R411-25**

Appeals shall be lodged with the court of appeal by a document containing, in addition to the mentions set forth in item 3 of

Article 54 of the Code of Civil Procedure and under the pain of invalidity:

1. the unique identification number of the appellant company or any document equivalent to an extract of its registration with the Trade and Companies Register for the operators located outside France;
2. the subject matter of the appeal;
3. the name and address of the title holder, if the appellant does not have this capacity;
4. the appointment of the appellant's lawyer.

Except in the case of an implied rejection decision, a copy of the appealed decision shall be attached to this document under pain of invalidity.

The document shall be dated and signed by the appointed lawyer. The document shall be submitted to the registry of the court and shall operate as an application for registration with the court.

#### **Article R411-26**

The registrar shall send without delay to all the parties to whom the decision of the Director General of the National Institute of Industrial Property has been notified, by ordinary letter, a counterpart of the notice of appeal, mentioning the obligation to appoint a lawyer.

If the notification letter is returned to the registry of the court or the defendant does not appoint a lawyer within one month from the sending of the notification letter, the registrar shall inform the lawyer of the appellant so that the latter may serve the notice of appeal.

Under penalty of the notice of appeal being declared void, the notice must be served during the month of the notification sent by the registry of the court; however, if, in the meantime, the defendant has appointed a lawyer prior to the service of the notice of appeal, this shall be notified to the defendant's lawyer.

Under pain of invalidity, the service document shall inform the defendant that, should he fail to appoint a lawyer within fifteen days from the date of service, he may be subject to an order against him based solely on the elements provided by his adversary and that, should he fail to submit his conclusions within the time limit referred to in Article R411-30, his written submissions may be declared inadmissible ex officio.

**Article R411-27**

As soon as he is appointed, the defendant's lawyer shall notify his appointment to the appellant's lawyer and, by registered mail with acknowledgment of receipt, to the Director General of the National Institute of Industrial Property. A copy of the designation document shall be submitted to the registry of the court.

**Article R411-28**

The registrar shall send to the Director General of the National Institute of Industrial Property, by simple letter, a copy of the notice of appeal.

As soon as he is informed about the appeal, the Director General of the National Institute of Industrial Property shall send to the registry of the court the file of the case, comprising the written observations and the documents submitted by the parties, as well as all the documents submitted to the case file during the dispute.

**Article R411-29**

Subject to the notice of appeal being declared void ex officio, the appellant must submit his conclusions to the registry of the court within three months from this notice.

Subject to the same sanction and within the same time limit, the defendant shall send his conclusions, by registered mail with request for an acknowledgment of receipt, to the Director General of the National Institute of Industrial Property, submitting the proof thereof to the registry of the court.

**Article R411-30**

Subject to ex officio inadmissibility, the defendant must submit his conclusions to the registry of the court and, if applicable, file an incidental appeal within three months from the notification of the appellant's conclusions referred to in Article R411-29.

Subject to the same sanction and within the same time limit, the defendant shall send his conclusions, by registered mail with request for an acknowledgment of receipt, to the Director General of the National Institute of Industrial Property, submitting the proof thereof to the registry of the court.

**Article R411-31**

Incidental appeals shall be filed in accordance with Article R411-25.



**Article R411-32**

Under penalty of ex officio inadmissibility, the defendant party to an incidental appeal must submit his conclusions to the registry of the court within three months from the date he was notified of such appeal.

Under penalty of ex officio inadmissibility, a forced intervener in the proceedings must submit his conclusions to the registry of the court within three months from notification of the motion to intervene filed against him. Under the same sanction, a voluntary intervenor must observe the same time limit that runs from the day of his voluntary intervention.

Under to the same sanction and within the same time limit, the defendant party to an incidental appeal, the forced intervenor and the voluntary intervenor shall send their conclusions, by registered mail with notification of receipt, to the Director General of the National Institute of Industrial Property, submitting the proof thereof to the registry of the court.

**Article R411-33**

Conclusions shall be notified and documents shall be communicated simultaneously by the lawyer of each of the parties to the lawyer of the other party; if there are more than one appellants or defendants, they must be notified and communicated to all appointed lawyers. These conclusions and documents shall be sent to the Director General of the National Institute of Industrial Property, by registered mail with notification of receipt.

A copy of the conclusions shall be submitted to the registry of the court, accompanied by proof of their notification.

The documents communicated and submitted in support of inadmissible conclusions shall be themselves inadmissible.

**Article R411-34**

Under the sanctions stipulated in Articles R411-29, R411-30 and R411-32, conclusions shall be notified to the lawyers of the parties and shall be sent to the Director General of the National Institute of Industrial Property within the same time limit as the one stipulated for their submission to the registry of the court. Under the same sanctions, they shall be served at the latest during the month following the expiry of the time limits set forth in these Articles to the parties that did not appoint a lawyer; however, if

these parties appoint a lawyer in the meantime, before the conclusions are served, the conclusions shall be notified to the lawyer.

The notification of conclusions to a party within the time limit set forth in Articles R411-29, R411-30 and R411-32, as well as in the first paragraph, is the start date of the time limit within which the said party must submit its conclusions to the registry of the court.

**Article R411-35**

The Director General of the National Institute of Industrial Property shall notify to the parties to the proceedings his written observations by registered letter with notification of receipt. He shall submit a copy thereof to the registry of the court.

**Article R411-36**

In case of force majeure, the president of the chamber may not apply the sanctions stipulated in Articles R411-29, R411-30 and R411-32.

**Article R411-37**

Subject to ex officio inadmissibility, the parties must submit the totality of their claims on the merits at the time of the conclusions mentioned in Articles R411-29, R411-30 and R411-32. Inadmissibility may also be raised by the party against which subsequent claims are invoked.

However, if the court of appeal hears an appeal filed on the grounds of the second paragraph of Article R411-19, the claims meant to respond to the opposing conclusions and documents or for the court to rule on matters deriving, prior to the first conclusions, from the intervention of a third party or the occurrence or revelation of a fact, shall remain admissible.

**Article R411-38**

In order to support in front of the court of appeal that hears an appeal filed on the grounds of the second paragraph of Article R411-19 the claims they had submitted to the Director General of the National Institute of Industrial Property, the parties may invoke new pleas, submit new documents, or propose new evidence.

Subject to ex officio inadmissibility, the parties may not submit to the court new claims for purposes other than for the court to rule on the matters deriving from the intervention of a third party or

the occurrence or revelation of a fact.

Claims shall not be deemed new if they are meant for the same purposes as those submitted to the Director General of the National Institute of Industrial Property, even if their legal ground is different.

#### **Article R411-39**

Conclusions shall contain, in the header, the indications referred to in the second paragraph of Article 960 of the Code of Civil Procedure. They must describe specifically the claims of the parties and the pleas of fact and law in support of each of these claims, indicating, for each claim, the documents invoked and their numbering. A summary statement of documents shall be attached thereto.

Conclusions shall contain distinctly a description of the facts and proceedings, a discussion on the claims and pleas, as well as a summary statement of claims. If, under an appeal filed pursuant to the second paragraph of Article R411-19, during discussions, new pleas are invoked, in addition to the previous written submissions, in support of claims, these shall be presented in a formally separate statement.

The court shall only rule on the claims included in the statement and shall only examine the pleas in support of these pleas if they are invoked during discussions.

In their last written submissions, the parties shall reiterate the claims and the pleas previously presented or invoked in their previous conclusions. If the parties fail to do so, it shall be deemed that they have surrendered these claims and pleas and the court shall only rule on the last submitted conclusions.

#### **Article R411-40**

The president of the court shall designate the chamber to which the case is assigned.

The registry of the court shall notify thereof the appointed lawyers and the Director General of the National Institute of Industrial Property.

#### **Article R411-41**

Subject to Articles R411-29, R411-30 and R411-32, the president of the chamber to which the case is assigned shall establish the time limits within which the parties to the proceedings are to

communicate their conclusions, send them to the Director General of the National Institute of Industrial Property, and submit a copy thereof to the registry of the court.

The president shall establish the date of the debates.

The registry of the court shall notify these time limits and the date of debates to the lawyers of the parties.

It shall notify the Director General of the National Institute of Industrial Property of the date of the debates.

#### **Article R411-42**

The decisions of the court of appeal shall be notified by registered mail with request for an acknowledgment of receipt by the registry of the court to the parties to the proceedings and to the Director General of the National Institute of Industrial Property.

#### **Article R411-43**

The time limits stipulated in Articles R411-21, R411-26 and R411-29 shall be extended:

1. by one month if the appeal is filed:

a) either in front of a court located in mainland France, for the parties residing in Guadeloupe, Guyana, Martinique, Réunion, Mayotte, Saint-Barthelemy, Saint-Martin, Saint-Pierre-et-Miquelon, French Polynesia, Wallis and Futuna Islands, New Caledonia, or the French Austral and Antarctic Territories;

b) or in front of a court located in Guadeloupe, Guyana, Martinique, Réunion, Mayotte, Saint-Barthelemy, Saint-Martin, Saint-Pierre-et-Miquelon or the Wallis and Futuna Islands, for the parties that do not reside in this community;

2. by two months if the appellant resides abroad.

The time limits set forth for defendants and forced interveners by Articles R411-30 and R411-32 shall be extended under the same conditions and in the same manner.

## **CHAPTER II The National Plant Variety Authority**

### **SECTION I Organization and Functioning of the National Plant Variety Authority**

#### **Article R412-7**

The missions of the National Plant Variety Authority is to maintain secrecy about all matters of which they become aware in the practice of their jobs.

#### **Article R412-9**

The missions of the National Plant Variety Authority can call on any expert or person whose opinion seems to be necessary.

#### **Article R412-10**

The missions of the National Plant Variety Authority is required to:

- receive, record and investigate applications to obtain and objections to issuing certificates;
- keep the various registers concerning plant breeders' rights and ensure registration of all documents affecting the ownership of certificates and the various publications stipulated;
- act as liaison with all competent bodies and, in particular, for matters of variety names and technical examination, with the Office of the International Union for the Protection of New Varieties of Plants, the EU Plant Variety Office and the foreign national bodies responsible for protecting plant varieties;
- drawing up obtaining certificates and issuing all copies of official documents;
- carry out or arrange inspection of the conservation of varieties for which certificates have been issued;
- participate in preparing the budget for the public interest group specified in article L412-1 concerning the duties covered by the National Plant Variety Authority.

They participate in preparing the regulatory texts concerning the protection of plant varieties; they participate in preparing and negotiating international agreements with a view to facilitating or improving the protection of plant varieties.

Each year they draw up a report on their activity, which they submit to the permanent technical committee on selection of cultivated plants as specified in articles D661-1 of the Rural and Maritime Fishing Code.

**Article R412-11**

The National Plant Variety Authority is, for France, the service responsible for protecting plant varieties within the meaning of the stipulations of ii of 1 of article 30 of the International Convention for the Protection of New Varieties of Plants. To this end, the Head of the National Plant Variety Authority liaises with the International Union for the Protection of New Varieties of Plants and participates in the Union's work.

**Article R412-12**

The income and expenses concerning the duties covered by the National Plant Variety Authority can be identified in the budget and the accounts of the public interest group specified in article L412-1.

**Article R412-13**

The expenses connected to the duties of the National Plant Variety Authority comprise:

- operating and equipment costs, including those connected to remuneration and travel for the personnel assigned to it;
- technical examination costs and, if necessary, the costs of creating reference collections.

## **SECTION II Appeal against the decisions of the National Plant Variety Authority**

### **Article R412-15**

The period to appeal before Paris Court of Appeal against the decisions of the Head of the National Plant Variety Authority is one month. When the plaintiff resides outside mainland France, this period is increased by a month if they reside in Europe and by two months if they reside in any other part of the world.

### **Article R412-16**

The appeal period laid down in the previous article runs from the date the applicant receives the notification of the decision of the Head of the National Plant Variety Authority.

### **Article R412-17**

Appeals shall be lodged by means of a written request addressed to the senior presiding judge of the Court of Appeal of Paris by the applicant in person or by a lawyer registered at a Bar. Where the petitioner is unable to appear in person, he may be represented or assisted as provided for in the first paragraph of this Article.

### **Article R412-18**

Where the appeal is lodged by any person other than the owner of the application for a new plant variety certificate, the latter shall be implicated by the Senior Registrar of the Court of Appeal by registered letter with acknowledgement of receipt.

### **Article R412-19**

The Court of Appeal shall render its decision after the Public Prosecutor has been heard.

### **Article R412-20**

Any appeal brought against the decisions of the committee for the protection of new varieties of plants shall be reported within fifteen days by the registrar of the court of appeal to the Head of the National Plant Variety Authority by registered post with acknowledgement of receipt.

The registrar shall notify the applicant and the Head of the National Plant Variety Authority of order returned by the court of

appeal in the same form.

**Article R412-21**

The registrar shall send an authenticated copy of the order to the Head of the National Plant Variety Authority.

This order is automatically recorded on the National Register of Plant Variety Protection Certificates stipulated in article R623-38.

The court of appeal order is enforced within two months from notification.



## **TITLE II Qualification with Respect to Industrial Property**

### **CHAPTER I Entry in the List of Persons Qualified with Respect to Industrial Property**

#### **Article R421-1**

Subject to the provisions of Article R421-1-1, the entry of a natural person in the list of persons qualified in industrial property referred to in Article L421-1 shall be subject to compliance with all of the following conditions:

1. Possession of a legal, scientific or technical national second cycle diploma issued by a scientific, cultural and professional public establishment within the meaning of Act No. 84-52 of 26 January 1984 empowered to issue such diploma or of a qualification recognized as equivalent in accordance with the conditions laid down by joint order of the Keeper of the Seals, Minister for Justice, the Minister responsible for industrial property and the Minister responsible for higher education;
2. Possession of a diploma issued by the Center for International Industrial Property Studies (CEIPI) of the University of Strasbourg or of a qualification recognized as equivalent in accordance with the conditions laid down by joint order of the Keeper of the Seals, Minister for Justice, the Minister responsible for industrial property and the Minister responsible for higher education;
3. At least three years of professional experience;
4. To have passed an examination of competence in French of which the conditions and program shall be laid down, for each specialization, by joint order of the Keeper of the Seals, Minister for Justice, the Minister responsible for industrial property and the Minister responsible for higher education. The examinations shall be adapted for the professional representatives before the European Patent Office.

#### **Article R421-1-1**

The following can also be included on the list of qualified persons set forth in article L421-1:

1. Subject to meeting the qualification conditions of points 1 and 2 of article R421-1 and demonstrating at least eight years of professional practice in connection with industrial property:
  - a) Persons who have practiced within one or more companies, groups of companies, associations, foundations or public institutions;

- b) The employees of an industrial property lawyer or attorney, an association or industrial property legal or attorneys' firm, a legal office or lawyer to the Council of State and Court of Cassation;
- c) Government employees and former government employees in category A or persons equivalent to government employees in this category who have worked in an administration or public service or international organization;

The persons specified in a), b) and c) can have held several of the positions specified in these provisions when the total duration of these activities is at least eight years;

2. Persons meeting all of the following conditions:

a) Possession of a diploma equivalent to a second cycle diploma of in legal, scientific or technical higher education obtained, where applicable, within the scope of professional training;

b) Possession of a diploma from the Centre for International Intellectual Property Studies (CEIPI) of the University of Strasbourg or an equivalent qualification recognized in the conditions set by joint order of the minister of justice, the minister for industrial property and the minister for higher education, issued within the scope of continuing professional development;

c) Professional practice of eight years, in connection with industrial property, acquired:

-within one or more companies, groups of companies, associations, foundations or public institutions;

-as employees of an industrial property lawyer or attorney, an association or firm of lawyers or an industrial property attorneys' firm, office of a lawyer or lawyer to the Council of State and the Court of Cassation;

-as government employees and former government employees in category A or persons equivalent to government employees in this category have worked in an administration or public service or international organization.

The persons specified in c) can have held several of the positions specified in these provisions when the total duration of these activities is at least eight years;

Except when resulting from positions held within an international organization, the professional practice provided for in 1 and 2 must have been acquired in a member state of the EU or in a state that is party to the agreement on the European Economic Area or party to an agreement with France recognizing this professional practice.

**Article R421-1-2**

The reality and the content of the professional practice of the persons specified in article R421-1-1 and their knowledge of the rules of ethics concerning the profession of industrial property attorney are subject, in the conditions set by order of the minister for industrial property, to inspection by the panel specified in article R421-6. This panel also determines, in view of the professional practice of the interested parties, the specialization to which their registration is linked.

**Article R421-2**

No person may be entered in the list if:

1. He has committed acts that have led to a criminal conviction for acts contrary to honor, honesty or morality;
2. For acts of the same nature, he has received a disciplinary or administrative sanction involving dismissal, striking off, removal, withdrawal of approval or authorization;
3. He is declared personally insolvent or is subject to other sanction pursuant to the legislation on judicial settlement, liquidation of assets, personal insolvency and bankruptcy or under the legislation on the rehabilitation and judicial liquidation of enterprises.

**Article R421-3**

As set out in Article R79 of the Code of Criminal Procedure:

- (...) the number 2 bulletin of the police record has been issued;  
(...) 24. To the director general of the National Industrial Property Institute for entry in the list of persons qualified in industrial property and in the list referred to in Article L422-5.

**Article R421-4**

The reference to the specialization that accompanies the entry of persons qualified in industrial property may be either that of patents or that of trademarks, industrial designs, based on professional experience, supplemented as appropriate by that of engineer or of lawyer, based on diplomas.

Where appropriate, more than one mention may be entered.

An order of the Minister responsible for industrial property may provide for further specialization mentions if new professional qualifications in industrial property should arise.

**Article R421-5**

The professional practice set forth in article R421-1(3) results from practicing, as their main activity, examination, advice, assistance or representation concerning industrial property, connected rights and rights concerning any related matter.

The professional practice must have been acquired in France in the subject corresponding to the specialization sought and under the responsibility of a person qualified in industrial property registered with the same specialization. This professional practice may also have been acquired in another member state of the EU or in a state that is party to the agreement on the European Economic Area or party to an agreement with France recognizing this professional practice subject to it having been under the responsibility of a person authorized to represent parties, in the subject corresponding to the specialization sought, before the central industrial property service of the country in which they are established.

When the practice has not been acquired under the responsibility of such a person or when it has been acquired in a third party country, the panel set forth in article R421-6 may, on request, admit for submission to examination a candidate whose practice has been recognized as equivalent due to its content, its scope and its compliance with the habitual standards in the specialization in question.

**Article R421-6**

The panel responsible for overseeing the tests of the examination set forth in article R421-1(4) includes a court judge, presiding judge, university lecturer teaching private law, a lawyer, two persons competent in industrial property and four persons registered on the list of persons qualified in industrial property, including two industrial property attorneys. An alternate is appointed for each principal member.

The conditions of appointment of the members of the panel and their alternates are set by joint order of the keeper of the seals, the minister of justice, the minister for industrial property and the minister for higher education.

**Article R421-7**

The diploma, placement and professional examination conditions set forth in articles R421-1 and R421-1-1 are not applicable to persons

who have successfully taken a study cycle and, where applicable, the professional training required in addition to this study cycle and who demonstrate that they have:

1. Either a diploma, certificate or other qualification allowing practice of the profession in a member state of the EU or party to the agreement on the European Economic Area issued:

a) By the competent authority of this state and sanctioning training acquired mainly in the EU or in the European Economic Area; b) Or by an authority of a third party country, provided that an attestation is provided issued by the member state of the EU or the state that is a party to the agreement on the European Economic Area which recognized the diploma, certificate or other qualification certifying that its holder has at least three years of professional experience full-time or part-time for an equivalent total duration, acquired on its territory;

2. Or the practice of the profession full-time for a year or part-time for an equivalent duration, over the course of the ten previous years, in a member state of the EU or a party to the agreement on the European Economic Area which does not regulate access to or practice of this profession, provided that such practice is certified by the competent authority of this state and that the party in question possesses one or more attestations of competence or evidence of qualifications preparing for practice of the profession, issued by the competent authority of a member state which does not regulate the profession. However, the one year of professional experience is not required if the applicant's qualification certifies regulated training.

#### **Article R421-8**

To benefit from article R421-7 it is necessary to successfully sit an aptitude examination in French before the panel specified in article R421-6, the program and terms and conditions of which are set by joint order of the minister of justice and the minister for industrial property:

1. Either when the candidate's training covers substantially different subjects from those included on the curricula of the diplomas and the professional examination specified in article R421-1, and these differences are not offset by the knowledge, aptitude and skills acquired by the applicant over the course of their professional experience or life-long learning, and validated in due form by a competent organization;

2. Or when one or more of the professional activities where practice is subject to possessing this diploma and this examination are not regulated in the source or destination member state or are regulated differently, and when this difference is characterized by specific training required in the host member state concerning subjects that are substantially different from those covered by the diploma the applicant holds.

The director general of the National Industrial Property Institute shall send the applicant a notification specifying the level of professional qualification required in France and establish, in view of the applicant's level of professional qualification, the substantial differences justifying the requirement for an aptitude examination.

The aptitude examination shall be organized within a period of six months from the date of this notification.

The list of candidates admitted setting this examination shall be drawn up by the director general of the National Industrial Property Institute.

#### **Article R421-9**

The application for registration shall be submitted to the director general of the National Industrial Property Institute. Evidence shall be attached that they are satisfied as applicable in the conditions set forth in article R421-1, article R421-1-1 or articles R421-7 and R421-8.

Acknowledgement of receipt of the application shall be given.

If the application is non-compliant, the applicant shall be notified and an explanation given. They shall be given a period of time to correct the application or contest the institute's objections. If the application is not corrected or an observation is not made that can be used to lift the objection, it shall be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

#### **Article R421-10**

The decision of the director general of the institute ruling on the application for registration, where applicable pursuant to the panel's decision in accordance with articles R421-5 and R421-1-2, shall be notified to the party in question. A rejection shall be explained.

**Article R421-10-1**

A decision on the application for registration shall be given within four months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R421-9, until the application is corrected or the objection lifted.

**Article R421-10-2**

If an express decision is not made within the time period set forth in article R421-10-1, the application is deemed to be accepted.

**Article R421-11**

Any person entered in the list may at any time request to be removed from the list.

Any person subject to any of the measures referred to in Article R421-2 shall be removed from the list by the Director General of the Institute. Removal shall be reasoned and the decision taken after the party concerned has been enabled to submit his observations.

**Article R421-12**

Entries and removals shall be published in the Official Bulletin of Industrial Property.

The updated list of qualified persons shall be published at the beginning of each calendar year in the Bulletin.

## **CHAPTER II Conditions for Exercising the Profession of Industrial Property Attorney**

### **SECTION I Entry in the List of Industrial Property Attorneys**

#### **Article R422-1**

Any person qualified in industrial property and entered in the list referred to in Article R421-1 may apply to be entered, with the same notice of specialization, in the list of industrial property attorneys referred to in the third paragraph of Article L422-1.

The notice "patents" permits action in the procedures referred to in Article R612-2 and R613-44. The notice "trademarks, industrial designs" permits action in the procedures referred to in Articles R712-2 and R712-13 and R716-2.

However, persons entered with the notice "lawyer" under the procedure set out in I of Article 36 of the Decree of 1 April 1992 on qualification and professional organization with respect to industrial property may carry out the acts defined in Articles R712-2 and R712-13 and R716-2.

#### **Article R422-2**

Entry in the list referred to in Article R422-1 shall be subject to the following conditions:

1. To offer to the public the services referred to in Article L422-1 or undertake to do so within three months, either individually or in a group or as the employee of another industrial property attorney or of a company of industrial property attorneys;
2. To have French nationality or be a national of another Member State of the EU, or of another State party to the agreement on the European Economic Area;
3. To have a place of residence or a professional establishment in France;
4. Provide evidence of the insurance and the guarantee referred to in Article L422-8 or undertake to provide such evidence within a period of three months; this evidence shall be produced each year after entry.

#### **Article R422-3**

The application for registration shall be submitted to the director general of the institute. Evidence shall be attached that they are satisfied in the conditions set forth in article R422-2.



If the application is non-compliant, the applicant shall be notified and an explanation given. They will be given a period of time to correct the application or contest the institute's objections. If the application is not corrected or an observation is not made by which the objection is lifted, it will be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

**Article R422-3-1**

A decision on the application for registration shall be given within four months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R422-3, until the application is corrected or the objection lifted.

**Article R422-3-2**

If an express decision is not made within the time period set forth in article R422-3-1, the application is deemed to be accepted.

**Article R422-4**

The Director General of the Institute shall make the entry, after having heard the opinion of the National Society of Industrial Property Attorneys. Such opinion shall be deemed to have been given if the Society does not formulate an opinion within one month as from having been approached.

Refusal to enter shall be taken on a reasoned decision to be notified to the party concerned.

The entry of natural persons shall be made in the name of the industrial property attorney followed by the title of the practice within which he performs his duties or, in the case of a company, by its registered name or title.

If the industrial property attorney does not furnish the evidence that he satisfies the conditions laid down in Article R422-2, particularly those required by item 4 of that Article, he shall be invited by the Director General of the Institute to regularize his situation within the time limit set forth in that invitation.

If, on expiry of the time limit referred to in the preceding paragraph, the person concerned has not regularized his situation, the Director General of the Institute shall pronounce his suspension, which shall cease to have effect once the situation has been regularized. Suspension shall be published in accordance with

Article R422-66.

A suspension shall also be ordered, in accordance with the conditions laid down in the preceding paragraphs, with respect to any company that no longer satisfies the conditions laid down in Article L422-7.

The Director General of the Institute shall remove from the list referred to in Article R422-1 any industrial property attorney whose suspension has continued for more than six months.

**Article R422-5**

Any person entered in the list of industrial property attorneys may request to be removed from the list. He shall be required to do so if he no longer satisfies the conditions set out in Article R422-2. The request shall be submitted to the Director General of the Institute who shall effect the removal after having obtained the opinion of the National Society of Industrial Property Attorneys. Removal shall be suspended if the case is submitted to the disciplinary board referred to in Article L422-10.

**Article R422-6**

The application to register a company in the special section specified in article L422-7 shall be submitted by its representative or, when the company has not yet been incorporated, by the representative of the shareholders. In the case of a company not covered by article L422-7-1, it shall be accompanied by proof that the application for entry in the trade and companies register has been filed.

The director general of the institute shall make the entry as set out in article R422-4 and, where applicable, notify the registrar responsible for keeping the trade and companies register at the court where the corresponding application for entry was filed of the decision.

Any decision to remove a company shall be notified, where applicable, within one month of its date, to the registrar responsible for keeping the register where the company has been registered.

**Article R422-7**

The registered capital of an industrial property attorneys' company as referred to in Article L422-7(b) may be held, in accordance with Article L423-2(e), by an industrial property attorney for only 25

per cent if the purpose of the company is to associate one or more industrial property attorneys with other providers of services carrying out as their main activity one of the following:

1. Construction of prototypes;
2. Licensing intermediary services;
3. Creation of trademarks;
4. Funding of innovation.

The provisions of this article are not applicable to the companies provided for in Article L422-7-1.

**SECTION I bis Free Provision of Service by Representatives in Industrial Property Established within the Territory of a Member State of EU or a State Party of the Agreement on the European Economic Area**

**Article R422-7-1**

When a professional residing in a member state of the EU or in a state that has signed the agreement on the European Economic Area is authorized to represent persons owning industrial property before the central service of industrial property in that state, they may use their professional title in France, expressed in one or other of the languages of that state, to represent persons before the National Industrial Property Institute, when their title has been certified by the competent authority of the state in which they are established.

When the professional is established in a state in which practicing the profession is not subject to possessing a regulated qualification, in order to represent parties before the French National Industrial Property Institute they must demonstrate to this institute by any means that they have practiced this profession in one or more member states of the EU or parties to the agreement on the European Economic Area, full-time for at least one year or part-time for an equivalent total duration over the course of the last ten years. However, the one year of professional experience is not required if the professional can demonstrate that they have taken regulated training giving access to the profession, as existing in the state in which they are resident.

**Article R422-7-2**

The professionals mentioned in Article R422-7-1 shall undertake, in the exercise of their activity in France, to respect the rules set forth in Articles L422-8 and R422-52 to R422-54. They shall be subject to the provisions of Articles R422-56 to R422-66 and the sanctions set forth in Article L422-10 shall be applicable to them. Nevertheless, the disciplinary measure of temporary or definitive prohibition shall be replaced by a sanction with the effect of temporarily or definitively prohibiting them from exercising professional activities in France. The Disciplinary Board can ask the competent authority of the State of origin of the communication professional information on the parties concerned. It shall inform the latter authority of all decisions made. These

communications shall not compromise the confidential nature of the information provided.

## **SECTION II The National Society of Industrial Property Attorneys**

### **Article R422-8**

The natural persons entered in the list of industrial property attorneys shall constitute the National Society of Industrial Property Attorneys referred to in Article L422-9.

### **Article R422-9**

The Society shall establish its rules of procedure. They shall enter into force following approval by a joint order of the Minister for Justice, and the Minister responsible for industrial property.

### **Article R422-10**

The General Assembly of the Society shall elect for two years from amongst its members, by a secret ballot, an office comprised of nine persons, including a President, three Vice Presidents, a Secretary, a Treasurer and three members. The ballot shall be by voting for a single person for the functions of President, Secretary and Treasurer. The Vice Presidents and the other members, respectively, shall be elected by voting for more than one member. The conditions for the ballot shall be laid down in the Rules of Procedure. With the exception of the establishment of the Rules of Procedure, of the vote for the annual budget of the Society and of other attributions reserved, where appropriate, for the General Assembly by the Rules of Procedure, the Office shall carry out the administration of the Society. It shall ensure application of resolutions adopted in the General Assembly. It may have at its disposal a permanent secretariat and may set up standing or temporary committees for which it shall define the tasks.

### **Article R422-11**

In addition to any gifts or legacies made to it and participation in various of its costs, the resources of the Society shall derive from the annual membership fees.

The basic rate for the annual membership fee shall be the same for all members. This shall be supplemented on a basis which takes into account the turnover achieved, where appropriate, by companies.

The method for calculating and the conditions for collecting the membership fees shall be laid down in the Rules of Procedure of the Society. The rate shall be laid down each year by the General Assembly.

### **SECTION III Exercise in the Form of a Company**

#### **SUBSECTION I Professional Civil Company**

##### **Article R422-12**

Two or more industrial property attorneys entered in the national list of industrial property attorneys referred to in Article L422-1 may together constitute a professional civil company for the exercise in common of the profession of industrial property attorney.

However, the company may be constituted, exclusively or not, by natural persons not entered in the national list of industrial property attorneys but who meet the conditions required to be entered in that list, on condition that each such person applies for his entry at the same time, at the latest, as that of the company.

##### **Article R422-13**

The company shall be constituted subject to the suspensive condition of its entry in the national list of industrial property attorneys. In accordance with the third paragraph of Article 1 of Act No. 66-879 of 29 November 1966, it shall enjoy legal personality as from such entry.

##### **Article R422-14**

The application for registration of the company in the Register of Commerce and Companies shall be drawn up in accordance with the conditions set out in Article 15 of Decree No. 84-406 of 30 May 1984 relating to the Register of Commerce and Companies.

Notwithstanding Articles 22, 24 and 26 of Decree No. 78-704 of 3 July 1978, the company shall be exempted from publishing the notice referred to in those Articles in a journal of statutory announcements.

The notices published in the Official Bulletin of Civil and Commercial Announcements shall contain the particulars referred to in Article 73 of the Decree of 30 May 1984, except for those relating to the surname and forenames of the partners liable indefinitely and jointly for the company debts.

##### **Article R422-15**

If the statutes are established by means of simple contract, a sufficient amount of originals shall be drawn up to communicate one

copy to each partner and to satisfy the provisions of Article 7 of Decree No. 78-704 of 3 July 1978 and those of this subsection.

#### **Article R422-16**

Notwithstanding the provisions that are to be included in the statutes according to Articles 10 and 11 of Act No. 66-879 of 29 November 1966, those which they may contain under Articles 8, 14, 15, 19, 20 and 24 of that same Law, concerning, respectively, the distribution of shares, the administrators, the company name, the distribution of profits, the company debts, the assignment of shares in the company and the dissolution of the company, and of Articles R422-6 and R422-7, the statutes shall be required to state:

1. The surnames, forenames and places of residence of the partners, their marital status and, where appropriate, the existence of any clauses, acts invocable against third parties or decisions restricting the free disposal of their assets;
2. The title of each of the partners;
3. The duration for which the company is formed;
4. The address of the registered offices;
5. The nature and separate evaluation of each of the contributions made by the partners;
6. The amount of the company capital, the nominal amount, the number and distribution of company shares represented by that capital;
7. Confirmation of the full or part liberation, as appropriate, of the contributions that are comprised in the company capital;
8. The majority required in order to transfer or assign shares to third parties;
9. The amount of the partnership shares allocated to each subscriber to the company;
10. The special provisions referred to in Articles R422-20 and R422-21.

#### **Article R422-17**

The following may constitute contributions to a professional civil company, in ownership or in possession:

1. All intangible rights, whether movable or real, particularly, where appropriate, the right for a partner to present the company as successor to his customers;
2. All documents and archives and, in general, all movable objects for professional use;
3. The buildings or premises used for exercise of the profession;



4. All amounts in cash.

The contributions in diligence to the company made by the partners which, by reason of Article 10 of the Act of 29 November 1966, do not contribute to building the capital may give rise to an allocation of partnership shares.

**Article R422-18**

The shares in the company may not be given in security.

Their face value may not be less than € 152.45.

The partnership shares allocated to the subscribers shall not be assignable. They shall be cancelled when their holder loses his capacity as partner for any reason whatsoever.

**Article R422-19**

The shares of the company that correspond to the contributions in cash shall be paid up, on subscription, to at least one half of their face value.

The paying up of the remainder should be effected, in one or more payments, either on the dates specified in the statutes or by a decision of the assembly of partners, and at the latest within two years as from entry of the company in the national list of industrial property attorneys.

Within eight days of receipt, the funds from cash subscriptions shall be deposited for the account of the company with the Deposit and Consignment Office, with a notary or in a bank.

Withdrawal of such funds shall be carried out by an authorized representative of the company on simple proof of entry of the company in the national list.

**Article R422-20**

The statutes shall lay down the management and determine the powers of the managers in accordance with the conditions of Article 11 of the Act of 29 November 1966.

**Article R422-21**

Decisions that go beyond the powers of the managers shall be taken by the partners meeting in assembly.

The assembly shall be convened at least once a year. It shall also be convened at the request of at least one half of the partners, whereby the request shall state the agenda.

The conditions for convening the assembly shall be laid down in the

statutes.

#### **Article R422-22**

The statutes may afford a reduced number of votes to partners who exercise their profession on a part-time basis only. They may also allocate a reduced number of votes to partners for as long as the company shares they hold have not been fully paid up. Each partner may be represented by another partner holding written powers. A partner may not hold more than two powers.

#### **Article R422-23**

Subject to the provisions of Article 19 of the Act of 29 November 1966 and those of this subsection that impose special conditions with respect to majority, decisions shall be taken on a majority of the votes held by the partners that are present or represented. However, the statutes may require a larger majority or even unanimity of the partners for all decisions or for those decisions only that they enumerate.

#### **Article R422-24**

Amendment to the statutes and, in particular, prolongation of the company shall be decided on a majority of three quarters of the votes of all partners. However, an increase in the competence of the partners shall require a unanimous decision.

#### **Article R422-24-1**

The majority required to approve one of the operations is specified in the first point of article 27 of the law no. 66-879 of 29 November 1966 concerning professional partnerships as set forth in the first point of article R422-24.

#### **Article R422-25**

The deliberations of the partners shall be subject to the provisions of Articles 40 to 47 of Decree No. 78-704 of 3 July 1978. The assembly may deliberate validly only if at least three quarters of the partners are present or represented. If the quorum is not achieved, the partners shall be reconvened and the assembly shall deliberate validly if two partners at least are present or represented. The register referred to in Article 45 of Decree No. 78-704 of 3

July 1978 shall be numbered and initialed by the registrar responsible for keeping the Register of Commerce and Companies in which the company is registered.

**Article R422-26**

At the end of each financial period, the manager or managers shall prepare, under the conditions laid down by Article 1856 of the Civil Code, a written general report comprising the annual accounts of the company and a report on the outturn.

Within two months following the end of the financial period, the documents referred to in the preceding paragraph shall be submitted for approval to the assembly of partners.

To that end, those documents shall be communicated to each partner, together with the wording of the proposed resolutions, at the same time as the convening of the assembly and at least 15 days before its meeting.

**Article R422-27**

Each partner may, at any time, take cognizance, under the conditions laid down in Article 48 of Decree No. 78-704 of 3 July 1978, of the annual accounts of the company and of the report on the outturn, together with all the registers and accounting documents in the possession of the company.

**Article R422-28**

The provisions of Articles 49, 50 and 52 of Decree No. 78-704 of 3 July 1978 shall apply to assignments and transfers of shares in the company and to their publication.

**Article R422-29**

In the case referred to in the third paragraph of Article 19 of the Act of 29 November 1966, the price of the shares in the company shall be determined, failing agreement between the parties, in accordance with the provisions of Articles 1843-4 of the Civil Code and 17 of Decree No. 78-704 of 3 July 1978.

Where the assigning partner refuses to sign the instrument assigning his shares at the price thus fixed, his refusal shall be overridden two months after he has been summoned to do so by the company without result, either by registered letter with notification of receipt or by process served by bailiff; the assignment price of the shares shall be consigned at the responsibility of the assignee.

If assignment concerns the totality of the company shares belonging to a partner, that partner shall lose his capacity as partner on expiry of the time limit laid down in the preceding paragraph. Subject to the rules for the protection and representation of incapacitated persons, the provisions of Article 19 of the Act of 29 November 1966 shall apply to the assignment of the company shares of a partner subject to statutory prohibition or to tutelage of adults; the six-month period referred to in the third paragraph of that Article shall be extended to one year in such case.

**Article R422-30**

In the event of the death of a partner, the time limit for assignment referred to in the second paragraph of Article 24 of the Act of 29 November 1966 shall be laid down as one year as from the date of death.

It may be renewed by agreement between the successors in title of the deceased partner and the company reached in accordance with the provisions on the assignment of company shares in the first paragraph of Article 19 of the Act of 29 November 1966.

If consent to the preferential allocation referred to in the second paragraph of Article 24 of the Act of 29 November 1966 is refused and if the successors in title of the deceased partner have not assigned the company shares of their originator on expiry of the time limit allocated to them, the company shall have one year in which to acquire or have acquired the company shares of the deceased partner.

**Article R422-31**

If the instrument assigning the company shares is drawn up in the form of a private deed, the necessary number of originals shall be produced in order to hand a copy to each party and to comply with the provisions of Article R422-28.

In addition, one of the originals of the private deed or a copy of the instrument of assignment of the shares, if it is in the form of an authenticated deed, and possibly any instrument amending the statutes of the company, shall be communicated to the director general of the National Industrial Property Institute who, if necessary, shall make the relevant amendment to the entry of the company in the national list of industrial property attorneys.

**Article R422-32**

If a partner wishes to withdraw from the company, he shall notify his decision to the company by registered mail with notification of receipt.

The company shall have six months as from notification in order to notify to the partner, in the same form, draft assignment of his shares to a partner or to a third party entered in the list of industrial property attorneys or who satisfies the conditions for entry in that list or a draft redemption of those shares of the company. Such notification shall imply a commitment by the assignee or by the company that acquires the title.

In the event of failure to agree on the assignment price, Article R422-29 shall apply.

**Article R422-33**

If a partner has been struck off, pursuant to Section V of this Chapter, for a period of six months or more, he may be excluded from the company by a decision taken on a majority of the other partners. The excluded partner shall have a period of six months, as from notification made to him of the decision by registered mail with notification of receipt, in order to assign his shares under the conditions laid down in Articles 19 and 21 of the Act of 29 November 1966 and in Articles R422-28 and R422-29.

If, on expiry of that period, no assignment has been made, action shall be taken in accordance with the provisions of the third paragraph of Article 19 of the Act of 29 November 1966 and of Article R422-29.

**Article R422-34**

The shares of the partner definitively removed from the national list of industrial property attorneys shall be assigned under the conditions set out in Article R422-33.

**Article R422-35**

The number of partners may be increased during the lifetime of the company with or without an increase in the assets of the company.

**Article R422-36**

Any partner who receives for consideration or gratuitously a right of representation of a customer transmitted by a third party shall be obliged to contribute enjoyment thereof to the company and it

shall be for the company to create and issue to him the new company shares that correspond to this additional contribution.

**Article R422-37**

If the reserves constituted by means of non-distributed profits or the plus value on assets due to the diligence of the partners so permit, the capital of the company shall be periodically increased. The shares in the company created for that purpose shall be distributed between all partners, including those who have contributed only their diligence.

However, the statutes may provide for cases and conditions under which a partner may be excluded from the allocation of shares in the company that had been newly created to represent an increase in the capital.

**Article R422-38**

Any decision to prolong the company shall be immediately brought to the notice of the director general of the National Industrial Property Institute, accompanied by a copy of the full minutes of the meeting, or of the instrument showing prolongation, constituted by one of the originals if the instrument is a private deed or by a copy if it has been drawn up in authenticated form.

**Article R422-39**

In the event of amendment of the statutes, a copy of the full minutes of the meeting or of the amending instrument constituted by one of the originals if the instrument is in the form of a private deed or by a copy if it has been drawn up in authenticated form, shall be communicated within two months to the director general of the National Industrial Property Institute and to the President of the Society of Industrial Property Attorneys.

If the new provisions of the statutes do not comply with the legislative or regulatory provisions and if regularization is not carried out within the time limit stipulated by the director general of the National Industrial Property Institute, the latter, after having invited the company to submit its oral or written observations, shall remove it from the national list of industrial property attorneys under the conditions set out in Articles R422-8-2 to R422-62.

The modification shall be published as provided for in Articles 22 et seq. of Decree No. 84-406 of 30 May 1984.

**Article R422-40**

Premature dissolution of a company shall require the decision of at least three quarters of the partners.

The provisions of Articles 8 to 16 of Decree No. 78-704 of 3 July 1978 shall apply.

A copy of the instrument appointing the liquidator shall be communicated by the latter to the director general of the National Industrial Property Institute and to the President of the Society of Industrial Property Attorneys. The liquidator shall inform them of the closing of the liquidation.

**Article R422-40-1**

The partners can also practice their profession within another company not conferring on them the position of trader, in particular a multi-professional partnership as set forth in title IV bis of the law no. 90-1258 of 31 December 1990 concerning practice in the form of independent professional practice subject to a legislative or regulatory statute or whose title is protected and to independent professional holding companies.

## **SUBSECTION II Professional Partnerships**

### **Article R422-41**

The provisions of this subsection shall govern partnerships constituted pursuant to Title I of Act No. 90-1258 of 31 December 1990 with the aim of exercising in common the profession of industrial property attorney. Such partnerships shall bear the designation of professional partnerships of industrial property attorneys.

### **Article R422-42**

Instruments and documents intended for third parties, in particular letters, invoices, announcements and miscellaneous publications originating from a professional partnership of industrial property attorneys shall show the name of the partnership immediately preceded or followed the mentions provided for in the first paragraph of article 2 of the law of 31 December 1990.

They also indicate the address of its head office, a notice of its entry in the list of industrial property attorneys and its registration number in the Register of Commerce and Companies.

### **Article R422-44**

The holding of shares in a professional partnership of industrial property attorneys shall be prohibited for any person who has been removed from the list of industrial property attorneys or the list of patent agents referred to in Article 3 of Decree No. 76-671 of 13 July 1976 as amended, relating to professional qualifications with regard to patents for invention and establishing the organization and disciplinary arrangements for the profession of patent agent.

### **Article R422-46**

The professional partnerships of industrial property attorneys shall be subject to the provisions on obligations, guarantee and discipline applicable to the profession of industrial property attorney.

However, partnerships may not be subject to disciplinary procedures independently of those initiated against attorneys who are partners within such partnerships exercising that profession.

### **Article R422-47**

A partner in a professional partnership set up for the exercise of



the profession of industrial property attorney may be excluded from that partnership in the event of definitive disciplinary sanction with the effect of temporarily prohibiting him from exercising the profession for a period of more than six months.

Such exclusion shall be decided by a unanimous decision of the other partners.

#### **Article R422-48**

Any partner who has been excluded shall have a period of six months as from notification made to him of the decision by the partnership to assign his partnership shares or stock, by means of a registered letter with notice of receipt.

During that period, the excluded partner shall forego the remuneration deriving from exercise of his professional activity and his right to attend and vote in meetings of the partnership. He shall maintain his right to receive the dividends distributed with regard to his partnership shares or stock. The partnership shares or stock of the partner who has been excluded shall be purchased either by an acquirer who has been approved by the partnership or by the partnership which shall then reduce its capital. Failing amicable agreement, the buying back price of the partnership shares shall be determined under the conditions laid down in Article 1843-4 of the Civil Code.

#### **Article R422-49**

A partner prohibited from exercising on a temporary basis shall keep, for the duration of his sanction, his capacity of partner with all the rights and obligations deriving therefrom, with the exclusion of his right to remuneration paid by the partnership in relation to the exercise of his professional activities.

In the event of a prohibition to exercise the profession imposed on all the partners in a professional company, the professional acts and the management of the company shall be undertaken by one or more industrial property attorneys designated by the National Society of Industrial Property Attorneys.

### **SUBSECTION III Trading Partnership**

#### **Article R422-50**

The constitution of a trading partnership of industrial property attorneys referred to in Title II of Act No. 90-1258 of 31 December 1990 shall give rise to the publication of a notice in a journal authorized to publish statutory announcements at the place of its registered offices, if such exists, or at the place of exercise of each of the partners. The notice shall contain the identity of the partners, the designation, the purpose, the address of the registered offices, if such exist, and that of the places of exercise.

#### **Article R422-51**

Membership of a trading partnership, with the designation of the partnership, shall be notified in the professional acts and in the correspondence of each partner.

**SUBSECTION IV Financial Holding Company of Independent Profession of Industrial Property Attorneys**

**Article R422-51-1**

Companies incorporated pursuant to title IV of the law no. 90-1258 of 31 December 1990 in order to hold company units or shares in companies practicing as industrial property attorneys are governed by the provisions of book II of the Commercial Code, subject to the provisions of this chapter.

**Article R422-51-2**

The company is registered on the list of industrial property attorneys as determined by article L422-1, in a section specific to independent professional financial holding companies.

**Article R422-51-3**

The declaration of a financial holding company of independent profession of industrial property attorneys shall be sent on behalf of all the associates, who shall appoint a common representative, to the Director General of the National Institute of Industrial Property, by a registered letter with advice of delivery, or delivered personally against receipt.

This application shall be accompanied, under the penalty of inadmissibility, by the following documents:

1. a copy of the memorandum and articles of association;
2. a certificate of the clerk office responsible for keeping Register of Commerce and Companies where the company has its registered office recording the filing with the clerk's office for applications, annexed deeds and documents necessary for the registration of the financial holding company or any document certifying to the registration;
3. the list of partners with, according to the case, reference to their profession or their capacity with respect to what is provided for in Article R422-51-1, followed, for each one, by reference to the share of the capital held by him in the company whose registration is required.

The application shall be, if necessary, accompanied by information memo indicating the company or companies of independent profession of industrial property attorneys whose shares or capital-stock will be held by the financial holding company and specifying the distribution of the capital which will result from these

participations for each one of them.

**Article R422-51-5**

Financial holding companies of independent profession of industrial property attorneys resulting from merger or a demerger shall be subject to the provisions of Articles R422-51-2 to R422-51-4.

**Article R422-51-7**

The financial holding company of independent profession of industrial property attorneys shall notify the Director General of the National Institute of Industrial Property of any change in the situation disclosed pursuant to Article R422-51-3 together with the supporting documents, within thirty days from the date on which this change occurred.

**Article R422-51-8**

If this change makes the disclosed situation of the company inconsistent with the governing law and regulation, the company will be summoned by the Director General of the Institute to regularize its situation within the time indicated in the summons.

If, on the expiry of this period, the company has not regularized its situation, the director general of the Institute shall, with regard to the associates practicing the profession, refer to the disciplinary chamber provided for in Article L422-10.

**Article R422-51-9**

Each industrial property attorney independent professional financial holding company shall be subject to the director general of the National Industrial Property Institute auditing compliance with the applicable legislative and regulatory provisions, on registration then at least once every four years.

During each audit, the recommendation of the French Patent and Trademark Attorneys Company shall be requested. The recommendation shall be deemed to be given if the Company has not given it within a period of one month after it is consulted.

In the event of non-compliance with the legislative and regulatory provisions in force, the procedure laid down in article R422-51-8 shall be applied.

**Article R422-51-11**

The winding-up of the company, where it does not result from the

striking off of the industrial property attorneys from such list, shall be notified to the Director General of the National Institute of Industrial Property at the initiative of the liquidator.

**Article R422-51-12**

The liquidator may be selected among the partners.

Several liquidators may be appointed.

The liquidator may be replaced in case of impediment, or for any other serious reason, by the president of the Court of the place of the registered office of the company, ruling in summary procedure at the request of the liquidator, of partners or of their entitled beneficiaries or of the Director General of the National Institute of Industrial Property.

**Article R422-51-13**

In the case provided for in Article R422-51-10, the liquidator shall carry out the transfer of shares or capital-stock that the strike-off company holds in the companies of independent profession under the conditions provided for in Article R422-48.

**Article R422-51-14**

The liquidator shall inform the director general of the National Industrial Property Institute and the registrar responsible for keeping the trade and companies register on which the company is registered of the close of liquidation operations.

## **SUBSECTION V Multi-Professional Partnerships**

### **Article R422-51-15**

The company specified in article L422-7-1 is registered on the list of industrial property attorneys as determined by article L422-1 and L422-7 in a section specific to multi-professional partnerships.

### **Article R422-51-16**

The statement of incorporation of a multi-professional partnership, the purpose of which is in particular the practice of industrial property law, shall be sent to the director general of the National Industrial Property Institute by registered post with acknowledgement of receipt or by any means that can be used to establish the date of receipt of this statement.

This statement shall be accompanied by the documents specified in article 2 of decree no. 2017-794 of 5 May 2017 concerning the incorporation, operation and audit of legal, judicial and accounting multi-professional partnerships as set forth in title IV bis of the law no. 90-1258 of 31 December 1990.

### **Article R422-51-17**

The director general of the National Industrial Property Institute shall register the company, notwithstanding article R422-3-1, within two months from receipt of the statement specified in the first point of the previous article, when the statutory and regulatory conditions of this registration are met.

### **Article R422-51-18**

The information laid down in articles 9 and 18 of the abovementioned decree no. 2017-794 of 5 May 2017 shall be sent to the director general of the National Industrial Property Institute and to the President of the French Patent and Trademark Attorneys Company. Decisions made by the director general of the National Industrial Property Institute against a company pursuant to section VI of chapter 1 of the same decree shall be communicated to the President of the French Patent and Trademark Attorneys Company.

### **Article R422-51-19**

The warranty set forth in article L422-8 only covers damage caused within the scope of practicing as an industrial property attorney.

## **SECTION IV Professional Obligations**

### **Article R422-52**

An industrial property attorney shall exercise his profession with dignity, honor, independence and probity and shall comply with the laws and regulations governing his society.

### **Article R422-53**

An industrial property attorney shall refrain from any canvassing or advertising not authorized by Article R423-2.

He shall draw up an indicative schedule of fees, as distinct from the refunding of costs and fees to be paid. The detailed schedule of such charges shall be communicated to any person so requesting.

### **Article R422-54**

An industrial property attorney:

1. shall refrain from advising, assisting or representing customers that have opposing interests within the same case. He shall refrain also from accepting a new case if the secrecy of the information entrusted to him by an earlier customer is susceptible to be infringed;
2. shall observe professional secrecy: such secrecy shall extend, in particular, to consultations given to his customer, to professional correspondence and to all documents drawn up in that connection;
3. shall pursue the case for which he is responsible up to its completion, unless his customer releases him from it;
4. shall report on the execution of his power of attorney, particularly with respect to the handling of funds. To that end, he shall submit to his customer an account that clearly shows his fees, on the one hand, and the costs and charges, on the other. This account shall show the amounts that have been previously received as advances or payment;
5. shall return to the customer who has released him or to the latter's new representative all documents of an official nature in his possession and all the documents and information required to execute or complete the task entrusted to him; the documents should be handed out within a period of time that will avoid any lapse of right or prescription.

### **Article R422-55**

The application for exemption stated in article L422-12(3) shall be

sent to the minister for industrial property, or by delegation to the director general of the National Industrial Property Institute, by registered post with acknowledgement of receipt or hand delivery with receipt. It shall state the purpose of the exemption, and where applicable the desired duration and the reasons why such an application is being made. It shall be accompanied by a copy of the articles of association and, when the company has been operating for at least one year, a copy of the latest balance sheet.

The competent authority shall rule on the exemption application pursuant to a recommendation from the French Patent and Trademark Attorneys Company. The company shall give notification of its recommendation within one month from receipt. Failing this, it is deemed to have given its recommendation.

#### **Article R422-55-1**

The continuous professional development provided for by article L422-10-1 is a professional obligation ensuring that each industrial property attorney included on the list set forth in article L422-1 has updated and completed knowledge as necessary for practicing their profession.

The professional development duration is twenty hours over the course of a calendar year or forty hours over the course of two consecutive years.

The continuous professional development obligation is met by:

1. Participating in legal, economic or professional training given by higher education institutions, other educational institutions or continued professional development institutions;
2. Participating in training given by industrial property attorneys or by natural persons or legal entities established in a Member State of the EU or in a state that has signed up to the agreement on the European Economic Area or the Swiss Confederation and authorized to represent persons before the central industrial property service in that State;
3. Attending seminars or legal or economic lectures connected to the professional activity of industrial property attorneys;
4. Teaching classes connected to the professional activity of industrial property attorneys in an academic or professional context;
5. Publishing legal or economic papers connected to the professional activity of industrial property attorneys;

During the first two years of professional practice, this training



shall include at least ten hours on managing a firm, ethics and professional status.

Any continuous professional development meeting the conditions provided for by this article and taken in another member state of the EU, in a state that is party to the agreement on the European Economic Area or the Swiss Confederation, is deemed to meet the continuous training obligation laid down in article L422-10-1.

The terms and conditions of implementation of this article shall be determined by order of the minister for industrial property.

By 31 January of each year, industrial property attorneys shall declare to the company the actions carried out to meet their continuous training obligation over the past calendar year or, where applicable, the last two years. The documentary evidence that can be used to meet this obligation is attached to this statement.

The company shall check that the continuous professional development obligation of industrial property attorneys has been met and verify that the training taken and actions carried out are compliant, in particular their connection with the work of industrial property attorneys.

## **SECTION IV bis Audit of practice of the profession**

### **Article R422-55-2**

Any natural person or legal entity practicing the profession of industrial property attorney is regularly audited by the French Patent and Trademark Attorneys Company concerning compliance with the conditions of entry on the register of industrial property attorneys as set forth in article L422-5 and their compliance with the professional obligations set forth in section IV of this chapter.

### **Article R422-55-3**

The audits shall be conducted by one or more auditors chosen by the president of the French Patent and Trademark Attorneys Company from among the industrial property attorneys or former members of the profession.

### **Article R422-55-4**

The auditor or auditors shall immediately inform the director general of the National Industrial Property Institute and the President of the French Patent and Trademark Attorneys Company of any fact found during an audit that could constitute a breach of the conditions and obligations specified in article R422-52-2.

### **Article R422-55-5**

Within thirty days from the end of the substantial audit operations, the auditor or auditors shall send to the party in question a provisional report.

Said party shall have a period of thirty days to make written observations on the content of the report.

At the end of this period, the auditor or auditors shall draw up a definitive report, to which they attach the written observations of the party in question if made, and send this report to the President of the French Patent and Trademark Attorneys Company and to the director general of the National Industrial Property Institute. The report shall not contain any information covered by the professional secrecy of the various professionals practicing within the company.

## **SECTION V Disciplinary Measures**

### **Article R422-56**

The disciplinary board, referred to in Article L422-10, to hear breaches of the obligations of industrial property attorneys, shall comprise seven members:

1. A magistrate of the judiciary, as Chairman, appointed on a proposal by the first President of the Court of Appeal of Paris;
2. A member of the Council of State appointed on the proposal of the Vice-President of the Council of State;
3. A former President of the French Patent and Trademark Attorneys Company, a former secretary of the same association or a former member of the disciplinary board, appointed on the proposal of the President of the French Patent and Trademark Attorneys Company from among the persons registered on the list of industrial property attorneys mentioned in Article L422-1;
4. Two industrial property attorneys, chosen from a list of eight proposed candidates, not members of its Office, by the National Society of Industrial Property Attorneys;
5. Two qualified persons appointed on the proposal of the Director General of the National Institute of Industrial Property.

When an industrial property attorney submits a complaint to the disciplinary board, this board meets as a select committee composed of the members listed in 1., 2., 3. and 4.

The disciplinary board members have alternates appointed under the same conditions.

The disciplinary board also hears breaches of the obligations of other persons allowed to exercise activities within the scope of industrial property attorney.

### **Article R422-57**

The members of the disciplinary board as well as their alternates are appointed for a period of four years, renewable once, by joint order of the Keeper of the Seals, Minister of Justice, and the Minister responsible for industrial property.

### **Article R422-57-1**

The secretary of the Moroccan Patent and Trademark Attorneys Company shall be the rapporteur for the disciplinary board. If the latter is unable to attend, the association's administration shall appoint a substitute from among its members.

The secretariat of the board is provided by the National Association of Industrial Property.

**Article R422-58**

The disciplinary board is requested by the Keeper of the Seals, Minister of Justice, the Minister responsible for industrial property, the Director General of the National Institute of Industrial Property, the President of the Moroccan Patent and Trademark Attorneys Company or following the complaint of a person who considers themselves aggrieved by the failure of an industrial property attorney to fulfill his obligations.

The referral or complaint is sent to the attention of the chairman of the disciplinary board, addressed to the secretariat of the disciplinary board and sent to the headquarters of the National Institute of Industrial Property. The submission document is sent to the industrial property attorney concerned. The secretariat sends a copy of the submission document to the President of the Moroccan Patent and Trademark Attorneys Company.

**Article R422-58-1**

Upon receipt of a complaint, the President of the Moroccan Patent and Trademark Attorneys Company may propose a conciliation procedure to the parties, if the alleged breach which has been the subject of the complaint has not already been the subject of such proceedings. Upon all party approval, this procedure is carried out according to the terms provided for in the internal regulations mentioned in Article R422-9. Should the parties refuse the proposed conciliation procedure or if it fails, the complaint shall be examined according to the procedure provided for in Article R422-58-2.

**Article R422-58-2**

The President of the Moroccan Patent and Trademark Attorneys Company acts as prosecuting authority. This body examines the referral or the complaint and issues a reasoned decision within two months of the submission document. It shall decide whether it is necessary to initiate proceedings for consideration of further disciplinary action against the industrial property attorney or to dismiss the complaint or referral where it considers it as inadmissible, pointless or manifestly unfounded. It shall notify its decision to the parties, the secretariat and chairman of the disciplinary board. In the event the complaint or referral is dismissed, the decision

shall mention the remedies and periods allowed for appeals. The decision to initiate proceedings sets a deadline for the industrial property attorney being prosecuted to submit comments, which shall be no less than two months.

When the President of the Moroccan Association of Industrial Property Attorneys is the person who refers the matter, or acts as conciliator, he shall appoint one vice-president to act as prosecuting authority in the case in question.

When the President of the Moroccan Patent and Trademark Attorneys Company is mentioned in a referral or a complaint, the earliest former President of the Moroccan Patent and Trademark Attorneys Company shall exercise the function of prosecuting authority, as registered on the list of industrial property attorneys mentioned in Article L422-1.

### **Article R422-58-3**

The period to appeal against the decision of dismissal is one month. It starts from the day on which the notification was made to the person who referred the matter or lodged the complaint. The appeal shall be reasoned. It is addressed to the secretariat of the disciplinary board.

The appeal body is made up of three industrial property attorneys appointed by the President of the Moroccan Patent and Trademark Attorneys Company and includes former presidents, vice-presidents, secretaries and members of the Disciplinary Board. Three alternates are appointed under the same conditions. The appeal body is chaired by one of its members, and appointed by the President of the Moroccan Patent and Trademark Attorneys Company. The members of the appeal body are appointed for a term of four years, renewable once. Where the person who lodges the complaint is based outside the French territory, the time limit for the appeal provided for in the first paragraph is extended by the additional period set by Article 643 of the Code of Civil Procedure.

The appeal body shall overturn or confirm the decision to dismiss the case. It shall notify its decision to the parties and the secretariat of the disciplinary board.

If the appeals body overturns the decision to dismiss the case, the secretariat shall inform the rapporteur to investigate the case. The secretariat of the board shall send a copy for information purposes to the chairman of the disciplinary board and to the parties.

**Article R422-59**

In the event of a decision to initiate proceedings, the rapporteur proceeds with the investigation of the case by taking all necessary investigative measures, and collecting from the prosecuting authority, as well as, if necessary, the appeals body, all the elements it deems useful.

It may request necessary explanations to inform the board of the industrial property attorney being prosecuted, of the person who made the referral or lodged the complaint, the controller(s) mentioned in section IV of this chapter where the person prosecuted or the company in which they work has been the subject of an inspection pursuant to the provisions of this section or any person who may be able to clarify the facts. It may hear any witness or carry out any investigation deemed useful. The industrial property attorney being prosecuted is entitled to ask for a hearing.

The attorney being prosecuted and the person who referred to matter or lodged the complaint may be assisted by a person of their choice in the course of their proceedings.

The rapporteur shall send the parties the examination schedule of the file, which cannot exceed six months.

A record shall be kept of the hearing. The record shall be signed by the person heard.

The record is drawn up of incriminating and exonerating facts. It considers and analyzes the facts of the case, includes the specific statement of the facts for which the prosecution is brought and makes reference to the legislative or regulatory provisions on the basis of which these facts are prosecuted and sanctioned. It describes the steps taken and presents the rapporteur's reasoned conclusions to establish the disciplinary offense.

Before the final version of the report is drawn up, the secretariat sends the draft to the parties, granting them a set period starting on the date of receipt of said draft to make comments. This set time period however cannot be shorter than two weeks.

The report must be submitted to the headquarters of the disciplinary board within six months of notification of the decision to prosecute, failing which the chairman of the board may appoint another rapporteur among the members of the company, but who shall not be members of the disciplinary board.

**Article R422-60**

The secretariat shall send the industrial property attorney being

prosecuted, the summons to the hearing before the disciplinary board at least one month before the hearing. The summons shall be accompanied by the report submitted by the rapporteur. The comments received from the parties are listed in the annex to the report. When the person prosecuted is a legal person, the summons is sent under the same conditions to their legal representative. The summons, together with the report and the annex, is notified to the authority who brought the case to the board or to the person who lodged a complaint. A period of one month from this notification is granted to the person who referred the matter or lodged the complaint and to the person being prosecuted, to produce any written observations. The file is also submitted to the members of the board.

#### **Article R422-61**

Unless one of its members or alternate fall under one of the grounds of objection provided for in Article L111-6 of the Code of judicial organization, the disciplinary board may only sit and deliberate if all alternate members are present.

The board hears the rapporteur who reads the report.

The person who referred the matter or lodged the complaint is entitled for a hearing. The person being prosecuted has the last word. The person who referred the matter or lodged the complaint as well as the person being prosecuted may be assisted by the person of their choice before the board.

Board meetings are public. However, the chairman of the board may, ex officio or at the request of one of the parties, prohibit public access to the room during all or part of the meeting in the interest of public order or where the respect for private life or business secrecy justifies it.

#### **Article R422-62**

The deliberation takes place in presence of the parties. The reporter and secretary of the board do not take part in the deliberation.

The decision shall be reasoned. The decision is taken by simple majority of votes. However, temporary expulsion for more than one year or definitive expulsion may only be pronounced by a decision taken by a majority of five members, or of four members, where the disciplinary board sits as a select committee.

The secretariat notifies the decision to the industrial property

attorney being prosecuted, to the person who referred the matter or lodged the complaint, to the Director General of the National Institute of Industrial Property, to the President of the Moroccan Patent and Trademark Attorneys Company, to the Keeper of the Seals, the Minister of Justice and the Minister responsible for Industrial Property, within eight days of its delivery.

The decision is enforceable from the date of its notification to the person being investigated.

The decision may be referred to the Council of State by means of a judicial review within the time period under ordinary law provided for by article R821-1 of the code of administrative justice.

#### **Article R422-63**

The reprimand is published anonymously on the website of the National Institute of Industrial Property and on the website of the Moroccan Patent and Trademark Attorneys Company.

Temporary or permanent deletion from the list of industrial property attorneys is published in the Official Bulletin of Industrial Property, on the website of the National Institute of Industrial Property and on the website of the Moroccan Patent and Trademark Attorneys Company.

#### **Article R422-64**

Any company whose member has been permanently removed for disciplinary reasons shall be removed from the special section provided for in Article L422-7, by decision of the Director General of the National Institute of Industrial Property, if the person concerned, within three months, has not ceased to carry on business as aforesaid.

This decision for removal is notified to the clerk mentioned in Article R422-6.

#### **Article R422-65**

Any referral or complaint provided for in this section is lodged by registered letter with acknowledgment of receipt or any other means of telecommunication making it possible to assign a specific date upon its receipt under the conditions defined by decision of the Director General of the National Institute of Intellectual Property.

The Director General of the National Institute of Industrial Property may require the transmission of referrals, complaints or



opinions in electronic form, where this method is likely to assist in the examination.

**Article R422-66**

All party observations, notifications, summonses to the parties, decisions of the prosecuting authority and of the appeal body intended for the parties and the chairman of the board, provided for in this section, are submitted by registered letter with acknowledgment of receipt.

Registered mail may be replaced by a message in electronic form in accordance with the procedures set by the Director General of the National Institute of Industrial Property.

## **CHAPTER III Miscellaneous Provisions**

### **Article R423-1**

The conditions for entry in the list referred to in Article L422-5 shall be assessed as of the date of entry into force of that Article. In the case of legal persons, the condition shall be assessed with regard to the authors of the application. Maintenance of the entry shall be subject to compliance with the conditions on account of which the Director General of the Institute has taken his decision.

The persons entered in the list referred to in Article L422-5 shall be obliged, when carrying out their professional activity, to comply with the regulations referred to in Articles L422-8 and R422-52 to R422-54. In the event of failure to respect their obligations, they shall be subject to the provisions of Articles R422-56 to R422-66 and the sanctions provided for by Article L422-10 shall apply to them.

### **Article R423-2**

Industrial property attorneys are permitted to carry out publication and personalized solicitation as set forth in article L423-1 if they procure true information about the nature of the services offered and if their implementation complies with the essential principles of the profession. This excludes any comparative or disparaging element, and any mention that could infringe professional secrecy. Personalized solicitation takes the form of postal correspondence, a telephone call or an email sent to the addressee of the service offered, excluding any text message sent on a mobile telephone terminal. It shall specify the terms and conditions for determining the cost of the service, concerning which a fee agreement will be drawn up. The consequences of this service, which could incur additional costs, are specified where applicable. A distinction shall be made between fees and the costs and official fees.

The general information about industrial property law accompanying the solicitation shall concern in particular the main industrial property titles, their fields of protection and their respective limits, and the maintenance and defense of the associated rights. Within the scope of personalized solicitation by telephone, this information can be made available to the addressee of the service offered by other means duly specified at the time of canvassing.

## **BOOK V Designs and Models**

### **TITLE I Acquisition of Rights**

#### **CHAPTER I Rights and Works Protected**

##### **SECTION Specific Regulatory Measures for Certain Industries**

###### **Article R511-1**

Any creator of an industrial design belonging to one of the industries referred to in Article R511-2 or to similar industries requiring obtaining confirmation of the date of the creation of industrial designs may have recourse, to that end, to the means of proof laid down in Articles R511-3 to R511-5.

###### **Article R511-2**

The provisions of Article R511-1 shall apply to the industries of engraving, embossing, jewelry, plate, bronze making and associated industries, embroidery, lace-making, silk-making, ribbon-making, fabrics and textile materials, font-making, bottle-making, furniture-making, ceramics, cut glass and glassware, upholstering, furnishing fabrics, tapestries and carpets, billiard table manufacture and related industries, wallpapers, furs and skins, costume jewelry of all types and the related industries, lithographic printing, leather goods, corsetry, travelling goods of all kinds, saddlery and all related industries.

###### **Article R511-3**

The designs or the graphic reproduction of three-dimensional designs shall be effected on a sheet of paper of which one side only is used; the parts that remain unused shall be filled in with hatching up to the actual limit of the design and spaced at a maximum of 20mm from each other; the size of the paper to be used shall be 21 x 29.7 or 42 x 29.7.

On the reproduction shall be mentioned all indications capable of defining the date and conditions of the creation of each design that is shown (date of creation or purchase, name of creator and, if possible, of the first person for whom it was intended).

###### **Article R511-4**

The designs shall be press copied with their date in a copy book or

reproduced by transfer to a special register made up of sheets of Manilla paper sufficiently thin to prevent any scratching or overwriting; the registers shall be initialed and stamped, prior to use, by the National Institute of Industrial Property under the circumstances laid down by ministerial order.

The documents thus copied or reproduced shall occupy one side only of a sheet in one of the registers or, if the dimensions so require, the two facing sides of two separate sheets.

**Article R511-5**

Either of these two registers, regularly held in chronological order, without blank nor gap, may, in the event of a dispute, be produced in order to establish the date of creation of which priority is disputed.

## **CHAPTER II Formalities for Filing**

### **Article R512-1**

The application for registration of a design or model shall be filed with the head office of the National Industrial Property Institute or sent there by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date the application is received at the institute's head office.

The director general of the institute can require electronic filing when this procedure could facilitate examination and publication of the application.

The institute provides assistance to the applicants by any appropriate means, specified by decision of the director general. This article is also applicable to the extension statements set forth in article R513-1.

### **Article R512-2**

Filing may be carried out in person by the applicant or by a representative with their domicile, registered office or establishment in a member state of the EU or in a state that is party to the agreement on the European Economic Area.

The representative appointed to file an application for registration of the design or model and any subsequent instrument concerning the registration procedure, except for the simple payment of fees and extension statements, must belong to one of the categories of representatives specified in articles L422-4 and L422-5.

Parties which do not have their domicile or registered office in a member state of the EU or in a state that is party to the agreement on the European Economic Area must, in the time period given to them by the institute, appoint a representative meeting the conditions laid down in the points above.

If there is more than one applicant, a common representative meeting the same conditions must be appointed.

Except when they have the position of industrial property attorney or lawyer, the representative must attach a proxy which extends, subject to the provisions of article R513-2 and unless stipulated to the contrary, to all instruments and to receipt of all notifications provided for in chapters II, III and IV of this title. The proxy is exempted from legalization.

### **Article R512-3**

Where the same filing concerns several industrial designs, the products in which these industrial designs are intended to be incorporated or to which they are intended to be applied must belong to the same class, within the meaning of the classifications created by the Locarno Agreement of 8 October 1968. However, this condition shall not apply where the filing concerns decorations or if it has been carried out in the simplified form provided for in the fifth paragraph of Article L512-2.

The filing shall contain:

1. an application for registration drawn up in accordance with the order referred to in Article R514-5, setting out, in particular:

- a) the identification of the applicant;
- b) the number of designs involved;
- c) the total number of the graphic or photographic reproductions included in the filing; one filing may not concern more than 100 reproductions;
- d) the number of reproductions related to each specific design;
- e) the usual designation of the product in which the design will be incorporated or to which it will be applied;
- f) where applicable, a statement with respect to the postponement of the publication of the filing, the claim to a priority right deriving from a preceding filing abroad or the warranty certificate issued in accordance with the Act of 13 April 1908;

2. a graphic or photographic reproduction of the designs presented under the conditions set out under (1). Each reproduction must relate to only one object and represent only this one, other than any other object, accessory, person or animal. Explanatory texts, legends, or any other indication which is not an integral part of the design are not allowed on or beside the reproductions. The reproductions may be accompanied by a short description, drawn up exclusively for documentary purposes. Where appropriate, the final content shall be edited by the National Institute of Industrial Property;

3. proof of payment of the prescribed fees;

4. if a representative is appointed, his powers, unless he has the capacity of industrial property attorney.

The applicant may, until the publication provided for in Article R512-10, obtain at his expense a true copy of the documents contained in his filing.

**Article R512-3-1**

Until the beginning of the technical preparations relating to the publication, the applicant may be authorized, on a petition sent to the Director of the National Institute of Industrial Property, to rectify clerical errors observed in the filed documents. The Institute may require evidence of the existence of the clerical error to be corrected and, where appropriate, of the meaning of the correction requested.

**Article R512-4**

The filing in the simplified form referred to in Article L512-2, fifth paragraph, shall contain the documents and statements referred to in Article R512-3. However, until the time of waiving of the postponement referred to in Article R512-11, the graphic or photographic reproductions of the designs shall not be subject to the presentation requirements referred to in Article R512-3(2) and the filing shall be subject to proof of payment of a fee independent of the number of reproductions.

The advantage of the simplified filing may be requested only at the time of filing.

**Article R512-5**

Claim to a priority right deriving from a preceding filing abroad when making a filing in France shall be subject to the obligation to forward to the National Institute of Industrial Property, within three months of the filing in France, an official copy of the prior filing and, where appropriate, proof of the right to claim priority. If this obligation is not complied with, the priority shall be deemed not to have been claimed.

The same will apply where it results from the disclosed documents that the prior filing has taken place six months earlier before the filing in France or that the attachments of the filing in France do not correspond to those of the prior filing.

**Article R512-6**

On receipt of the filing, the following shall be noted on the statement: the date, the place and the serial number of the filing or the national number referred to in the following Article. A receipt for filing shall be given to the applicant.

Where filing is made at the registry of the commercial court or of

the court acting in its stead, the filing documents and the amount of the fees shall be transmitted without delay to the National Institute of Industrial Property by the registrar.

#### **Article R512-7**

On receipt at the Institute, the filing shall be given a national number. Where it has not been possible to mention it on the filing receipt, the number will be notified to the applicant.

A letter or a subsequent filing of documents which does not refer to the national filing number, which is not signed by the applicant or his representative or which, as the case may be, is not accompanied by the proof of payment of the prescribed fee shall not be admitted.

#### **Article R512-8**

Any filing that does not contain at least one copy of the application for registration, containing the particulars referred to in Article R512-3(1) (a) and at least one copy of the graphic or photographic reproduction of the design or designs referred to in Article R512-3(2) and that is not accompanied by proof of payment of the filing fee shall not be admitted. The reproduction mentioned above must be of a sufficient quality to allow a satisfactory publication in the Official Bulletin of the Industrial Property.

#### **Article R512-9**

If the filing fails to comply with the requirements of Article R512-3 or, in the case of a simplified filing, with the requirements of Article R512-4, or where publication of a filing would be such as to offend morality or public policy, a reasoned notification shall be made to the applicant.

He shall be given a period of time to regularize the filing or to contest the objections of the Institute. Each divisional application must satisfy the conditions fixed at the 1, 2, 3 and 4 of the article R512-3. Divisional applications shall take advantage of the filing date and, if necessary, the priority date of the initial application. Failing regularization, observations or division of the filing enabling the objection to be withdrawn, the filing shall be refused.

The notification may be accompanied by a proposal for regularization. Such proposal shall be deemed accepted if the applicant has not contested it within the period of time afforded to him.



No regularization carried out in accordance with the provisions of this Article may result in the extension of the scope of the filing.

#### **Article R512-9-1**

The application form for registration may be requested until the beginning of the technical preparations required for the publication provided for in the first paragraph of Article R512-10.

The request for application form shall be carried out by a written declaration sent or delivered directly to the Institute, formulated by the holder or his representative, who, save where he is an industrial property attorney, must have a special power of attorney. Where there are several applicants, the request for application form may be carried out only if it is demanded by all of them.

The request for application form may refer to only one filing. The request for application form may be limited to some of the designs referred to in the application.

The declaration shall indicate whether the exploitation rights or a pledge have been granted or not. In the affirmative, it must be accompanied by the written assent of the beneficiary of this right or the secured creditor.

#### **Article R512-9-2**

A decision on the application for registration shall be given within six months. This time period is interrupted by the notification stipulated in points one and three of article R512-9, until the objection is lifted, or by postponement of the publication laid down in article R512-10 until the postponement is terminated.

#### **Article R512-9-3**

If an express decision is not made within the time period set forth in article R512-9-2, the application is deemed to be rejected.

#### **Article R512-10**

All filings that fulfil the requirements shall be published in the Official Bulletin of Industrial Property, unless the applicant has requested at the time of filing the postponement of such publication for three years. Postponement of publication shall concern the filing as a whole. Publication shall take place only at the end of a three year period.

Postponement shall be automatic if the filing is made in the simplified form in accordance with Article R512-4.

The applicant may at any time waive the postponement. Except where the filing has been made under the simplified form, waiving of the postponement of publication shall concern the filing as a whole. As from the day of the publication provided for in the first paragraph, any interested person may request to consult the documents of the filing of design and obtain at his expense copy of the documents thereof. The Institute may subject the exercise of this right to the proof of sufficient interest. However, documents not disclosed to the applicant as well as those that contain personal data or those that relate to business secrets shall be excluded from disclosure to the public.

#### **Article R512-11**

Where the filing has been made under a simplified form, the applicant shall be required, at the latest six months before the expiry of the three-year period referred to in Article R512-10, to waive in writing the postponement of the publication and submit to the National Institute of Industrial Property:

1. The graphic reproductions or photographs of the design or designs to be published in accordance with the presentation requirements referred to in item 2 of Article R512-3;
2. Proof of payment of the prescribed fees.

Failing that, the full or part lapse of the rights deriving from the filing shall be ascertained by the director general of the National Industrial Property Institute.

In the event of the graphic reproductions or photographs failing to conform with the requirements of Article R512-3 or where the reproduction supplied on waiving of postponement does not correspond identically with one of the representations attached to the simplified filing, the procedure under Article R512-9 shall be applied.

#### **Article R512-12**

The application for reinstatement stipulated in article L512-3 shall be submitted within two months as from the disappearance of the obstacle, and the non-completed deed must be completed within the same time limit. It is no longer admissible after a prefixed period of six months from expiry of the deadline not met.

The application shall be submitted to the director general of the institute by the holder of the filing, who must be the registered holder with the National Register of Designs and Models if the

filing is published, or by their representative.

The application shall be admissible only after payment of the prescribed fee.

The application shall be made in writing. It shall state the facts and grounds on which it relies.

If the application is non-compliant, the applicant will be notified and an explanation given. They will be given a period of time to correct the application or contest the institute's objections. If the application is not corrected or an observation is not made by which the objection can be lifted, it shall be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

The plaintiff shall be notified of the decision with explanations.

#### **Article R512-12-1**

A decision on the application for lifting the revocation shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R512-12, until the application is corrected or the objection lifted.

#### **Article R512-12-2**

If an express decision is not made within the time period set forth in article R512-12-1, the application is deemed to be accepted.

#### **Article R512-13**

The National Designs Register shall be kept by the National Institute of Industrial Property.

There shall be entered therein for each filing:

1. Identification of the holder and the filing references together with subsequent acts affecting its existence or scope;
2. Acts modifying the ownership of a design or enjoyment of the rights deriving from it; in the event of a claim to ownership, the corresponding transfer;
3. Changes of name, of legal form or of address or corrections of clerical errors in the entries.

No entry shall be made in the Register until the filing has been made public as set out in Article R512-10.

#### **Article R512-14**

The particulars referred to in Article R512-13(1) shall be

registered at the initiative of the National Institute of Industrial Property or, in the case of a court decision, at the request of the court clerk or of one of the parties.

Only final court decisions may be entered into the National Register of designs.

#### **Article R512-15**

Deeds modifying the ownership of the filing of a design or the possession of the rights deriving therefrom, such as assignment, concession of a commercial right, creation or assignment of a pledge or waiver thereof, restraint, approval and release from restraint, shall be registered at the request of one of the parties or the holder of the filing if he is not party to the deed.

The application shall contain:

1. an application form for registration;
2. a copy or abstract of the deed ascertaining the change in ownership or possession;
3. the proof of payment of the prescribed fee;
4. where appropriate, the powers of the representative, unless the latter has the capacity of industrial property attorney.

#### **Article R512-16**

By way of exception to Article R512-15(2), the following may be submitted with the application:

1. in the event of a change mortis causa: any deed establishing the transfer, at the request of the heirs or legatees;
2. in the event of transfer by reason of merger, demerger or acquisition: the unique identification number or, for operators located outside France, a copy of an abstract of Register of Commerce and Companies up to date with the amendment;
3. subject to proof of a material obstacle to produce a copy: any document proving the change in ownership or possession.

#### **Article R512-17**

Changes in name, legal form, address and corrections to clerical errors shall be registered at the request of the holder of the filing, who must be the registered holder with the National Register of Designs. However, where such changes and corrections concern a deed already registered, the application may be submitted by any party to the deed.

The application shall contain:

1. an application form for registration;
2. where appropriate, the powers of the representative, unless the latter has the capacity of an industrial property attorney;
3. if it concerns correction of a clerical error, proof of payment of the prescribed fee.

The Institute may ask for evidence of the change that has occurred or of the existence of the clerical error to be corrected;

#### **Article R512-18**

If an application for registration is non-compliant, a notification shall be sent to the applicant, providing explanations.

They shall be given a time limit for correcting the application or for submitting observations. In the absence of any correction or observations by which the objection can be lifted, the application will be rejected by decision of the director general of the National Industrial Property Institute.

The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not dispute it within the time limit given.

#### **Article R512-18-1**

A decision on the application for registration as set forth in articles R512-15 and R512-17 shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R512-18, until the application is corrected or the objection lifted.

#### **Article R512-18-2**

If an express decision is not made within the time period set forth in article R512-18-1, the application is deemed to be accepted.

#### **Article R512-19**

Any entry made in the National Designs Register shall be notified in the Official Bulletin of Industrial Property.

Any person concerned may obtain from the Institute:

1. A certificate of identity containing the particulars relating to the filing, the national number and, where appropriate, any relevant renunciations or extensions;
2. A reproduction of the entries made in the National Designs Register;
3. A certificate attesting that there is no entry in the register.

## **CHAPTER III Term of Protection**

### **Article R513-1**

The extension of the filing of a design or model provided for in Article L513-1 may result from a declaration of its holder drawn up under the conditions set out by the order referred to in Article R514-5. It may be stated therein that the extension shall apply only to certain designs.

The first extension may however be requested at the time of the filing.

The extension shall take effect on the day following the date on which the registration expires.

Subject to inadmissibility, the declaration shall:

1. be submitted during a six month time limit that expires on the last day of the month during which each period of protection comes to an end and be accompanied by proof of payment of the prescribed fee. However, the declaration may still be submitted or the fee may be paid during an additional six-month period as of the following day of the last day of the month during which the protection expires with payment of a supplementary fee;
2. state the designation of the registration to be extended and emanate from the registered holder, at the day of the declaration, with the National Register of Designs or of his representative.

If the declaration does not satisfy these conditions, the procedure provided for in Article R512-9 shall be applied.

The inadmissibility may not be pronounced without the applicant being given a notice to submit his observations.

### **Article R513-1-1**

A decision on the application for extension shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R512-9, until the objection is lifted.

### **Article R513-1-2**

If an express decision is not made within the time period set forth in article R513-1-1, the application for extension is deemed to be rejected.

### **Article R513-2**

The holder of a published design or model registration may surrender

it, in whole or in part, at any time.

The declaration of surrender must, on penalty of inadmissibility:

1. Be issued by the holder of the registration entered, on the statement date, into the National Register of Designs and Models or by their representative;

2. Be accompanied by proof of payment of the prescribed fee.

The provisions of article R512-9-1 shall apply to surrender.

If the declaration is non-compliant, the applicant will be notified and an explanation given. They are given a period of time to correct the statement or contest the institute's objections. If the application is not corrected or an observation is not made by which the objection can be lifted, the statement shall be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

#### **Article R513-2-1**

A decision on the declaration of surrender shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R513-2, until the application is corrected or the objection lifted.

#### **Article R513-2-2**

If an express decision is not made within the time period set forth in article R513-2-1, the application is deemed to be accepted.

#### **Article R513-3**

The inadmissible, rejected, fallen, not extended filings as well as those whose protection has expired, may be returned to their owner, at his request and expense.

If they were not claimed, they may be destroyed by the National Institute of Industrial Property at the end of a one-year period with respect to the inadmissible, rejected or fallen filings or at the end of a ten-year period with respect to not extended filings or those filings whose protection has expired.

## **CHAPTER IV Common Provisions**

### **SECTION I Procedure**

#### **Article R514-1**

The time limits afforded by the National Institute of Industrial Property in accordance with this Title shall be neither less than one month nor more than four months.

#### **Article R514-2**

Where a time limit is expressed in days, the date of the deed, the event, the decision or the notification that initiates the time limit shall not count.

Where a time limit is expressed in months or in years, it will expire on the day of the last month or of the last year that bears the same number as the day of the deed, the event, the decision or the notification that generates the time limit. Failing a day of the same number, the time limit shall expire on the last day of the month.

Where a time limit is expressed in months and in days, the months will be counted first and then the days.

All time limits shall expire on the last day at midnight.

A time limit that would normally expire on a Saturday, a Sunday or a holiday or non-working day shall be extended to the first working day thereafter.

#### **Article R514-3**

Any notification shall be deemed regular if made:

1. either to the last holder of the filing declared to the Institute or, after the publication provided for in Article R512-10, to the last holder registered with the National Register of Designs;
2. or to the representative of the above mentioned holder.

If the holder does not have his residence in a Member State of EU or a State party to the Agreement on the European Economic Area, the notification will be deemed regular if made to the last representative he has appointed before the Institute.

#### **Article R514-4**

The notifications referred to in Chapters II, III and IV of this Title shall be made by a registered letter with advice of delivery. The registered mailing may be replaced by delivery by hand of the



letter to the addressee, against receipt, at the premises of the National Institute of Industrial Property or by an electronic message under the conditions fixed by the Director General of the Institute in order to guarantee, in particular, the safety of mailing.

If the address of the addressee is unknown, the notification shall be made by publication of a notice in the Official Bulletin of Industrial Property.

#### **Article R514-5**

The conditions for submitting the filing and the content of the file shall be determined by order of the director general of the National Industrial Property Institute, in particular, as regards:

1. the application for registration and the material specifications to be met by the graphic or photographic reproduction referred to in Article R512-3;
2. the declaration of extension referred to in Article R513-1;
3. the application for registration with the National Designs Register referred to in Articles R512-15 and R512-17;
4. the conditions for simplified filings referred to in Article L512-2.

#### **Article R514-5-1**

Any correspondence or document concerning proceedings before the National Industrial Property Institute as laid down in this book shall be filed at the head office of the institute or sent by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date of receipt at the institute's head office.

The director general of the National Industrial Property Institute can require electronic filing when this method could facilitate examination and publication of these documents.

The institute provides assistance to applicants by any appropriate means, specified by decision of the director general.

## **SECTION II Transitional Provisions**

### **Article R514-6**

Articles R512-1 to R514-5 shall apply to filings taking effect on 15 September 1992 subject to the following provisions:

1. Filings made prior to 15 September 1992 shall remain subject, in relation to the conditions for the physical presentation, to the previously applicable provisions;
2. Requests for maintenance, requests for publication or extension, requests for restoral or communication submitted prior to 15 September 1992 shall be dealt with in accordance with the provisions previously in force;
3. Filings made for five years and kept secret shall be maintained secret if the owner does not request extension of their effects up to 25 years. The request shall be submitted, prior to expiry of five years, in accordance with Article R513-1;
4. Filings made for 25 years and kept secret shall be maintained in secret unless the owner renounces secrecy in accordance with Article R512-10 or does not request extension of their effects for a second 25-year period in accordance with Article R513-1;
5. Only entries made at the initiative of the Director General of the Institute and relating to acts that have occurred after 15 September 1992 shall be entered in the Register.

## **TITLE II Disputes**

### **CHAPTER I Litigation concerning national designs or models**

#### **SECTION I Provisional and protective measures**

##### **Article R521-1**

The time period stipulated in the last point of article L521-6 and given to the applicant to appeal on the merits in civil or criminal proceedings, or to file a claim with the prosecutor of the Republic, is twenty working days or thirty-one calendar days if this period is longer, from the date of the order.

## **SECTION II Investigative measures**

### **Article R521-2**

The descriptive or real seizure set forth in article L521-4 is ordered by the presiding judge of the court to hear cases on the merits.

The presiding judge can authorize the bailiff to make any useful finding in order to establish the origin, substance and scope of the infringement.

In order to ensure that business secrecy is protected, the presiding judge can automatically order that the documents seized be placed in provisional escrow in the conditions set forth in article R153-1 of the Commercial Code.

### **Article R521-3**

When the judge has made the seizure subject to the applicant constituting guarantees, they must be constituted before the seizure is carried out.

On penalty of nullity and damages against the bailiff, before carrying out the seizure the latter must give to the holders of the items seized or described in the order a copy of the order and, where applicable, of the instrument recording the constitution of guarantees. The same holders must be given a copy of the seizure report.

### **Article R521-4**

The time period laid down in the last point of article L521-4 and given to the applicant to appeal on the merits is twenty working days or thirty-one calendar days if this period is longer, from the date of the seizure or description.

### **Article R521-5**

In view of the seizure report, the presiding judge of the court can order any measure to complement the evidence of the alleged acts of infringement.

### **SECTION III Ordinary provisions**

#### **Article R521-6**

The seat and jurisdiction of the courts that are exclusively competent to hear proceedings about designs and models pursuant to article L521-3-1 of the Intellectual Property Code are set in accordance with table VI attached to article D211-6-1 of the Judicial Organization Code.

## **CHAPTER II Litigation concerning EU designs and models**

### **Article R522-1**

Proceedings and claims concerning EU designs and models provided for by article L522-2 are brought before the courts specified in article R211-7 of the Judicial Organization Code.

## **CHAPTER III Withholding at customs**

### **Article R523-1**

Chapter V bis of title III of book III applies to the customs administration withholding merchandise that could infringe designs and models, as stipulated in chapter I bis, title II, book V.

## **BOOK VI Protection of Inventions and Technical Knowledge**

### **TITLE I Invention Patents**

#### **CHAPTER I Field of Application**

##### **SECTION II Right to Title**

###### **SUBSECTION I Employee Inventions**

###### **Article R611-1**

An employee who is the author of an invention shall immediately declare the fact to his employer.

In the event of more than one inventor, a joint declaration may be made by all the inventors or by some of them only.

###### **Article R611-2**

The declaration shall contain such information, in the possession of the employee that is adequate to enable the employer to assess the classification of the invention in one of the categories referred to in Article L611-7(1) and (2).

Such information shall concern:

1. The subject matter of the invention together with the envisaged applications;
2. The circumstances in which it was made, for example: instructions or directives received, experience or work of the enterprise used, any collaboration received;
3. The classification of the invention in the view of the employee.

###### **Article R611-3**

Where classification implies the existence for the employer of a right of attribution, the declaration shall be accompanied by a description of the invention.

Such description shall set out:

1. The problem that faced the employee, taking into possible account the prior state of the art;
2. The solution he provided;
3. At least one example of an embodiment, possibly accompanied by drawings.



**Article R611-4**

If, contrary to the classification of the invention on the basis of the employee's declaration, the employer's right of attribution is subsequently recognized, the employee, where appropriate, shall immediately supplement his declaration with the information referred to in Article R611-3.

**Article R611-5**

If the employee's declaration does not comply with the provisions of Article R611-2 (1 and 2) or, where appropriate, of Article R611-3, the employer shall communicate to the person concerned the exact points on which the declaration should be supplemented. Such communication shall be made within two months as from the date of receipt of the declaration. Failing that, the declaration shall be deemed in conformity.

**Article R611-6**

Within a period of two months, the employer shall give his consent to the classification of the invention on the basis of the employee's declaration or, failing an indication of the classification, shall inform the employee, by reasoned communication, of the classification he has chosen. The two-month period shall begin on the date of receipt by the employer of the employee's declaration containing the information referred to in Article R611-2 or, in the event of a justified request for additional information recognized as such, from the date on which the declaration has been supplemented. An employer who does not act within the prescribed time limit shall be deemed to have accepted the classification based on the employee's declaration.

**Article R611-7**

The time limit afforded the employer to claim the right of attribution shall be four months, unless otherwise agreed by the parties which may not be subsequent to the declaration of the invention. The time limit shall begin on the date of receipt by the employer of the declaration of the invention containing the particulars referred to in Articles R611-2 (1 and 2) and R611-3 or, in the event of a request for supplementary information recognized to be justified, from the date on which the declaration was supplemented.

The claim to the right of attribution shall be made by sending to the employee a communication setting out the nature and scope of the rights which the employer wishes to claim.

**Article R611-8**

The time limits referred to in Articles R611-5 to R611-7 shall be suspended in the event of institution of legal action with regard to the regularity of the declaration or the justification for the classification of the invention invoked by the employee or by referral, for the same purposes, to the Joint Conciliation Board referred to in Article L615-21.

The time limit shall begin on the day on which a final decision has been taken.

**Article R611-9**

Any declaration or communication made by the employee or by the employer shall be made by registered mail with notification of receipt or by any other means providing evidence that it has been received by the other party.

The declaration referred to in Article R611-1 may result from transmission by the National Institute of Industrial Property to the employer, under the conditions laid down by decree of the Minister responsible for industrial property, of the second copy of a letter addressed by the employee to the Institute for safekeeping.

This procedure shall be optional for the inventions referred to in the first paragraph of Article L611-7.

**Article R611-10**

The employee and the employer shall refrain from any disclosure of the invention for as long as lack of agreement subsists as to its classification or for as long as no decision has been taken on it. If one of the parties, in order to maintain his rights, files an application for a patent, the party shall notify without delay a copy of the filing documents to the other party.

It shall exhaust the possibilities provided by the applicable legislation and regulations in order to defer publication of the application.

## **SUBSECTION II Inventions by Officials and Public Servants**

### **Article R611-11**

Officials and public servants of the State, of local authorities, of public establishments and of any public law legal person shall be subject to the provisions of Article L611-7 in accordance with the conditions laid down in this Subsection, unless more favorable contractual provisions govern the industrial property rights in inventions they make. These provisions shall not constitute an obstacle to the maintenance or to the application, with respect to such officials and public servants, of more favorable regulatory measures.

### **Article R611-12**

1. Inventions made by an official or public servant in the execution either of tasks comprising an inventive mission corresponding to his attributions, or of studies or research explicitly entrusted to him shall belong to the public person on behalf of whom he carries out those tasks, studies or research. However, if the public person decides not to develop the invention, the official or public servant who has made the invention may enjoy the economic rights deriving from the invention in accordance with the conditions laid down in an agreement concluded with the public person.

2. All other inventions shall belong to the official or public servant.

However, the public employer shall have the right, under the conditions and time limits laid down in this Subsection, to have attributed to him all or a part of the rights deriving from the patent protecting the invention where the invention has been made by an official or a public servant:

Either in the course of carrying out his duties;

Or in the field of activity of the public body concerned;

Or through knowledge or use of techniques, specific means of such body or of data obtained by that body.

### **Article R611-14**

An official or public servant who makes an invention shall immediately declare the invention to the authority empowered by the public person to which it belongs.

The provisions of Articles R611-1 to R611-10 relating to the obligations of employee and employer shall apply to officials and

public servants and to the public persons concerned.

**Article R611-14-1**

1. For civil servants or public officials of the State and of its public institutions belonging to the categories provided for in the annex of this Article and who are inventors referred to in Article R611-12(1), the additional remuneration provided for in Article L611-7 shall consist of a bonus for the products derived from the invention by the public legal entity that is the beneficiary of the invention and a bonus for the patent.

2. The bonus shall be calculated, for each invention, on the basis of the pre-tax revenue from royalties received each year for the invention by the public legal entity after deduction of all direct costs borne by this entity for the current year as well as direct costs incurred in previous years not having been deducted for lack of sufficient income, and including the coefficient representing the contribution of the employee concerned to the invention. The bonus for patent shall not be included in the direct costs.

The premium due to each agent of an invention corresponds, including charges, to 50% of the base defined above, the ceiling being the gross annual salary with pension deductions corresponding to the second group grade outside level D and, beyond this amount, 25% of that basis.

The additional remuneration due as a bonus shall be paid annually and advance payments may be made throughout the year.

3. The bonus for patent shall be fixed in advance. Its amount shall be determined by a common decree of the Ministers responsible for the budget, public service and research. There shall be allocated to each official a coefficient representing his contribution to the invention.

This bonus shall be paid in two instalments. The right to the payment of the first instalment, which represents 20% of the amount of the bonus, shall be granted at the end of a one-year period beginning with the first filing of the patent application. The right to the payment of the second instalment shall be granted at the time of the signing of a concession of user licence or of a contract of transfer of the aforesaid patent.

4. Where several officials are inventors of the same object, the importance of the respective contribution of each of them to the invention, represented by a coefficient, shall be definitively determined before the first annual payment referred to under (I) or,

where applicable, before the payment of advances, in accordance with the conditions set out by the Minister having authority over the service or by the chief authorizing officer of the public service. Where only one official is the inventor, the coefficient representing his contribution is 1.

If the invention is a result of collaboration between officials belonging to several different public legal entities, the conditions of distribution and payment of the bonus shall be decided jointly by the public legal entities concerned.

5. Where the invention has been made by an official in the framework of his main activity, the remuneration due as a bonus shall be paid to the person concerned in addition to the remuneration for his activity without limitation other than that set out in this Article. Where applicable, the bonus shall continue to be paid to the official during the period of working of the invention despite the fact that he leaves his functions for any reason whatsoever or he claims his retirement benefits. In the event of death of the official, the bonus shall be paid up to the end of the year during which he dies.

#### **Article Annex art. R611-14-1**

##### **National education, higher education and research.**

###### **Body of civil servants:**

- researchers, engineers, assistant engineers and research technicians governed by Decree No. 83-1260 of 30 December 1983 as amended.
- researcher-professors governed by Decree No. 84-431 of 6 June 1984 as amended and researcher-professors belonging to specific bodies of which the list is given in the annex to this Decree.
- engineers, assistant engineers and research and training technicians governed by Decree No. 85-1534 of 31 December 1985 as amended.
- Chief engineers in nuclear physics, engineers in nuclear physics, chief technicians in nuclear physics, technicians in nuclear physics, workshop technicians in nuclear physics, research technicians in nuclear physics, nuclear physics preparers and nuclear physics prototypes, governed by Decree No. 85-1462 of 30 December 1985 as amended.
- Research representatives of the National Scientific Research Centre, governed by Decree No. 85-1461 of 30 December 1985;

**Non-confirmed officials:**

- researchers governed by Decree No. 80-31 of 17 January 1980 as amended.
- engineers and specialists governed by Decree No. 59-1405 of 9 December 1959 as amended.
- scientific and contractual staff governed by Decree No. 80-479 of 27 June 1980.
- professors and associated lecturers pursuant to Article 54, paragraph 2, of Act No. 84-52 of 26 January 1984 and Act No. 85-1223 of 22 November 1985.
- research allocates governed by Decree No. 85-402 of 3 April 1985 as amended by Decree No. 92-339 of 30 March 1992.
- training college instructors and allocate-instructors governed by Decree No. 89-794 of 30 October 1989 as amended.
- pharmacy instructors governed by Decree No. 92-1229 of 19 November 1992 as amended.
- temporary teaching and research staff governed by Decree No. 88-654 of 7 May 1988 as amended.
- researchers associated to the National Scientific Research Centre governed by Decree No. 69-894 of 26 September 1969 as amended.
- contractual officials outside classification, exceptional and first grade contractual officials, governed by the internal regulations of 30 March 1988 containing the provisions applicable to the contractual employees of the National Centre for Agricultural Machinery, Rural Engineering and Water and Forests.
- engineers and specialists at the National Centre for Health and Medical Research, governed by Decree No. 64-420 of 12 May 1964 as amended.
- expert engineers of the National Institute for Computers and Automation governed by Decree No. 86-83 of 17 January 1986 as amended.
- employees recruited by public institutions of a scientific and technological nature in application of the provisions of Article 23 of Act No. 82-610 of 15 July 1982, as amended, on policy and research on technological programming in France.
- other officials recruited by scientific and technological public institutions and higher education institutions in compliance with Articles 4 and 6 of Act No. 84-16 of 11 January 1984 amended containing statutory provisions relating to the public service of the State in order to carry out research tasks within the framework of the preparation of doctoral thesis within the meaning of Article

L612-7 of the Education Code or after obtaining such a doctorate degree.

- officials recruited for services of industrial and commercial activities of public institutions of higher education in compliance with Article L123-5 of the Education Code in order to carry out research tasks within the framework of the preparation of a doctoral thesis within the meaning of Article L612-7 of the Education Code or after obtaining such a doctorate degree.

**Higher education, research and social affairs:**

- members of the teaching and hospital staff of hospitals and university centres, governed by Decree No. 2021-1645 of 13 December 2021.
- teaching staff of universities, holders and non-holders of general medicine, governed by Decree No. 2008-744 of 28 July 2008.

**Agriculture, Fishery and Food:**

**Body of civil servants:**

- bridge, water and forestry engineers governed by Decree No. 65-426 of 4 June 1965 as amended.
- agronomical engineers governed by Decree No. 65-427 of 4 June 1965 as amended.
- water and forestry engineers governed by Decree No. 70-128 of 14 February 1970 as amended.
- rural engineers governed by Decree No. 65-688 of 10 August 1965 as amended.
- agricultural engineers governed by Decree No. 65-690 of 10 August 1965 as amended.
- veterinary inspectors governed by Decree No. 62-1439 of 26 November 1962 as amended.
- scientific staff of the National Veterinary and Foodstuffs Study Center governed by Decree No. 64-642 of 29 June 1964 as amended.
- researcher-professors of the higher public education institutions responsible to the Minister responsible for agriculture governed by Decree No. 92-171 of 21 February 1992.
- engineers, assistant engineers and technicians governed by Decree No. 95-370 of 6 April 1995.
- technicians of the services of the Minister responsible for agriculture governed by Decree No. 96-501 of 7 June 1996.

**Non-confirmed officials:**

- associate or invited staff in higher education and research institutions responsible to the Minister responsible for agriculture governed by Decree No. 95-621 of 6 May 1995.
- contractual teaching and research assistants of the public higher education institutions responsible to the Minister responsible for agriculture governed by Decree No. 91-374 of 16 April 1991.
- other officials recruited by scientific and technological public institutions and higher education institutions in compliance with Articles 4 and 6 of Act No. 84-16 of 11 January 1984 amended containing statutory provisions relating to the public service of the State in order to carry out research tasks within the framework of the preparation of doctoral thesis within the meaning of Article L612-7 of the Education Code or after obtaining such a doctorate degree.

**Industry:****Body of civil servants:**

- body of mining engineers governed by Decree No. 88-507 of 29 April 1988, as amended.
- industry and mining engineers governed by Decree No. 88-507 of 29 April 1988 as amended.
- professors, lecturers and assistants of the higher public education institutions of mining and higher public education institutions of industrial techniques governed by Decree No. 2007-468 of 28 March 2007 as amended.
- laboratory technicians assigned to higher public education institutions of mining and higher public education institutions of industrial techniques and mining and governed by Decree No. 2012-1002 of 29 August 2012 as amended.
- joint ministerial body of telecommunications engineers governed by Decree No. 67-715 of 16 August 1967.
- State employees seconded to jobs at the Institute Mines-Telecom under Article 36(1) of Decree No. 96-1177 of 27 December 1996.

**Non-confirmed officials:**

- researchers and engineers governed by Decree No. 2000-677 of 18 July 2000 on statutory provisions common to contract staff of the National Schools of Mines and Higher National Schools of Industrial Technology and Mines under the supervision of the Minister in charge of the industry;



- research attachments governed by decree No. 71-999 of December 7, 1971
- Personal teachers, researchers and engineers associated governed by Decree No. 70-663 of July 10, 1970 amends.
- contractual officials "exceptional category" representatives, "normal category" contractual employee representatives, non-confirmed contractual employees and 1st category contractual employees governed by Decree No. 75-62 of 28 January 1975 as amended.
- public law contractual employees of the Institute Mines-Telecom recruited pursuant to Article 36(2) of Decree No. 96-1177 of 27 December 1996 and governed by Decree No. 86-83 of 17 January 1986 as amended.
- other officials recruited by scientific and technological public institutions and higher education institutions in compliance with Articles 4 and 6 of Act No. 84-16 of 11 January 1984 amended containing statutory provisions relating to the public service of the State in order to carry out research tasks within the framework of the preparation of doctoral thesis within the meaning of Article L612-7 of the Education Code or after obtaining such a doctorate degree.

**Environment, Transports and Housing.**

**Body of civil servants:**

- bridges, waters and forests engineers governed by Decree no. 2009-1106 of 10 September 2009 on the special status of the corps of bridges, waters and forests engineers;
- sustainable development research workers and research directors governed by Decree no. 83-1260 of 30 December 1983 laying down the statutory provisions common to the corps of civil servants of scientific and technological public establishments and by Decree no. 2014-1324 of 4 November 2014 on the special status of the corps of sustainable development research workers and the corps of sustainable development research directors;
- state public works engineers governed by Decree no. 2005-631 of 30 May 2005 on the special status of the corps of state public works engineers;
- state surveyors and cartographers governed by Decree no. 73-264 of 6 March 1973 on the special status of state surveyors and cartographers;
- meteorology engineers governed by Decree no. 65-184 of 5 March

1965 on the special status of the corps of meteorology engineers;  
- civil aviation study and exploitation engineers governed by Decree no. 71-917 of 8 November 1971 on the special status of the corps of civil aviation study and exploitation engineers;  
- air traffic controllers governed by Decree no. 90-998 of 8 November 1990 on the special status of the corps of air traffic controllers;  
- air safety systems electronics engineers governed by Decree no. 91-56 of 16 January 1991 on the special status of the corps of air safety systems electronics engineers;  
- sustainable development high-level technicians governed by Decree no. 2012-1064 of 18 September 2012 on the special status of the corps of sustainable development high-level technicians.

**Non-confirmed officials:**

Non-confirmed staff of category A level governed by the following provisions:

- Regulation of 14 May 1973 governing non-permanent staff of the central laboratory for bridges and roads and for public works engineering centers mentioned in Article 127 of the Rectifying Finance Law (Loi de finances rectificative) for 2005 no. 2005-1720 of 30 December 2005;
- Decision of 18 March 1992 laying down the national internal regulations for agents of category A level of the Ministry of Ecology, Energy, Sustainable Development and the Sea, responsible for green technologies and climate negotiations;
- Order of 7 September 2006 containing regulations on the non-confirmed staff employed by the technical study services for roads and motorways, governed by Decree no. 86-83 of 17 January 1986;
- other officials recruited by public institutions participating in higher education public service, in compliance with Articles 4 and 6 of Law no. 84-16 of 11 January 1984 containing statutory provisions relating to the civil service of the State, in order to carry out research tasks within the framework of the preparation of doctoral thesis within the meaning of Article L612-7 of the Education Code or after obtaining such a doctorate degree.

**Other personnel:**

- workers employed by parks and workshops for bridges and roads and air bases, governed by Decree no. 65-382 of 21 May 1965 on the workers employed by parks and workshops for bridges and roads and

air bases eligible to benefit from the Law of 21 March 1928 on the classification of technicians.

**Defense:**

**Bodies of civil and military civil servants:**

- armament engineers governed by Decree No. 82-1067 of 15 December 1982 as amended;
- military fuel engineers governed by Decree No. 76-802 of 19 August 1976 as amended;
- army professionals governed by Decree No. 2004-534 of 14 June 2004;
- military study and technical engineers governed by Decree No. 79-1135 of 27 December 1979 as amended;
- military study and manufacturing engineers of the Ministry for Defense governed by Decree No. 89-750 of 18 October 1989 as amended;
- high-level study and manufacturing technicians of the Ministry of Defense governed by Decree No. 89-749 of 18 October 1989, as amended;
- technicians of the Ministry of Defense governed by Decree No. 98-203 of 20 March 1998, as amended.

**Non-confirmed officials:**

- non-confirmed officials of special category, outside category and of category A, governed by Decree No. 49-1378 of 3 October 1949, as amended;
- instructors with main duty at the National Engineering School of Aeronautics governed by Decree No. 67-962 of 23 October 1967;
- scientific staff of laboratories and research centers of the Polytechnic School governed by Decree No. 73-311 of 14 March 1973 as amended;
- engineers and specialists in the laboratories and research centers of the Polytechnic School governed by Decree No. 73-312 of 14 March 1973 as amended;
- non-confirmed engineers officials governed by Decree No. 88-541 of 4 May 1988 relating to certain officials who entered into industrial or commercial contracts with the Ministry for Defense;
- teaching personnel of the Polytechnic School governed by Decree No. 2000-497 of 5 June 2000;
- scientific, technical and administrative contractual personnel of research of the Polytechnic School governed by Decree No. 2003-1006 of 21 October 2003;

- other officials recruited by scientific and technological public institutions and higher education institutions in compliance with Articles 4 and 6 of Act No. 84-16 of 11 January 1984 amended containing statutory provisions relating to the public service of the State in order to carry out research tasks within the framework of the preparation of doctoral thesis within the meaning of Article L612-7 of the Education Code or after obtaining such a doctorate degree.

### **SUBSECTION III Designation of Inventor and Claim to Ownership**

#### **Article R611-15**

The National Institute of Industrial Property shall not verify the correctness of designation of inventor referred to in Article R612-10.

#### **Article R611-16**

The designated inventor shall be mentioned as such in publications of the patent application and of the patent specification. If that cannot be done, he shall be mentioned in the copies of the publications of the patent application or the patent specification not yet distributed. The mention shall be made at the request of the applicant or holder of the patent.

The provisions of the preceding paragraph shall apply where a third party submits to the National Institute of Industrial Property a final decision recognizing his right to be designated. In the case referred to in the second sentence of that paragraph, the third party may also ask to be mentioned in the copies of publications of the patent application or the patent specification not yet distributed.

The provisions of the first paragraph shall not apply where the inventor designated by the applicant or the patent owner renounces his designation in a written communication to the National Institute of Industrial Property.

#### **Article R611-17**

The designation of inventor may be corrected only by a request accompanied by the consent of the person wrongly designated and, if the request is not submitted by the applicant or the owner of the patent, the consent of either one of those persons. The provisions of Article R612-10 shall apply.

If a mistaken designation of inventor has been entered in the National Patent Register or published in the Official Bulletin of Industrial Property, the entry or publication shall be corrected. The mention of the mistaken designation of inventor shall be corrected in the copies of the publications of the patent application or the patent specification not yet distributed. The provisions of the preceding paragraph shall apply in the event of the designation of inventor being annulled by a court.

**Article R611-18**

Proceedings to claim ownership of a patent application or a patent shall be entered in the National Patent Register at the request of the person who has instituted the proceedings.

If a court decision is given in favor of the person who has instituted the proceedings, the copies of the patent application or of the patent in the possession of the National Institute of Industrial Property for the purposes of public inspection or for sale shall have a note affixed thereon showing the change in ownership of the patent.

**Article R611-19**

The patent granting procedure shall be suspended at the written request of any person providing evidence that he has instituted proceedings before the court to claim ownership of the patent application.

Suspension of the procedure shall take effect on the day on which evidence is produced, however it shall not prevent application of Article R612-39.

The patent granting procedure shall be resumed once the court decision has become final; it may also be resumed at any time with the written consent of the person who has instituted the proceedings to claim ownership of the patent application; such consent shall be irrevocable.

The suspension and resumption of the procedure shall be entered in the National Patent Register.

**Article R611-20**

As from the date on which a person provides evidence that he has instituted proceedings, the owner of the application or the patent may not withdraw his application or renounce his patent in whole or for one or more of the claims contained therein except with the written consent of the person who has instituted the proceedings to claim ownership.

## **CHAPTER II Filing and Processing of Applications**

### **SECTION I Filing of Applications**

#### **Article R612-1**

The patent application shall be filed with the head office of the National Industrial Property Institute or sent there by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date the application is received at the institute's head office.

The director general of the National Industrial Property Institute can require electronic filing when this method could facilitate examination and publication of the application.

The Institute provides assistance to applicants by any appropriate means, specified by decision of the director general.

#### **Article R612-2**

The filing may be made by the applicant in person or through a representative having his place of residence, his place of business or an establishment in a Member State of the EU or in a State that is party to the Agreement on the European Economic Area. Subject to the exceptions referred to in Articles L422-4 and L422-5, the representative appointed for the filing and accomplishment of any subsequent deed relating to the patent granting procedure, with the exception of the simple payment of fees, shall be required to have the capacity of industrial property attorney.

Natural or legal persons not having their place of residence or their place of business in a Member State of the EU or in a State that is party to the Agreement on the European Economic Area shall be required to appoint a representative who meets the conditions set out in the preceding paragraph within two months from the date of receipt of the notification addressed to them for that purpose. In the event of more than one applicant, a common representative shall be appointed. If the latter is not one of the applicants, he must meet the conditions provided for in the first paragraph.

Except where he has the capacity of industrial property attorney, or lawyer, the representative must attach a power of attorney that will enable him, subject to the provisions of Articles R612-38, R613-44, R613-44-1 and R613-45 and unless otherwise agreed, to carry out all deeds and receive all notifications referred to in Articles R611-15 to R611-20, R612-1 to R613-3, R613-44 to R613-65, R616-1 to R616-3

and R618-1 to R618-4. The power of attorney shall not require legalization.

### **Article R612-3**

The patent application shall comprise a request for grant of a patent of which the form shall be laid down by decision of the director general of the National Industrial Property Institute and to which shall be attached:

1. A description of the invention, accompanied where appropriate by drawings;
2. One or more claims;
3. An abstract of the technical content of the invention;
4. Where appropriate, a copy of any earlier filings of which elements are reproduced as set out in Article L612-3; the elements that are reproduced shall be highlighted therein.

### **Article R612-3-1**

The patent application may be filed in the form of a provisional application allowing the postponement of the submission of the documents referred to in items 2, 3 and 4 of Article R612-3.

The request for the granting of the patent shall mention, by an indication made by the applicant, the filing in provisional form.

The submission of the documents referred to in items 2, 3 and 4 of Article R612-3 shall be optional when the provisional application is filed.

The provisional patent application shall be submitted upon the filing of the patent application.

### **Article R612-3-2**

The applicant may request in writing that his provisional application be rendered compliant with the provisions of Article R612-3 or converted into an application for a utility certificate, mentioned in the first paragraph of Article L612-15.

This request may be filed at any time during the twelve-month time limit starting on the filing date of the provisional application or on the earliest date it benefits from.

Failing this, the provisional patent application shall be deemed withdrawn.

Such withdrawal shall be ascertained by a decision of the Director General of the National Institute of Industrial Property, who shall notify it to the applicant and inform the Ministry of Defense



thereof.

#### **Article R612-4**

The patent application shall not contain:

1. Elements or drawings of which the publication or implementation would be contrary to public policy or morality;
2. Statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person. Mere comparisons with the prior art shall not be considered disparaging in themselves;
3. Elements obviously irrelevant to the description of the invention.

#### **Article R612-5**

The patent application shall be followed, within one month from the filing of the documents, by the payment of:

1. the filing fee;
2. the search report fee, unless the application was submitted in the form of a provisional patent application, provided for by Article R612-3-1.

If the patent application was submitted in the form of a provisional application, the search report fee shall be paid within one month from the request to render the application compliant, mentioned in the first paragraph of Article R612-3-2.

#### **Article R612-6**

A receipt stating the date of submission of the documents shall be issued to the applicant by the National Institute of Industrial property.

#### **Article R612-7**

Within 15 days of the delivery or arrival of the documents at the National Institute of Industrial Property in Paris, the Institute shall give to the patent application a national registration number and shall immediately notify the number to the applicant. Any correspondence or subsequent filing of documents that does not refer to that number or that is not signed by the applicant or his representative shall not be admitted.

**Article R612-8**

The date of filing the patent application is counted from the date of submission of at least one copy of the documents listed in article L612-2, drawn up in French, subject to the provisions of article R612-21.

When one of the documents specified in the point above is missing, the applicant shall be invited to complete the patent application within two months.

If the applicant defers to this invitation, the filing date is the date the application has been completed; the applicant shall be notified of this date. Otherwise, the application is declared to be admissible, the documents submitted are sent back to the applicant and any fees paid reimbursed to them.

Any reference to an application previously filed in accordance with c) of article L612-2 must indicate the filing date, the number of this application and the office at which it has been filed. Such a reference must specify that it replaces the description and, where applicable, the designs.

If the application contains a reference in accordance with the previous point, a copy of the previously filed application must be submitted within two months from the filing date, accompanied, where applicable, by a translation into French.

**Article R612-9**

1. If it is found that parts of the description, or the designs to which reference is made in the description or claims, do not appear to be included in the application, the applicant is invited to submit the missing parts within two months.

2. If the missing parts of the description or the missing designs are submitted within two months from the filing date or, when an invitation is issued in accordance with paragraph 1, within two months from this invitation the applicant shall be informed that the filing date of the application is that on which the missing parts of the description or the missing designs have been filed, unless the missing parts of the description or the missing designs are withdrawn within one month from the date of filing.

3. If the missing parts of the description or the missing designs are submitted within the time period laid down in 2., and if the application claims the priority of an earlier application, the filing date remains the date on which the requirements of article L612-2 have been met, subject to the missing parts of the

description or the missing designs being included in full in the previous application and, within the time period laid down in 2., the applicant so requesting and submitting a copy of the previous application, unless such a copy is at the disposal of the National Industrial Property Institute and, where applicable, a translation into French. The applicant must then state the location where the missing parts of the description or the missing designs are shown in full in the previous application and, where applicable, in its translation.

4. If the applicant does not file the missing parts of the description or the missing designs within the time periods laid down in 1 and 2, any reference made to these parts of the description or these designs is deleted.

Where applicable, the applicant is notified of the new filing date.

#### **Article R612-10**

The request for grant shall be signed by the applicant or his representative. It shall contain:

1. The nature of the industrial property title sought;
2. The title of the invention, which shall clearly and concisely state the technical designation of the invention and shall exclude all fancy names;
3. The designation of the inventor; however, if the applicant is not the inventor or not the sole inventor, the designation shall be made in a separate document containing the surname, forenames and place of residence of the inventor together with the signature of the applicant or of his representative;
4. The surname and forenames of the applicant, his nationality, his place of residence or of business;
5. The name and address of the representative, if a representative has been appointed.

#### **Article R612-11**

The issue request shall be complemented, where applicable, by indications concerning:

1. The fee reduction granted to the applicant or requested by them;
2. Previous filings, the information of which may have been reused;
3. The priorities claimed;
4. Submission of the invention to an official or officially recognized exhibition.

In the event of failure to comply with the provisions laid down in

article R612-10(3), the applicant is invited to correct their application within sixteen months from the filing date or the earliest date applicable to the patent application or, if a priority has been claimed, the priority date.

#### **Article R612-12**

The description shall contain:

1. A statement of the technical field to which the invention relates;
2. A statement of the background art known to the applicant and which can be regarded as useful for understanding the invention and drawing up the search report; the documents reflecting the prior art shall be cited wherever possible;
3. Disclosure of the invention, as claimed, in such terms that the technical problem and the solution proposed can be understood; where appropriate, any advantageous effects of the invention with reference to the prior art shall be stated;
4. A brief description of the drawings, if any;
5. A detailed description of at least one way of carrying out the invention; the description should normally be accompanied by examples and references to the drawings, if any;
6. A statement of the way in which the invention is capable of exploitation in industry if such exploitation is not obvious from the description or the nature of the invention.

#### **Article R612-13**

The description shall be presented in the manner and order referred to in Article R612-12, unless the nature of the invention means that a different manner or a different order would afford a better understanding and a more economic presentation.

In addition, the following may be annexed at the end of the description:

1. Short extracts from computer programs presented in the form of lists written in current programming languages, where necessary for the understanding of the invention;
2. Lists of nucleotide and/or amino acid sequences;
3. Chemical or mathematical formulae.

Schematic representations of stages in a process, diagrams and short extracts from computer programs submitted in the form of organigrams required for the understanding of the invention shall be considered to be drawings.

**Article R612-14**

In the case referred to in the second paragraph of Article L612-5, the culture shall be deposited at the latest on the filing date of the patent application and the description shall detail:

1. The information available to the applicant regarding the characteristics of the microorganism;
2. The authorized body with which the culture has been deposited, together with the deposit number.

The information referred to in item 2 in the preceding paragraph may be supplied within a period of 16 months as from the filing date or of the earliest date enjoyed by the patent application or, if priority is claimed, from the priority date, or on the occasion of the request referred to in Article L612-21 if such request is submitted prior to expiry of that time limit. The communication of this information shall imply on the part of the applicant his irrevocable and unreserved consent to the deposited culture being made available to the public in accordance with Articles R612-42 and R612-43.

**Article R612-15**

If the culture ceases to be available either because it is no longer viable or because the authorized body is no longer able to supply samples, such interruption shall not be taken into account provided that:

1. a new deposit of the biological material is made within three months as from the date on which the interruption was notified to the applicant or to the holder of the patent either by the authorized body or by the National Institute of Industrial Property;
2. a copy of the deposit receipt issued by the authorized body, accompanied by the number of the patent application or by the patent, is given to the National Institute of Industrial Property within four months of the new deposit date.

Where interruption results from non-viability of the culture, the new deposit shall be made with the authorized body that had received the initial deposit; in other cases, it may be made with any authorized body.

The new deposit shall be accompanied by a written declaration by which the depositor certifies that the biological material is the same as that of the initial deposit.

The bodies authorized to receive deposits of biological material

shall be designated by the director general of the National Industrial Property Institute.

#### **Article R612-16**

The claims shall define the matter for which protection is sought in terms of the technical features of the invention. The claim may not, except where absolutely necessary, rely in respect of the technical features of the invention on simple references to the description or drawings.

#### **Article R612-17**

All claims shall comprise:

1. A preamble giving the designation of the subject matter of the invention and those technical features which are necessary for the definition of the claimed elements but which, in culmination, are part of the prior art;
2. A characterizing portion, preceded by an expression of the type "characterized by" stating the technical features which, in combination with the features stated in item 1, it is designed to protect.

However, a different manner may be adopted if justified by the nature of the invention.

#### **Article R612-17-1**

Without prejudice to the provisions of articles L612-4, R612-19 and R612-48, a patent application can only contain more than one independent claim in the same category (product, procedure, device or use) if the object of the application concerns:

- a) Several products connected to each other;
- b) Different uses of a produce or a device;
- c) Alternative solutions to a specific problem insofar as these alternatives cannot be covered appropriately by a single claim.

#### **Article R612-18**

Subject to the first paragraph of Article L612-4, a patent application may contain two or more independent claims in the same category (product, process, apparatus or use) where it is not appropriate, having regard to the subject matter of the application, to cover this subject matter by a single claim.

Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of

that invention.

#### **Article R612-19**

Pursuant to Article L612-4, one and the same patent application may include, in particular, either:

1. An independent claim for a product, an independent claim for a process designed specifically for the manufacture of that product, and an independent claim for a use of such product;
2. An independent claim for a process, and an independent claim for a device or means specifically designed for the implementation of the process;
3. An independent claim for a product, an independent claim for a process designed specifically for the manufacture of that product and an independent claim for a device or means specially designed for the implementation of the process.

#### **Article R612-20**

The abstract shall be drawn up exclusively for use as technical information. It may not be taken into account for any other purpose, in particular not for the purpose of interpreting the scope of the protection sought or for the purpose of applying the third paragraph of Article L611-11.

The final content of the abstract shall be drafted, where necessary, by the National Institute of Industrial Property. It shall be published in the Official Bulletin of Industrial Property at the same time as the notice referred to in Article R612-39 or, subsequent to that notice, immediately after it has been finalized.

#### **Article R612-21**

The descriptions and claims contained in the applications filed may be drawn up in a language other than French.

If this option is used, the applicant is invited to provide a translation of the documents into French within two months. The time limit mentioned in the third paragraph of Article R612-9 shall be suspended until the submission of this translation.

#### **Article R612-22**

Proof of the exhibitor's right defined in Article L611-13, first paragraph, second indent, (b), shall be furnished within four months as from the filing date of the patent application in the form of an attestation issued during the exhibition by the authority

responsible for ensuring protection of industrial property at that exhibition and confirming that the invention has in fact been displayed at that exhibition.

The attestation shall state the opening date of the exhibition and, where appropriate, that of first disclosure of the invention if the two dates should not be the same. It shall be accompanied by documents that enable the invention to be identified and bearing authentication by the above mentioned authority.

#### **Article R612-24**

The declaration of priority set forth in item 1 of Article L612-7 includes the previous filing date, the country in which or for which it has been filed, and the number assigned to it.

The declaration of priority shall be made when filing the patent application or within sixteen months from the earliest priority date claimed.

The declaration of priority claimed within a patent application filed in the form of a provisional application shall have the effects of a request to render the application compliant or, if expressly stated by the applicant, of a request to convert the application into an application for a utility certificate, pursuant to the first paragraph of Article R612-3-2.

The applicant may correct the declaration of priority within sixteen months from the earliest priority date or, if the correction entails a modification of the earliest priority date, within sixteen months from the corrected earliest priority date; the period of sixteen months that expires first must be applied, it being understood that the correction may be requested until the expiry of a period of four months from the filing date assigned to the patent application. However, a declaration of priority may only be made or corrected after a request has been submitted pursuant to item 1 of Article L612-21.

In accordance with item 1 of Article L612-7, in order to demonstrate the existence of the previous application the applicant must submit a copy of it within sixteen months from the priority date, accompanied, where applicable, by written authorization to claim the priority given by the owner of the previous application.

In the event of failure to comply with the provisions laid down in the previous paragraphs, the priority right claim shall be declared inadmissible.

If the previous filing date indicated is more than one year earlier



than the date the patent application is filed, the applicant will be notified that there is no priority right, unless they indicate, within the time period specified in paragraphs 2 and 4, a corrected date falling within the priority period, or submit a petition for reinstatement in accordance with Article L612-16-1.

The particulars contained in the declaration of priority shall be specified in the published patent application and entered on the patent specification.

**Article R612-25**

A request to enjoy the filing date of one or more previous applications shall not be admissible if:

1. It is not made at the time of filing the patent application;
2. The filing date of the previous application or applications of which the benefit is requested is earlier by more than 12 months;
3. The filing of the application or applications for which benefit of the filing date has been requested has been made in a manner that does not permit its publication.

## **SECTION II Processing of Applications**

### **SUBSECTION I Applications Affecting Defense**

#### **Article R612-26**

The delegates of the Minister of Defense, specifically empowered to such end and whose names and capacities have been notified to the Director of the National Institute of Industrial Property and the Minister responsible for industrial property by the Minister of Defense shall take cognizance at the premises of the National Institute of Industrial Property of the patent applications that have been filed, including those filed in the form of provisional applications and, as applicable, any additional document submitted as long as the authorization referred to in Article L612-9 has not been obtained.

These shall be presented to them within fifteen days as from their date of receipt at the National Institute of Industrial Property.

#### **Article R612-27**

The request for authorization to disclose, and the right to freely exploit the invention which is the subject matter of a patent application, is made to the National Institute of Industrial Property before the end of the five-month period provided for in Article L612-9; Said request may be sent as soon as the patent application is filed. The applicant is notified of said authorization by the Director of the National Institute of Industrial Property or, for European patent applications and for international applications for the protection of inventions, by the minister responsible for industrial property.

In the absence of such authorization and at any time, a request for special authorization to carry out specific acts of exploitation may be addressed directly by the patent applicant to the Minister of defense. If he gives the requested authorization, the latter shall set out any conditions to which such acts of exploitation are subject.

If the special authorization concerns the transfer of the patent application or the granting of an operating license, the Minister of Defense shall send a copy of his decision to the Director of the National Institute of Industrial Property or, for European patent applications and for international applications for the protection of inventions, to the minister responsible for industrial property.

**Article R612-28**

Upon the request of the Minister of Defense for the purpose of extending the prohibitions on disclosure or the right for the free exploitation of an invention which the subject-matter of patent application, including when the latter is filed in the form of a provisional application, shall be addressed to the Director of the National Institute of Industrial Property and must be received by him no later than fifteen days before the end of the five-month period provided for in Article L612-9.

Any requisition for the purpose of renewing an extension shall arrive under the same conditions at the latest 15 days before the expiry of the current one-year period.

The extension of any prohibition to disclose, or to the right for free exploitation, is ordered by decision of the Director of the National Institute of Industrial Property and notified to the applicant before the end of the current prohibition period. A copy of this decision is sent at the same time to the Minister of Defense.

The decision may contain specific provisions authorizing, under certain conditions, the filing of applications for protection of the invention abroad. To this effect, the holder of the patent application shall send a request to the Minister of Defense, who shall inform the Director of the National Institute of Industrial Property of his decision.

Special authorizations to carry out specific acts of exploitation may be granted under the conditions set out in the second and third paragraphs of Article R612-27.

The Minister of Defense may notify the Director of the National Institute of Industrial Property of the lifting of the extended prohibitions pursuant to Article L612-10 at any time. This measure is subject of a decision by the Director of the National Institute of Industrial Property and shall be notified to the holder of the patent application. A copy of this decision is sent at the same time to the Minister of Defense.

**Article R612-29**

The request for compensation to repair the prejudice suffered by the extension of the prohibitions on disclosure and free working shall be addressed by the owner of the patent application to the Minister of defense by registered mail with notification of receipt. The

request shall detail, giving figures, the various causes of prejudice invoked.

The court may only be called upon to determine the amount of the compensation on expiry of a period of four months as from the date of receipt of the request, except where an urgent decision has been taken during that period of time.

#### **Article R612-30**

The court applied to under Article L612-10 shall pronounce both on the merits and on interlocutory measures by decisions that contain no analysis of the invention such as to entail disclosure.

Only the public prosecutor, the parties or their representatives may receive copies of the decisions taken.

If an expert opinion is ordered, it may only be carried out by persons authorized thereto by the Minister for Defense.

#### **Article R612-31**

If the prohibitions on disclosure and free exploitation terminate more than one year after the filing date, the application may not be made public under the conditions set out in Article R612-39 until six months have expired after the end of application of the prohibitory measures, except if the applicant has submitted within that period the request referred to in Article R612-39.

The applicant shall have six months from the end of the prohibitory measures to request the drawing up of the search report or the conversion of his patent application into an application for a utility certificate or the conversion of his application for a utility certificate into a patent application.

#### **Article R612-32**

The provisions of Article R612-29 shall apply to the request for review of the compensation referred to in Article L612-10.

## **SUBSECTION II Division of Application**

### **Article R612-33**

If the patent application does not satisfy the provisions of Article L612-4, a time limit shall be given the applicant in order to divide his application or to restrict the claims.

### **Article R612-34**

Up to payment of the fee for granting and for printing of the patent specification, the applicant may, on his own initiative, file divisional applications for his initial patent application.

### **Article R612-35**

Where a patent application is divided in accordance with Articles R612-33 and R612-34, each divisional application shall comply with the provisions of Articles R612-3 to R612-5. The provisions of the third paragraph of Article R612-1 shall also apply.

The applicant may:

- either repeat in each divisional application the contents of the initial application, restricting the claims to the subject matter alone of the divisional application;
- or restrict the description, the claims and the design of each divisional application to its subject matter exclusively; in such case, they shall contain, in addition to the passages, the claims and the forms extracted respectively from the description, the claims and the design in the initial application, only those connecting and explanatory sentences necessary for the clarity of the explanation.

The file of one of the divisional applications shall consist of the file of the initial application after having applied the provisions of the preceding paragraph.

Notwithstanding the provisions of Articles R612-10 and R612-11, the time limit within which the designation of inventor may be effected for each divisional application may not be less than two months after the invitation referred to in Article R612-11. The expiry date of that time limit shall be mentioned in the notification.

### **SUBSECTION III Correction, Withdrawal and Publication of the Application**

#### **Article R612-36**

Up to the time of payment of the fee for grant and printing of the patent specification, the applicant may submit a reasoned request for correcting errors of expression or transcription and clerical errors discovered in the filed documents. The Institute may require evidence of the existence of the clerical error to be corrected and, where appropriate, the meaning of the correction requested.

If the request concerns the description, the claims or the design, correction shall only be authorized if it is obvious that no other passage or line could manifestly have been intended by the applicant.

The request shall be submitted in writing and shall contain the passage of the proposed modifications; it shall be admissible only if accompanied by proof of payment of the required fee.

#### **Article R612-37**

Subject to Article L612-13, if the examination referred to in Article L612-11 has determined irregularities, the description, the claims or drawings may be amended, but only to the extent required to remedy the irregularities that have been determined.

#### **Article R612-37-1**

The amendments made to the patent application shall not extend the subject matter of the application beyond the content of the application as filed.

#### **Article R612-38**

The patent application may be withdrawn at any time by means of a written declaration up to payment of the fee for granting and printing of the patent specification.

The declaration may refer to one application only. It shall be submitted by the applicant or by a representative, who, unless he has the capacity of industrial property attorney, shall be required to attach to the declaration special powers for withdrawal.

If the patent application has been filed on behalf of more than one person, it may be withdrawn only if requested by all such persons.

If property, pledge or licensing rights have been entered in the National Patent Register, the withdrawal declaration shall be

admissible only if accompanied by the written consent of the holders of such rights.

If the application is withdrawn after publication in the Official Bulletin of Industrial Property of the notice referred to in Article R612-39, the withdrawal shall be entered ex officio in the National Patent Register.

In all cases where an application is withdrawn, a copy of the application shall be kept by the National Institute of Industrial Property.

#### **Article R612-39**

On expiry of the eighteen-month period referred to in Article L612-21, or at any time prior to expiry of that time limit on a written request by the applicant, a notice shall be published in the Official Bulletin of Industrial Property to the effect that the patent application has been made public.

As from the day of publication referred to in the preceding paragraph, any person may consult at the National Institute of Industrial Property the documents of the file of the patent application and obtain copies thereof at his own cost. The Institute may subject the exercise of this right to evidence of sufficient interest.

Any application for which the advantage of the filing date of one or more earlier applications has been requested in accordance with Article L612-3 shall be made public eighteen months after the earliest filing date that it enjoys.

However, an application that has been rejected, withdrawn or deemed to be withdrawn before the beginning of technical preparations for publication shall not be made public unless it is an application that has been divided.

An application whose filing date has been claimed in a subsequent application shall be made public even if it has been rejected, withdrawn or deemed to be withdrawn prior to the beginning of the technical preparation unless the claim has been waived within that same period.

#### **Article R612-39-1**

If the patent application was filed in the form of a provisional application, the written request referred to in the first paragraph of Article R612-39 shall be accompanied, under sanction of inadmissibility, by the request to render the application compliant

or the request to convert the application into an application for a utility certificate, mentioned in the first paragraph of Article R612-3-2.

**Article R612-40**

The duration of the technical preparation referred to in Article R612-39 shall be laid down by decision of the director general of the National Industrial Property Institute. The decision shall be published in the Official Bulletin of Industrial Property.

**Article R612-41**

The following shall not be disclosed to the public:

Draft decisions and opinions as well as documents not disclosed to the applicant and which have served to prepare such decisions and opinions.

Documents relating to the designation of the inventor if he has waived to his right to be designated as inventor under the conditions provided for under Article R611-16.

Documents that contain personal data or business secrets.

Any other document excluded from consultation by decision of the director general of the National Industrial Property Institute on the ground that it is of no interest for informing third parties.

**Article R612-42**

Where the invention relates to a microorganism, any person may either as from the publication date referred to in Article R612-39 or prior to that date if a copy of the patent application has been notified to him, request access to the culture deposited in accordance with Articles R612-14 and R612-15.

The request shall be submitted in writing to the National Institute of Industrial Property. It shall contain, in particular, the name and address of the person making the request and his undertaking:

1. Not to communicate to any person the culture or a culture derived from it unless the patent application has been refused or withdrawn or the patent has ceased to have effect;
2. To use the culture or a culture derived from it for experimental purposes only, unless the patent application has been refused or withdrawn or the notice of grant referred to in Article R612-74 has not been published; however, this undertaking shall not prevent use of the culture under a compulsory license or an ex officio license.



**Article R612-43**

For the purposes of Article R612-42 (1 and 2), derived culture shall mean any culture still possessing the characteristics of the deposited culture that are essential for the implementation of the invention. The undertakings referred to in Article R612-42 (1 and 2) shall not prevent the deposit of a derived culture for the purposes of patent proceedings.

The patent applicant may state in a written declaration made before completion of the technical preparation for publication referred to in Article R612-39 that, up to publication of the grant of the patent, of the withdrawal or refusal of the application, only an expert designated by the requester may have access to the deposited culture. The person making the request may designate as expert:

1. Either any natural person, on condition that he furnishes proof, when filing his request, that the patent applicant has given his consent to that designation;
2. Or any natural person included in a list drawn up by the director general of the National Industrial Property Institute.

The expert shall have access to the deposited culture in accordance with the conditions under Article R612-42 and shall be required to enter the undertakings set out therein; they shall also apply to the person making the request.

Where appropriate, the National Institute of Industrial Property shall note on the request that a patent application relating to the microorganism has been filed and that the person making the request or the expert he has designated is entitled to receive a sample of the culture. A copy of the request thus supplemented shall be communicated to the body with which the culture has been deposited and to the applicant or the patent owner.

**Article R612-44**

Subject to the impediments resulting from application of the provisions of Articles R612-27 and R612-28, the applicant may at any time obtain at his own cost an official copy of the documents in his patent application.

## **SUBSECTION IV Refusal of Application**

### **Article R612-45**

The patent application shall be rejected if:

1. it has not been completed within the time periods laid down in Articles R612-8 (fifth paragraph), R612-11 (sixth paragraph), R612-21 and R612-35 (sixth paragraph);
2. the filing and search report fees specified in Article R612-5 and R612-54 have not been paid within the prescribed time period.

The applicant shall be notified of the rejection decision and given a period of two months from the date of receipt of the notification to submit observations or pay the fees due as specified in point 2 of this article by paying the corresponding fee plus the prescribed supplement. The rejection decision shall be definitive if the applicant does not contest the unlawfulness of payment default or pay the fee plus a supplement within the prescribed time period.

### **Article R612-46**

If, apart from the cases referred to in Articles R612-8 and R612-45, the patent application is not regular in its form with regard to the provisions of this Title or of the order taken to implement them or has not led to payment of the prescribed fees, notification thereof shall be made to the applicant.

The notification shall state the time limit afforded him in order to regularize his filing or to pay the due fees. It may be accompanied by a proposed regularization. Such proposal shall be deemed to have been accepted if the applicant does not contest it within the time limit afforded to him.

If the filing is not regularized or the fees are not paid within the time limit afforded, the patent application shall be refused.

### **Article R612-47**

If the subject matter of the divisional application filed under Article R612-33 or Article R612-34 extends beyond the contents of the description in the initial application, the applicant shall be invited to modify the divisional application in accordance with the instructions given to him and within the time limit afforded to him. Within that time limit, the applicant may submit observations in writing in which he may refute the instructions given by the National Institute of Industrial Property for amending his divisional application.

If the applicant has not submitted observations or if the divisional application has not been amended in the manner proposed, the application shall be refused.

If the observations submitted by the applicant are not accepted, he shall be notified thereof. In the event of the modification of the divisional application not being made within the new time limit afforded to him, the application shall be refused.

#### **Article R612-48**

Where the applicant has been invited, pursuant to Article R612-33, to divide his application, he may, within the time limit laid down by that Article, submit written observations in which he refutes the objection made by the National Institute of Industrial Property.

If the applicant has not submitted observations or if he has not limited his claims or if the patent application has not been divided, the application shall be refused.

If the observations submitted by the applicant are not accepted or if the new claims do not enable the provisions of Article L612-4 to be satisfied, he shall be notified thereof. If the division or the limitation of the claims of the initial application are not made within the new time limit afforded him, the application shall be refused.

#### **Article R612-49**

If the patent application is likely to be refused for one of the reasons referred to in Article L612-12 (items 4, 5, 6 and 8), a reasoned notification thereof shall be made to the applicant. The notification shall set out the time limit afforded him in order to submit his observations or new claims.

The patent application shall be refused:

- if the applicant has not submitted observations or new claims within the time limit afforded him;
- if the observations submitted are not accepted or if the new claims do not enable the irregularity to be remedied.

#### **Article R612-50**

In the event of the description or the drawings failing to comply in part with the provisions of Articles L611-17, L611-18, L611-19(4) or L612-1, a notification thereof shall be made to the applicant.

The notification shall set out the envisaged deletions together with the time limit afforded to the applicant in order to submit his

observations.

If the applicant has not submitted observations within the time limit afforded him or if the observations are not accepted, the deletions shall be made ex officio.

**Article R612-51**

If the patent application is liable to be refused for one of the reasons set out in Article L612-12 (7 and 9), a reasoned notification shall be made to the applicant.

The notification shall contain a formal notice, as appropriate, to amend the patent application or to file new claims or to submit observations to support claims maintained. The notification shall set out the time limit afforded to that end.

If the applicant does not comply with the formal notice within the prescribed time limit, the patent application shall be refused.

**Article R612-52**

If a patent application is refused or is liable to be refused due to failure to comply with a time limit afforded by the National Institute of Industrial Property, the refusal shall not be pronounced or shall not have effect if the applicant submits a request to continue the procedure. The request shall be submitted in writing within a period of two months as from notification of the refusal decision. The act that has not been carried out shall be carried out within that time limit. A request shall be admissible only if accompanied by payment of the required fee.

## **SUBSECTION V Drawing-up of the Search Report**

### **Article R612-53**

Subject to Article R612-31, the request to convert the application for utility certificate into a patent application shall be filed in writing, at any time during the eighteen months starting on the filing of the application for utility certificate or the priority date, if a priority date has been claimed, and, in any case, before the beginning of the technical preparations referred to in Article R612-39, undertaken for the purpose of publication of the application for utility certificate.

### **Article R612-54**

If the patent application derives from the conversion of an application for a utility certificate, according to the second paragraph of Article L612-15, the search report fee shall be paid within one month from the date of receipt of the application for conversion.

### **Article R612-55**

The application for conversion of a patent application, mentioned in Article R612-3, into an application for utility certificate shall be filed in writing, at any time during the eighteen months starting on the filing date or the priority date, if a priority date has been claimed, and, in any case, before the beginning of the technical preparations referred to in Article R612-39, undertaken for the purpose of publication of the patent application.

### **Article R612-56-1**

If other patent applications have been filed concerning the same invention as that of the French patent application, the National Industrial Property Institute can invite the applicant, before drawing up the preliminary search report, to submit by the deadline given the information in its possession on the date of notification about the status of the technique and taken into consideration when the competent offices were examining these other applications. The National Industrial Property Institute can also require the submission of documents cited other than patents and patent applications published, indicating the relevant passages, translated into French.

On expiry of the deadline given, which can be extended once, if the

applicant has not either met the demands of the National Industrial Property Institute or justified why it cannot produce these documents, the patent application shall be rejected in accordance with the provisions of article L612-12(9).

**Article R612-57**

A preliminary search report shall be drawn up. This report cites the documents that can be taken into consideration to assess whether the invention described in the patent application can be patented. It is accompanied by an opinion on whether the invention can be patented in view of the documents cited. This opinion can be accessed by third parties in the patent application file.

The preliminary search report and the opinion are drawn up on the basis of the claims filed, taking into account the description and, where applicable, the designs.

Each citation shall be made in relation to the claims that it relates to. If necessary, the relevant sections of the cited document are identified by giving, in particular, the page, column and lines or the figures.

The preliminary search report shall distinguish between the cited documents that were published before the priority date, between the priority date and the filing date, on the filing date and subsequent thereto.

Any document referring to an oral disclosure, to a use or to any other disclosure that has taken place before the filing date of the patent application shall be cited in the preliminary search report, stating the publication date of the document and that of the non-written disclosure.

**Article R612-58**

The preliminary search report shall be immediately notified to the applicant who, if prior art is cited, shall be required, subject to refusal of the patent application, to file new claims or to submit observations to support the maintained claims.

**Article R612-59**

The applicant shall have a period of three months, renewable once, as from notification of the preliminary search report in order to file new claims or to submit observations for the purposes of debating the invocability of the cited prior art.

**Article R612-60**

If new claims are filed, the changes made to the claims shall be identified.

On request, the applicant may, in such case, be authorized to delete from the description and from the drawings those elements that no longer concord with the new claims. Such request shall be admissible up to the date of payment of the fee for granting and printing of the specification.

**Article R612-61**

If the subject matter of the new claims is not covered by the claims on the basis of which the search has been carried out, the applicant shall be notified to pay the prescribed fee for drawing up a supplementary preliminary search report. If the party concerned does not comply with the invitation within the time limit afforded him, the filing of new claims shall be declared inadmissible and the patent shall be granted with the claims on the basis of which the search was carried out.

**Article R612-62**

The preliminary search report shall be made public at the same time as the patent application or, where it has not yet been drawn up, once it has been notified to the applicant. Its availability to the public shall be notified in the Official Bulletin of Industrial Property.

**Article R612-63**

The period during which third parties may submit observations shall expire three months after the publication referred to in Article R612-62.

Subject to inadmissibility, third party observations shall be submitted, in duplicate, in accordance with Article R612-57 and shall be accompanied by the documents cited or a copy thereof and by all the required information or evidence. This latter requirement shall not apply to patents for invention; however, at the explicit request of the National Institute of Industrial Property, foreign patents shall be furnished within a two-month period as from the date of receipt of the request.

**Article R612-64**

The applicant shall have a period of three months as from the date

of receipt of the notification of the third party observations in order to file, in writing, his counter observations or a new wording of the claims. This period may be renewed once at the request of the applicant.

**Article R612-65**

The preliminary search report may be supplemented at any time prior to the drawing-up of the search report.

In such case, Articles R612-57 to R612-64 shall be applied once more.

**Article R612-66**

In the event of the withdrawal of the patent application or its conversion into application for a utility certificate, the procedure for drawing up a search report shall be terminated.

**Article R612-67**

The search report shall be drawn up on the basis of the preliminary search report, taking into account, where appropriate, the latest filed claims, any observations by the applicant filed to support maintained claims and any observations of third parties.

It shall be drawn up on expiry of the time limits laid down in Articles R612-59, R612-61, R612-63 or R612-64, whereby the time limit that expires the latest shall be taken into consideration.

**Article R612-68**

Notwithstanding the entry in the National Patent Register of property rights, pledges or licenses in a patent application, the applicant may amend the claims under that application without the consent of the holders of such rights.

**Article R612-69**

If the applicant considers that one or more elements of the cited prior art have not been taken into consideration to assess, within the meaning of Articles L611-11 and L611-14, the patentability of the invention that is the subject matter of the application since their disclosure results from an evident abuse in relation to him within the meaning of Article L611-13, first paragraph (second indent, (a)), he may state the fact in his observations and give succinct reasons. Such statement may not modify the content of the preliminary search report or of the search report.



Any final court decision on the application of the provisions of Article L611-13, first paragraph (second indent, (a)) shall be entered in the National Patent Register at the request of the applicant or of the patent owner.

Such entry shall imply the relevant amendment of the preliminary search report or of the search report.

If the entry is made after publication of the patent, the copies of the patent held by the National Institute of Industrial Property for public inspection and for sale shall have the necessary notices affixed thereto to indicate the amendment to the search report.

## **SUBSECTION VI Grant and Publication of Patent**

### **Article R612-70**

On completion of processing of the patent application, the applicant shall be invited to pay, within the time limit afforded him by the National Institute of Industrial Property, the fee for granting and printing of the specification.

### **Article R612-70-1**

A decision on the patent application shall be given within four months from payment of the issue fee and printing of the specifications mentioned in article R612-70.

### **Article R612-70-2**

If an express decision is not made within the time period set forth in article R612-70-1, the application is deemed to be accepted.

### **Article R612-71**

The patents shall be granted in the name of the applicant by decision of the director general of the National Industrial Property Institute. This decision shall be notified to the applicant.

If the application has been assigned, the patents shall be granted in the name of the last assignee registered with the National Patent Register until payment of the fee for grant and printing of the specification. However, the name of the applicant shall be mentioned.

The search report inserted in the patent shall contain, where appropriate, a mention notifying that the claims on the basis of which the search has been carried out have been amended or that observations have been submitted by the applicant or by third parties during the procedure for drawing up the search report. The patent shall contain, in particular, particulars with regard to the filing date of the application, the date of publication of the application, the date of decision to grant and that of publication of the grant of the patent in the Official Bulletin of Industrial Property, as well as, where appropriate, references to claimed priorities, the fact that it results from a division, or that at the time of filing the description or the claims were drafted in a foreign language under the conditions set out in Article R612-21.

**Article R612-72**

In the event of lapse of the rights deriving from a patent application due to failure to pay the fees referred to in Article L612-19, the patent granting procedure shall be terminated.

**Article R612-73**

The application to modify a patent following the partial revocation or the partial annulment referred to in Article L613-23-6 and Article L613-27, respectively, shall be submitted in writing.

If the modification of the patent is compliant with the partial revocation or partial annulment decision, the National Institute of Industrial Property shall publish new specifications for that patent.

If such modification is not compliant with the partial revocation decision or with the enacting terms of the partial annulment judgment, the patent proprietor shall be notified thereof. This notification shall set out the changes to be made to the application to modify the patent, together with the time limit afforded to the proprietor to carry out those changes.

The application for modification shall be rejected in the following two cases:

1. if the patent proprietor does not comply with the above mentioned notification within the prescribed time limit or does not submit observations to contest its grounds within the same time limit;
2. if the observations submitted are not accepted and the proprietor does not comply with the notification referred to in the third paragraph within a renewed time limit afforded to him by the Institute.

**Article R612-73-1**

A decision on the application to modify the patent shall be given within twelve months from filing. Where applicable, this time period is interrupted by the notification stipulated in the third paragraph of Article R612-73, until the application is corrected.

**Article R612-73-2**

If an express decision is not made within the time period set forth in article R612-73-1, the application is deemed to be rejected.

**Article R612-73-3**

The decision of the Director General of the National Institute of

Industrial Property rejecting the application to modify the patent mentioned in Article R612-73 may be subject to the annulment appeal referred to in the first paragraph of Article R411-19.

### **SECTION III Statutory Dissemination of Inventions**

#### **Article R612-74**

A reference to the grant of the patent shall be published in the Official Bulletin of Industrial Property within one month as from the date of notification of grant made to the applicant.

This reference shall mention the issue number of the Official Bulletin of Industrial Property in which the patent application was published as well as the existence of any amendments to the claims.

#### **Article R612-75**

The wording of patents shall be published in full and kept at the National Institute of Industrial Property.

The files of patent applications shall be kept by the National Institute of Industrial Property up to the expiry of a ten-year period following the lapse of the rights deriving from the patents. The originals of descriptions and patent drawings not printed prior to 11 April 1902 shall remain in deposit with the National Institute of Industrial Property.

## **CHAPTER III Rights Deriving from Patents**

### **SECTION I Exploitation Rights**

#### **SUBSECTION I Compulsory Licenses**

##### **Article R613-4**

Requests for a compulsory license under Articles L613-11 to L613-15 shall be submitted to the courts designated in accordance with the provisions of Article L615-17. They shall be filed, examined and judged under the common rules of law, subject to the provisions of Articles R613-5 to R613-44.

##### **Article R613-5**

Subject to inadmissibility, the summons and the conclusions shall be communicated within 15 days of the serving or notification by registered mail with notification of receipt to the National Institute of Industrial Property by the party who has summonsed or notified.

##### **Article R613-6**

The Minister responsible for industrial property may submit to the court his observations on a request for a license by means of a memorandum addressed to the Secretariat Registry.

The director general of the National Industrial Property Institute or one of his officials, delegated by the Minister responsible for industrial property, shall be heard, if he so wishes, by the court.

##### **Article R613-7**

The provisions of Articles R613-4 to R613-6 shall apply to proceedings before the appeal court.

##### **Article R613-8**

All decisions taken by courts, appeal courts and the Court de Cassation with respect to compulsory licenses shall be immediately notified by the Secretary-Registrar to the director general of the National Industrial Property Institute. Final decisions shall be entered ex officio in the National Patent Register.

##### **Article R613-9**

Requests for the assignment of a compulsory license, its withdrawal

or review of the conditions under which it has been granted shall be subject to the provisions of Articles R613-4 to R613-8.

## **SUBSECTION II Ex officio Licenses in the Interests of Public Health**

### **Article R613-10**

The orders of the minister for industrial property referred to in articles L613-16 and L613-17 shall be given on the basis of a reasoned opinion from a committee comprised of:

1. A Councilor of state, Chairman, appointed by joint order of the ministers for industrial property and healthcare;
  2. The Director General of Public Health or their representative;
  3. The Director of the National Institute of Health and Medical Research or their representative;
  4. The Director General of the National Industrial Property Institute or their representative;
  5. The Director General of Companies or their representative;
  6. The Head of the Central Service for Pharmacy and Medicines or their representative;
  7. Two doctors of or their alternates designated for three years, renewable, by the health minister, as proposed by the National Medical Academy;
  8. A pharmacist or their alternate designated for three years renewable by the health minister, as proposed by the National Pharmacy Academy;
  9. A qualified personality appointed for three years, renewable, by the health minister due to their competence in pharmaceutical law;
  10. Two members appointed by the minister for industrial property.
- The secretariat of the committee shall be provided by the National Industrial Property Institute.

The committee may only meet validly, at a first convocation, if at least seven of its members are present. When the quorum is not reached, the board deliberates validly without quorum condition after the meeting is convened a second time to discuss the same agenda, specifying that no quorum will be required.

The chair has the casting vote in the event that the votes are split.

### **Article R613-11**

The reports to the Committee shall be entrusted either to its members or to members of the Council of State, of the Court Audit, of the General Inspectorate of Finances and the Inspectorate of Pharmacy, appointed by order of the Minister responsible for industrial property.



The Chairman shall designate for each case one, or where necessary, more than one recorder.

The recorders shall receive an allowance of the amount that shall be laid down by joint order of the Minister responsible for industrial property and the Minister for Economy and Finance.

#### **Article R613-12**

The Committee may designate experts whose remuneration, provided under the same conditions as for experts to the courts, shall be covered by a fee order of the Chairman of the Committee.

#### **Article R613-13**

In the cases referred to in Article L613-16, the Minister responsible for industrial property shall have resort to the Committee by means of a reasoned decision taken at the request of the Minister responsible for public health.

That decision shall be notified, within 48 hours, together with its grounds, to the patent owner and, where appropriate, to the holders of licenses under the patent entered in the National Patents Register or to their representatives in France.

Its enacting terms shall be published without delay in the Official Bulletin of Industrial Property.

#### **Article R613-14**

The patent owner and the holders of licenses may, within 15 days following receipt of the notification referred to in the preceding Article or, if the notification has not reached them, following the publication referred to in the same Article, submit their observations to the Committee.

#### **Article R613-15**

The proposals of the recorder and the file set up by him shall be communicated to the patent owners and, where appropriate, to the holders of licenses.

The Chairman shall lay down the conditions, date and form of the communication together with the period of time within which the parties concerned shall be permitted to submit their observations.

#### **Article R613-16**

The Committee shall pronounce within a period of two months as from the day on which the decision by which the matter was submitted to

it has reached its Secretariat.

**Article R613-17**

The order referred to in Article L613-16 shall be taken immediately after the opinion of the Committee. It shall be notified to the patent owner, to the holders of licenses and to the director general of the National Industrial Property Institute. It shall be entered ex officio in the National Patent Register.

**Article R613-18**

The request for a license to work under Article L613-17 shall be addressed to the Minister responsible for industrial property.

It shall state:

1. The surname, forenames, profession, address and nationality of the requester and, where appropriate, the name of the person appointed to represent or assist the requester;
2. The patent under which a license is requested;
3. Proof of the requester's qualification, particularly from the legal, technical, industrial and financial points of view.

Within 48 hours of its receipt by the Minister, the request shall be notified to the patent owner and, where appropriate, to the holders of licenses entered in the National Patent Register.

**Article R613-19**

Within a maximum period of two months as from receipt of the request, the Committee referred to in Article R613-10 shall give its opinion on the conditions for granting a license to work, particularly as to its duration and its scope.

This opinion shall be notified to the person requesting a license and to the patent owner and, where appropriate, the holders of licenses entered in the National Patent Register. The Chairman of the Committee shall lay down a time limit to be afforded to the person requesting the license, to the patent owner and to the holders of licenses for communicating their observations on the conditions for granting the license envisaged by the Committee. Those observations shall be submitted to the Committee.

**Article R613-20**

The Minister responsible for industrial property shall take his decision on the basis of the final opinion given by the Committee, after examining the observations of the parties concerned.

**Article R613-21**

The order to grant a license to work referred to in Article L613-17 shall be notified to the patent owner, to the holders of licenses and to the person enjoying the requested license.

It shall be entered ex officio in the National Patent Register.

**Article R613-22**

The person requesting the license, the patent owner and the holders of license or their representatives may be heard by the Committee responsible for giving the opinions referred to in Articles R613-10 and R613-19, either at their request or on ex officio convocation by the Committee.

The convocation shall be addressed to them at least 8 days in advance.

**Article R613-23**

In the event of failure to comply with the time limits laid down in Articles R613-14, R613-15 and R613-19 (second paragraph), the Committee shall proceed without reminder or formal notice.

**Article R613-24**

In proceedings laying down the royalties referred to in Article L613-17 (third paragraph), the summons shall be at a fixed date.

**Article R613-25**

Amendments to clauses in the license to work requested either by the patent owner or by the holder of such license shall be decided and published under the procedure prescribed for the granting of such license. If they concern the amount of the royalties, they shall be decided under the procedure prescribed for the initial fixing of that amount.

The procedure for granting the license shall also apply to the withdrawal of the license requested by the patent owner for failure to execute the obligations imposed on the holder of the license.

**SUBSECTION III Compulsory licenses for patents covering the manufacture of pharmaceutical products intended for export to countries experiencing public health problems**

**Article R613-25-1**

The request for an exploitation license under article L613-17-1 shall be sent to the minister for industrial property. It includes the information specified in article 6 of the regulation (EC) no. 816/2006 of the European Parliament and Council of 17 May 2006 concerning the granting of compulsory licenses for patents covering the manufacture of pharmaceutical products intended for export to countries experiencing public health problems. The application shall identify the patents and, when they exist, the supplementary protection certificates for which an exploitation license is applied.

The minister shall notify the holder of the invention patent of the application immediately and, where applicable, the holders of licenses entered on the National Patent Register, giving them a period of fifteen days from the date of receipt of this notification to submit observations.

**Article R613-25-2**

The order granting the compulsory exploitation license shall be made pursuant to a recommendation with explanations from the committee specified in article R613-10 which decides whether the application complies with articles 6 to 10 of the regulation (EC) no. 816/2006. The applicable procedure is as laid down in articles R613-11, R613-12, R613-15 and R613-19 to R613-25.

Rulings granting or cancelling compulsory exploitation licenses are notified to the European Commission.

**Article R613-25-3**

The holder of the compulsory exploitation license can apply to the minister for industrial property to modify the license conditions in order to be able to provide supplementary quantities of products in the conditions laid down in article 16-4 of the regulation (EC) no. 816/2006.

**Article R613-25-4**

The terms and conditions for identifying the products manufactured under compulsory license pursuant to article 10-5 of the regulation

(EC) no. 816/2006 shall be drawn up by decision of the director general of the French National Agency for Medicines and Health Products.

## **SUBSECTION IV Ex officio Licenses in the Interest of Economic Development**

### **Article R613-26**

The formal notice referred to in Article L613-18 (first paragraph) shall be the subject of a reasoned decision by the Minister responsible for industrial property, taken after consultation with the Minister for Economy and Finance and the Minister responsible for scientific research and nuclear and space matters. The decision shall set out the needs of the national economy that have not been satisfied.

The decision shall be notified, together with the grounds, to the patent owner and, where appropriate, to the holders of licenses entered in the National Patent Register or their representatives in France.

### **Article R613-27**

The one-year period referred to in the second paragraph of Article L613-18 shall begin on the day of receipt of the notification referred to in Article R613-26. The legitimate reasons referred to in the third paragraph of Article L613-18 shall be produced within that period.

The additional period of time that the Minister responsible for industrial property may afford to the person concerned under the same third paragraph shall begin on the day on which the aforementioned one-year period expires.

The decision to afford a supplementary period shall be taken and notified in accordance with the procedure and in the manner laid down for the decision to give formal notice under Article R613-26.

### **Article R613-28**

The Council of State decree subjecting the patent to which the formal notice refers to the ex officio license arrangements shall be taken on the basis of a joint report by the Minister responsible for industrial property, the Minister for Economy and Finance, the Minister responsible for scientific research and nuclear and space matters and, where appropriate, the Minister directly concerned in view of the subject matter of the patent.

It shall lay down the conditions to be satisfied by persons requesting an ex officio license, taking into account any proposals for working made by the patent owner.

It shall be notified to the patent owner and to the holders of licenses. It shall be entered ex officio in the National Patent Register and published in the Official Journal.

**Article R613-29**

The request for a license to work under Article L613-18 (fourth paragraph) shall be addressed to the Minister responsible for industrial property.

It shall state:

1. The surname, forename and occupation of the requester and, where appropriate, the name of the person responsible for representing or assisting the requester;
2. The patent for which a license is requested;
3. Proof of the requester's qualification, from the technical, industrial and financial points of view, to work the patent concerned with respect to the conditions set out in the second paragraph of Article R613-28.

**Article R613-30**

A copy of the request for a license shall be notified by the Minister responsible for industrial property to the patent owner and, where appropriate, to any holders of licenses in that patent. The latter shall have a period of two months as from receipt of the notification in order to submit their observations to the above mentioned Minister.

**Article R613-31**

The order referred to in Article L613-18 (fifth paragraph) shall be notified to the patent owner, to the holders of licenses and to the person receiving the requested license. It shall be entered ex officio in the National Patent Register.

**Article R613-32**

Proceedings for laying down the royalties referred to in Article L613-18 shall be heard by the Court of Paris. In such proceedings, the summons shall be at a fixed date.

**Article R613-33**

Amendments to the licensing clauses requested either by the patent owner or by the holder of the license shall be decided and published under the procedure laid down for the granting of such license. If

they concern the amount of the royalties, they shall be decided under the procedure laid down for the initial determination of such amount.

The procedure for granting the license to work shall also apply to the withdrawal of the license requested by the patent owner for failure to satisfy the obligations imposed on the holder of the license.



**SUBSECTION V Ex officio Licenses and Expropriation for the Requirements of Defense**

**Article R613-34**

The application addressed by the Minister of defense to the Minister responsible for industrial property with a view to obtaining under Article L613-19 an ex officio license for the requirements of defense shall contain all necessary details of the conditions necessary to meet those requirements and concerning, in particular:

1. The full or partial nature of the license with regard to the applications of the invention that is the subject matter of the patent application or of the patent;
2. The duration of the license;
3. The respective rights and obligations of the State and of the owner of the patent application or the patent as concerns improvements or modifications made by any party to the invention.

**Article R613-35**

The order of the Minister responsible for industrial property that grants a license shall lay down the conditions, taking into account the elements of the request as set out above. It shall be immediately notified by the Minister responsible for industrial property to the Minister of defense and to the owner of the patent application or of the patent. It shall be entered ex officio in the National Patent Register. In the case of a patent application, the entry shall be made only after that application has been made public.

**Article R613-36**

Following the notifications referred to in the foregoing Article, the owner of the patent application or of the patent shall communicate to the Minister of defense, by registered mail with notification of receipt, his claims as to remuneration for the license granted to the State.

The court may not be applied to for fixing the amount of the remuneration, under Article L613-19 (fourth paragraph), before four months have elapsed as from the date of receipt of the registered letter referred to above.

**Article R613-37**

If the ex officio license concerns the working of an invention

covered by a patent application whose disclosure and free working are prohibited under Articles L612-9 or Article L612-10 (first and second paragraphs), the jurisdiction petitioned for the fixing of the remuneration for the ex officio license shall take its decisions, both on substance and provisional, by decision that shall not contain any analysis of the invention of a nature liable to lead to its disclosure.

Such decisions shall be taken in court chambers. The public prosecutor, the parties or their representatives alone may obtain a copy thereof.

Where the ex officio license concerns the working of an invention covered by a patent or by a patent application other than that referred to in the first paragraph of this Article, and if the applications of such invention that have already been implemented or envisaged are of a secret nature, the decisions of the petitioned jurisdiction shall not contain any reference liable to disclose such applications and shall be subject to the provisions of the second paragraph above.

If an expert opinion is ordered in the cases referred to in the first and third paragraphs of this Article, it may only be carried out by persons approved by the Minister of defense and, if necessary, in the presence of his representatives.

#### **Article R613-38**

The provisions of Article R613-37 shall apply, independently of any action to affix the remuneration for ex officio license, with respect to any proceedings concerning a dispute deriving from the execution of the order affording such license.

#### **Article R613-39**

The decree ordering, subject to the conditions under Article L613-20, the expropriation of an invention that is the subject matter of a patent application or of a patent shall be notified by the Minister responsible for industrial property to the owner of the patent application or the patent.

#### **Article R613-40**

Following the notification referred to in the preceding Article, the fixing of the expropriation compensation shall be carried out in the same manner as for the remuneration for the ex officio license under Articles R613-36 and R613-37.

**Article R613-41**

If civil proceedings as referred to in Article L615-10 are instituted on the basis of a patent application subject to the prohibitions referred to in Articles L612-9 or L612-10 (first and second paragraphs) or if it refers to research or manufacture as referred to in the second and third paragraphs of that Article L615-10, the resultant court decisions shall be subject to the provisions of Article R613-37.

**Article R613-42**

Where an appeal is lodged against a decision or an order issued in application of Article L612-10 (first and second paragraph) or against an order or a decree under Article L613-19 or Article L613-20 in cases where such order or decree relates to an invention whose disclosure and free working are prohibited, the administrative court shall take a decision, both of substance and provisional, that shall not contain any analysis of the invention liable to lead to disclosure.

The hearings shall take place and the decisions shall be given in a non-public session. The decision that is taken may be communicated to the parties or their representatives alone.

If an expert opinion is ordered, it may only be carried out by persons approved by the Minister of defense and, where necessary, in the presence of his representatives.

## **SUBSECTION VI Miscellaneous Provisions**

### **Article R613-43**

Notifications and communications to the owner of the patent or patent application referred to in the provisions of articles R613-10 to R613-42 shall be sent validly to the address stated in the patent application or to the last address that the patent owner notifies to the administration, or to that of their representative having their domicile, registered office or an establishment in a member state of EU or in a state that is party to the agreement on the European Economic Area. Such representative shall be the representative designated by the patent applicant at the time of filing the application, unless the administration has been notified that another representative has been appointed.

All notifications and communications sent to the owner of the patent or the patent application, to their successors in title or to persons applying for or holding ex officio licenses under the provisions of articles R613-10 to R613-42 shall necessarily be made by registered post with acknowledgement of receipt.

### **Article R613-43-1**

The provisions of Articles R613-4 to R613-43 and R613-51 shall apply to certificates of addition.

## **SECTION II Transfer and Loss of Rights**

### **SUBSECTION I Opposition**

#### **Article R613-44**

The opposition referred to in Article L613-23 shall be filed within nine months from the publication in the Official Bulletin of Industrial Property of the mention concerning the issue of the contested patent.

It may be filed by a natural or legal person, acting in person or by means of a representative meeting the requirements of Article R612-2.

Natural or legal persons not having their place of residence or their place of business in a Member State of the EU or in a State that is party to the Agreement on the European Economic Area shall be required to appoint a representative.

If the opposition is filed jointly by several persons, a common representative meeting the same requirements shall be appointed.

If, during the opposition proceedings, the patent proprietor submits observations or proposals to modify the patent, the representation conditions referred to in Article R612-2 shall apply.

#### **Article R613-44-1**

The opposition application shall be submitted in writing in accordance with the conditions and terms stipulated by decision of the Director General of the National Institute of Industrial Property.

It shall contain:

1. the identity of the objector;
2. the references of the patent against which the opposition is filed;
3. a declaration stating the scope of the opposition, its grounds and the facts claimed and the documents submitted in support of these grounds;
4. the proof of payment of the fee due;
5. as applicable, the appointment of the representative, and, unless the latter is an industrial property attorney or a lawyer, his power of attorney.

The documents and information mentioned in items 1 to 5 shall be submitted within the time limit referred to in Article R613-44. The grounds and the scope of the opposition may not be extended after

the expiry of this time limit.

The opposition shall be registered in the National Patent Register.

**Article R613-44-2**

Any opposition filed by the proprietor of the contested patent shall be declared inadmissible.

Any opposition that does not comply with Article R613-44 or R613-44-1 shall also be inadmissible.

If an opposition relies on several grounds, it shall only be admissible if the declaration accompanying it meets, for at least one of these grounds, the provisions of item 3 of Article R613-44-1. It shall be deemed ungrounded as regards the grounds that do not meet this requirement.

In case of ex officio inadmissibility, the Director General of the National Institute of Industrial Property shall notify the objector of the irregularities. The latter shall be granted a time limit to challenge this inadmissibility or, in the case of the representative's power of attorney referred to in item 5 of Article R613-44-1, to correct his application. In the absence of grounded observations or correction, the opposition shall be declared inadmissible.

The inadmissibility decision shall be registered in the National Patent Register.

**Article R613-44-3**

If several opposition applications relate to the same patent, the Director General of the National Institute of Industrial Property shall order that they be joined, subject to their admissibility. The parties shall be notified of such joining.

**Article R613-44-4**

The National Institute of Industrial Property shall ensure compliance and shall comply itself with the adversarial principle.

It may not ground its decision on pleas, explanations and documents invoked or submitted by the parties without having enabled the parties to discuss these in adversarial proceedings. Any observation or document submitted to the Institute by one of the parties shall be notified without delay to the other parties.

The parties shall be required to state expressly their requests and the pleas of fact and law underlying each of their claims. Any exchange between the Institute and the parties shall take place

under the terms established by decision of the Director General of the National Institute of Industrial Property.

**Article R613-44-5**

An agent of the National Institute of Industrial Property who has examined a patent application may not examine the opposition filed against this patent. However, this agent may be heard in the opposition proceedings.

**Article R613-44-6**

Subject to the inadmissibility raised ex officio by the National Institute of Industrial Property and to the cases of proceedings suspension or closure referred to in Articles R613-44-10 and R613-44-12, respectively, the examination of the opposition shall follow these four phases:

1. A phase consisting in the gathering information and the opinion of the patent proprietor.

The Director General of the Institute shall notify the patent proprietor of the opposition without delay. The latter shall be granted a time limit to submit to the Institute observations in response or to propose to modify the patent and, as applicable, to appoint a representative pursuant to the fifth paragraph of Article R613-44;

2. A phase consisting of the preparation of the examination conclusions by the Institute.

Within three months at the latest from the expiry of the time limit mentioned in item 1, the Director General of the Institute shall notify the examination conclusions drawn up on the basis of the elements provided by the parties. The parties shall be granted a time limit to submit their observations or, in the case of the patent proprietor, to propose to modify the contested patent. This notification shall be accompanied, as applicable, by observations or proposals to modify the patent, presented by the patent proprietor pursuant to item 1;

3. A written phase.

Upon expiry of the time limit referred to in item 2, if at least one of the parties has submitted observations or if the patent proprietor has presented proposals to modify the patent in response to the examination conclusions, the parties shall be notified thereof. The parties shall be granted a time limit to submit their observations in response, or, in the case of the proprietor, to

propose new modifications of the patent. If at least one of the parties submits a response, the parties shall be notified thereof at the expiry of this time limit.

4. An oral phase.

As part of the submission of its written observations, each party may request to present oral observations. The Director General of the Institute may also invite, without prior request, the parties to present oral observations if he deems it necessary for the purposes of the examination. In this case, the parties shall be brought together at the end of the written phase of the examination in order to present their oral observations under the terms set out by decision of the Director General of the Institute.

**Article R613-44-7**

The Director General of the National Institute of Industrial Property shall rule on the opposition taking into account all the written and oral observations presented by the parties, as well as the last proposals to modify the patent presented by the patent proprietor. The Director General of the Institute may rely in his decision on the facts invoked or the documents submitted after the expiry of the time limits referred to in Articles R613-44, R613-44-1 and R613-44-6, provided that the parties have been enabled to discuss these in adversarial proceedings.

The parties shall be notified of the decision ruling on the opposition. The decision shall be registered in the National Patent Register.

**Article R613-44-8**

The time limit referred to in the last paragraph of Article L613-23-2 shall be four months.

The end date of the examination phase described in the same paragraph shall be notified to the parties without delay by the Director General of the National Institute of Industrial Property. This date shall occur if neither party has submitted observations until the expiry of the time limits referred to in items 2 or 3 of Article R613-44-6 and, at the latest, on the day of presentation of oral observations.

**Article R613-44-9**

The National Institute of Industrial Property shall publish new specifications of the patent if the decision ruling on the



opposition that may no longer be appealed maintains the patent in a modified form.

**Article R613-44-10**

The examination phase or the time limit set forth in the first paragraph of Article R613-44-8 shall be suspended:

1. upon the written request of any person proving that an action claiming ownership of the patent has been filed or that, at the date when the opposition application has been filed in accordance with Article R613-44-1, an application for declaration of invalidity of the same patent had been filed;

2. at the initiative of the National Institute of Industrial Property while awaiting information or elements likely to affect the resolution of the opposition or the situation of the parties.

The examination phase may also be suspended upon the joint request of all parties, for a period of four months that may be extended twice.

The parties shall be notified of the suspension decision.

**Article R613-44-11**

If the opposition proceedings are suspended pursuant to item 1 of Article R613-44-10, they shall be resumed upon request of one of parties by sending to the National Institute of Industrial Property the decision ruling on the action claiming ownership or the invalidity having acquired the status of res judicata.

If the opposition proceedings are suspended pursuant to the fourth paragraph of Article R613-44-10, they shall be resumed upon request of one of the parties or as applicable, upon expiry of the time limit stipulated in the same paragraph.

Upon resumption of the opposition proceedings, if the scope of the patent has been modified, the objector shall be invited to present, within a time limit granted by the Institute, a new declaration pursuant to item 3 of Article R613-44-1.

The Institute shall notify the parties without delay of the resumption of proceedings, indicating the resumption date.

**Article R613-44-12**

The opposition proceedings shall be closed:

1. if all the objectors have withdrawn their opposition;
2. if the patent has been declared invalid by a court order having acquired the status of res judicata;

3. if the patent proprietor surrenders the claims that are the subject matter of the opposition;
4. if the effects of the patent against which the opposition has been filed have ceased, unless the objector justifies a legitimate interest in obtaining an opposition decision.

The National Institute of Industrial Property shall notify the parties of the closure decision without delay.

The closure of the opposition proceedings shall be registered in the National Patent Register.

## **SUBSECTION II Waiver or limitation**

### **Article R613-45**

The request to withdraw or limit a patent shall be made in writing. Subject to its admissibility, it may be submitted by the patent proprietor at any time, even if the effects of the patent have ceased.

To be admissible, the request must:

1. be made by the proprietor of the patent, registered at the date of the request in the National Patent Register or his representative who, unless he is an industrial property attorney or a lawyer, must attach to the request a special power of attorney for withdrawal or limitation.

If the patent belongs to several persons, the withdrawal or limitation can only be carried out if requested by all of them;

2. be accompanied by proof of payment of the prescribed fee;
3. only cover a single patent;
4. be accompanied, if the rights in rem, pledge or license rights have been entered on the National Patent Register, by the consent of the holders of these rights;
5. be accompanied, when limitation is requested, by the full text of the amended claims and, where applicable, the description and designs as amended;
6. as applicable, be presented, when limitation is requested, after the publication of the new patent specifications certifying compliance with the partial revocation or partial invalidation decision pursuant to Article R612-73.

When limitation is requested, if the amended claims do not constitute a limitation with respect to the prior claims of the patent or if they do not comply with the provisions of Article L612-6, notification is given to the applicant with explanations. The applicant shall be given a time limit for correcting the request or submitting observations. In the absence of a correction or of observations making it possible to lift the objection, the request will be rejected by the decision of the Director General of the National Industrial Property Institute.

Withdrawals and limitations are recorded in the National Patent Register. A notice of registration is sent to the applicant for the withdrawal or limitation.

**Article R613-45-1**

A decision on the request for withdrawal or limitation as specified in article R613-45 shall be given within twelve months. Where applicable, this time period is interrupted by the notification stipulated in the ninth paragraph of the same article, until the objection is lifted.

**Article R613-45-2**

If an express decision is not made within the time period set forth in article R613-45-1, the application is deemed to be rejected.

**Article R613-45-3**

When the limitation proceedings are closed pursuant to the fifth paragraph of Article L613-24, the Institute shall reimburse the limitation request fee.

The patent proprietor shall be notified of the limitation proceedings closure decision.

### **SUBSECTION III Maintaining or loss of the title**

#### **Article R613-46**

The annual fee for maintaining patent applications and patents, referred to in Article L612-19, shall be due for each year of the term of the patent. The filing fee shall cover the first annual fee. The payment of annual fees shall become due on the last day of the month of the anniversary date of filing of the application. It shall not be accepted if made more than one year before the annual fee becomes due.

#### **Article R613-47**

I. The six-month period provided for by the second paragraph of Article L612-19, during which payments made after the due date shall be validated on payment of a fee for late payment, shall begin on the next day on which the annual fee becomes due.

Payments shall be deemed valid when made after the due date:

- where they concern a patent application resulting from the division of a patent application on condition that it takes place at the latest on the last day of the fourth month following the date of receipt of the documents of the divisional application;
- where it supplements an insufficient payment made prior to the due date, on condition that it takes place within the above mentioned six-month period.

II. The payment shall be made at the rate in force on the day of payment unless a reminder has already been sent stating a former rate. However, in cases of reinstatement, the payment of due fees that have not been paid on the date of entry of the decision in the National Patent Register shall be made at the rate in force on that date.

#### **Article R613-48**

Where the payment of an annual fee is not made by the normal due date, a reminder shall be addressed to the owner of the patent application or the patent advising him that he is liable to lose his rights if the payment, accompanied by payment of the fee for late payment, is not made before the expiry of the six-month period referred to in the first paragraph of Article R613-47.

The lack of a reminder shall not imply the liability of the National Institute of Industrial Property and shall not constitute grounds

for restoring the rights of the patent owner.

**Article R613-49**

The request provided for in article L613-22 to find forfeiture of the rights attached to a patent application or patent shall be submitted in writing.

A decision with explanation shall be given within six months. The applicant shall be notified of the decision.

**Article R613-49-1**

If an express decision is not made within the time period set forth in the second paragraph of article R613-49, the application is deemed to be rejected.

**Article R613-50**

The following shall be entered into the National Patent Register: The reference to the decision recording the loss of right referred to in Article L613-22.

Redress actions for reinstatement, for setting aside the decisions of the Director General of the National Institute of Industrial Property, appeals in cassation as well as the decisions delivered. The decision that reinstates the rights of the patentee will not have any effect if the fees due are not paid within a period of three months as from entry of the decision in the National Patent Register. The date of payment shall be entered into the Register.

**Article R613-51**

The time limit provided for by paragraph 2 of Article L613-21 shall be 15 days as from the date of service of the seizure referred to in the first paragraph of that Article.

## **SECTION IV Appeal for Reinstatement**

### **Article R613-52**

The petition for reinstatement provided for in articles L612-16 and L612-16-1 shall be submitted to the director general of the institute by the holder of the filing, who must be the registered holder with the National Patent Register if the filing is published, or by their representative.

The petition shall be admissible only after payment of the prescribed fee.

The petition shall be in writing. It shall state the facts and grounds on which it relies.

If the petition is non-compliant, the applicant will be notified and an explanation given. They are given a period of time to correct the petition or contest the institute's objections. If the petition is not corrected or an observation is not made that can be used to lift the objection, the petition is rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

The requester is notified of the decision with explanations.

### **Article R613-52-1**

A decision on the petition for reinstatement shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R613-52, until the petition is corrected or the objection lifted.

### **Article R613-52-2**

If an express decision is not made within the time period set forth in article R613-52-1, the petition is deemed to be accepted.

## **SECTION V National Patent Register**

### **Article R613-53**

The National Patent Register shall be kept by the National Institute of Industrial Property.

For each patent application or patent there shall be found therein:

1. The identification of the applicant, the references of the patent application or patent, and any subsequent acts affecting its existence or scope;
2. Any acts modifying the ownership of the patent application or patent or the enjoyment of the rights deriving therefrom; in the event of a claim to ownership: the corresponding summons together with the suspension and resumption of the grant procedure;
3. Changes of name, legal form or address and any corrections of clerical errors affecting entries.

No entry shall be made in the Register until the patent application has been made public as set out in Article R612-39.

### **Article R613-54**

The particulars referred under Article R613-53(1) shall be registered either at the initiative of the National Institute of Industrial Property or at the demand of the court clerk or on motion of one of the parties where it concerns a court decision.

### **Article R613-55**

The deeds that modify ownership of a patent application or a patent or the possession of the rights deriving therefrom, such as transfer, assignment of an exploitation right, the constitution or transfer of a pledge or waiver thereof, restraint, validation and release from restraint, shall be registered at the request of one of the parties to the deed or the holder of the filing on the day of such request if he is not party to the deed.

The request shall contain:

1. an application form for registration;
2. a copy or an abstract of the deed recoding the change in ownership or possession;
3. proof of payment of the prescribed fee;
4. where appropriate, the power of attorney of the representative, unless the representative has the capacity of industrial property attorney.



**Article R613-56**

By way of exception to Article R613-55(2), the following may be submitted with the application:

1. in the event of transfer mortis causa, any instrument establishing the transfer, at the request of the heirs or legatees;
2. In the event of a transfer as a result of merger, division or acquisition: the unique identification number or, for operators located outside France, a copy of a document equivalent to the extract of registration in the Trade and Companies Register up to date of the amendment;
3. subject to proof of the material impossibility of producing a copy: any document proving the change in ownership or possession.

**Article R613-57**

Changes of name, legal form, address and corrections of clerical errors shall be registered at the request of the holder of the patent application or the patent who must be the registered holder with the National Register of Patents. However, where such changes and corrections concern a deed that has already been registered, the request may be submitted by any party to the deed.

The request shall contain:

1. an application form for registration;
2. where appropriate, the power of attorney of the representative, unless he has the capacity of an industrial property attorney;
3. where it concerns the correction of a clerical error, the proof of payment of the prescribed fee.

The Institute may require evidence of the existence of the change whose registration is requested or the clerical error to be corrected.

**Article R613-58**

In the event of non-compliance of the request for entry, a reasoned notification shall be made to the requester. He shall be given a time limit for regularizing his request or for submitting observations. Failing regularization or observations enabling the objection to be lifted, the request shall be refused by decision of the director general of the National Industrial Property Institute. The notification may be accompanied by a proposal for regularization. In such case, the proposal shall be deemed accepted if the requester does not dispute it within the time limit afforded him.

**Article R613-58-1**

A decision on the application for registration as set forth in articles R613-55 and R613-57 shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R613-58, until the application is corrected or the objection lifted.

**Article R613-58-2**

If an express decision is not made within the time period set forth in article R613-58-1, the application is deemed to be accepted.

**Article R613-59**

All entries made in the National Patent Register shall be mentioned in the Official Bulletin of Industrial Property.

Any interested person may obtain from the Institute:

1. A reproduction of the entries made in the National Patent Register;
2. A certificate attesting that there exists no entry.

## **SECTION VI Establishment of the Documentary Report**

### **Article R613-60**

The documentary report referred to in Article L612-23 shall be established on the basis of the search report at the written request of the patent owner or any other interested person or of any administrative authority.

Documents not cited in the search report which the requester wishes to have taken into consideration may be annexed to the request. If they are drawn up in a foreign language, a translation may be required by the National Institute of Industrial Property.

The request shall be inadmissible if it is not accompanied by proof of payment of the prescribed fee.

### **Article R613-61**

The documentary report shall be established according to the following procedure:

I. When requested by the patent owner:

1. A draft shall be produced and notified to the patent owner. A time limit shall have afforded him to discuss the justification if necessary.
2. The report shall be established on the basis of the draft and of any observations that have been made. It shall be notified to the patent owner.

II. When not requested by the patent owner:

1. The request for the report shall be notified without delay to the patent owner. A time limit shall have afforded him to submit observations and, where appropriate, to appoint a representative satisfying the conditions laid down in Article R612-2.
2. A draft shall be established on the basis of the observations received in reply. That draft shall be notified to the patent owner and to the requester. A time limit shall have afforded them to discuss the justification where necessary.
3. The report shall be established on the basis of the draft report and of any observations that have been made. It shall be notified to the patent owner and to the requester.

The Institute shall ensure that both sides are heard. Any observation made by the patent owner or by the requester shall be notified without delay to the other party.

**Article R613-62**

The documentary report shall be included in the patent file. Its issue shall be mentioned in the Official Bulletin of Industrial Property.

## **SECTION VII Reduction of Fees and Free Assistance**

### **Article R613-63**

The fee reduction set forth in article L612-20 is automatic for natural persons.

If the applicant is a legal entity, the reduction request must, on penalty of inadmissibility, be submitted in writing to the director general of the National Industrial Property Institute within one month from the date of filing the patent application. The applicant must also, within the same time period, submit a statement attesting that they belong to the category of non-profit organizations in the teaching or research field or companies with under 1,000 employees and with no more than 25% of the capital held by another entity not meeting the same condition.

Once obtained, the reduction is definitive and applies to all fees for procedures and maintaining in force excluding annuities after the seventh year, to the search report fee concerning an application under foreign priority accompanied by a recognized search report equivalent to the national search report by decision of the director general of the National Industrial Property Institute, and to the fees for petition for reinstatement, correcting substantive errors, registration on the national register and publication of the translation or revised translation of a European patent or claims from a European patent application.

When a patent application is filed jointly, all the joint applicants must belong to the categories covered by article L612-20 in order to claim the reduction.

The amount of the fine imposed in the case of a false statement is ten times the amount of the fees due.

## **CHAPTER IV Application of International Conventions**

### **SECTION I European Patents**

#### **Article R614-1**

The patent application can be filed with the head office of the National Industrial Property Institute or be sent there by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date the application is received at the institute's head office.

#### **Article R614-4**

With the exception of Article R612-31, the provisions of Articles R612-26 to R612-32 shall apply to European patent applications filed with the National Institute of Industrial Property, taking into account the provisions of Articles L614-4 and L614-5.

#### **Article R614-5**

The European patent application is transformed into a French patent application when the National Industrial Property Institute receives the request. A national registration number shall be assigned to it. Subject to the provisions of articles L614-4 and L614-5, a notice of the transformation shall be published in the Official Industrial Property Gazette within a month from the date of receipt of the request. The notice shall contain the particulars required to identify the patent application.

Within two months from the date of publication specified in the previous point or, in the case of patent applications which cannot be made public, from the date of receipt of the transformation request, the applicant must provide proof of payment of the fees stipulated in article R614-17 and, where applicable, the translation into French of the original text of the European patent application and, where applicable, the text amended during the procedure before the European Patent Office.

The patent issue procedure is based on the original wording of the patent application or its translation or, where appropriate, the wording as amended during the procedure before the European Patent Office or its translation.

If the applicant is not domiciled or does not have its registered office in an EU Member State or in a state that has signed the European Economic Area agreement, they must, by the same deadline,

appoint a representative who meets the conditions of the first point of article R612-2 and supply the name and address of the latter to the National Industrial Property Institute.

**Article R614-6**

If any of the conditions required under the third paragraph of Article R614-5 are not satisfied within the time limit referred to in that paragraph, the patent application shall be refused by a reasoned decision of the director general of the National Industrial Property Institute and shall be notified to the applicant. Any fees paid shall be refunded.

**Article R614-7**

The provisions of Articles R614-5 and Article R614-6 shall apply to applications for utility certificates.

**Article R614-11**

A translation of the claims of the European patent application referred to in article L614-9 shall be provided by the applicant. Its text shall be submitted to the National Industrial Property Institute by the applicant, accompanied by a request for publication and proof of payment of the required fee.

The request for publication shall be declared inadmissible if it is not accompanied by proof of payment of the fee.

Notice of submission of the translation of the claims is published in the Official Industrial Property Gazette within a month from the date on which it was provided. This notice shall contain the particulars required to identify the patent application.

As from the date of publication of the mention referred to in the preceding paragraph, any person may inspect the text of the translation free of charge at the National Industrial Property Institute and obtain a reproduction of it at their own cost.

**Article R614-12**

The provisions of article R614-11 shall apply to submission of the revised translation of the claims as set forth in the second point of article L614-10.

**Article R614-13**

The following shall be entered ex officio in the National Patent Register:

1. The definitive decision specified in article R614-6;
2. Submission of the translation and of the revised translation of the claims of the patent application or the European patent application referred to in articles R614-11 and R614-12.

#### **Article R614-14**

Final court decisions pursuant to Articles L614-12 and L615-17 shall be entered in the National Patent Register, without cost, at the request of the court registrar or of one of the parties to the proceedings.

#### **Article R614-15**

The annual fees referred to in Article L612-19 for a patent application deriving from the conversion of a European patent application effected in accordance with Articles R614-5 to R614-7 shall be due only for the years that follow the year during which the European patent application is deemed to have been converted. The annual fee to be paid shall be calculated as from the filing date of the European patent application.

#### **Article R614-16**

The annual fees referred to in Article L612-19 that are due for the European patent application shall be paid as prescribed by Article 141 of the European Patent Convention; these fees shall be calculated as from the filing date of the European Patent application.

Where payment of an annual fee has not been made on expiry of the time limit referred to in Article 141(2) of the European Patent Convention, that fee may be validly paid within an additional six-month period on payment of a late fee within the same time limit.

#### **Article R614-17**

The filing fee and, where appropriate, the fee for establishing the search report, referred to in Article R612-5, shall constitute the required fees referred to in the third paragraph of Article R614-5. In the case referred to in the third paragraph of Article L614-6, the fee referred to in Article R612-5(2) shall not be required.

#### **Article R614-18**

The publication of each translation and revised translation referred to in Articles R614-11 and R614-12 shall be subject to the payment



of a fee that shall become due on submission of the translation.

**Article R614-19**

Fees shall be levied for the making and transmission of copies of the European patent application as referred to in Article 136(2) of the European Patent Convention.

**Article R614-20**

The provisions of Articles R411-19 to R411-26 and R618-1 to R618-3 shall apply to decisions, notifications and time limits referred to in Articles R614-1 to R614-19.

## **SECTION II International Applications**

### **Article R614-21**

The international patent application can be filed with the head office of the National Industrial Property Institute or be sent there by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date the application is received at the institute's head office.

The application can be filed by the applicant personally or through a representative. The provisions of article R612-2 shall apply. Subject to the obligation set forth in article L614-18, the international application can also be filed with the European Patent Office, acting as receiving office.

### **Article R614-23**

The international application shall be made in French.

If it is not filed in electronic form, the application as well as each document referred to in the slip provided for under rule 3, paragraph 3, letter (a) of (ii) of the Regulation under the Patent Cooperation Treaty, shall be filed in three copies. However, the application referred to under rule 3 mentioned above, paragraph 1, and the documents showing the taxes due shall be filed in only one copy.

If the provisions of the preceding paragraph are not fulfilled, the missing copies shall be prepared by the National Institute of Industrial Property.

### **Article R614-24**

A confirmation indicating at least the number assigned to the international application, the nature and number of documents in the application and acknowledgement of receipt is issued to the applicant.

### **Article R614-25**

With the exception of Article R612-31, the provisions under Articles R612-26 to R612-32 shall apply, taking into account the provisions of Articles L614-20 to L614-22, to international applications filed with the National Institute of Industrial Property.

**Article R614-26**

The filing of an international application shall give rise to payment of the transmittal fee referred to in Rule 14 of the Regulations under the Patent Cooperation Treaty. That fee shall be paid prior to expiry of a one-month period as from the date of receipt of the international application.

**Article R614-27**

The international filing fee and the search fee stipulated by rules 15 and 16 of the enforcement regulations of the cooperation treaty concerning patents must be paid before expiry of a period of one month from the date of receipt of the international application. The international fee and the search fee shall be paid in euros.

**Article R614-29**

Where payment of the transmittal fee, the search fee and the international filing fee is not made within the time limits laid down in Articles R614-26 to R614-27, the applicant shall be invited to pay within one month the amount of those fees increased by the late payment fee referred to in Rule 16 bis(1) (a) and (b) of the Regulations under the Patent Cooperation Treaty. The late payment fee shall be paid in Euros.

**Article R614-31**

If the international application and the other documents referred to in Article R614-23 are filed in a number of copies that is less than that laid down in the aforementioned Articles, a fee shall be levied to cover the making of the required number of copies. It shall have been paid prior to expiry of one month as from the date of notification made to that end.

**Article R614-32**

The transmittal fee referred to in Article R614-26 shall be refunded to the applicant if the international application is not transmitted to the International Bureau within the time limit laid down by Rule 22.3 of the Regulations under the Patent Cooperation Treaty.

**Article R614-33**

The payment of the fees referred to in Articles R614-26 to R614-32 shall constitute discharge if made at the rate in force on the day of payment.

**Article R614-34**

The provisions of Articles R411-19 to R411-26 and R618-3 shall apply to the disputes referred to in Article L411-4.

**Article R614-35**

The conditions for implementing Articles R614-21 to R614-24 shall be laid down, as and when necessary, by an order of the Minister responsible for industrial property.

## **CHAPTER IV bis Withholding**

### **Article R614-36**

Subject to the provisions set forth in article R614-37, chapter V bis, title III, book III applies to the customs administration withholding merchandise that could infringe invention patents, as stipulated in chapter IV bis, title I, book VI.

### **Article R614-37**

When the customs administration decides to take a sample, two copies shall be taken by the customs agents. One is given to the owner of the merchandise or its holder or the representative of either of them or the other is kept by the customs administration.

The owner of the patent or of the supplementary protection certificate, or the person authorized to exploit the patented invention or the subject of the supplementary protection certificate will not attend the sample-taking and no sample will be provided to them.

When two samples of merchandise or an item cannot be taken due to weight, dimensions, value, nature or too low quantity of product, the merchandise or item is taken in its entirety and constitutes a single sample, which is kept by the customs administration.

## **CHAPTER V Legal Proceedings**

### **SECTION I Provisional and protective measures**

#### **Article R615-1**

The time period laid down in the last point of article L615-3 and given to the applicant to appeal on the merits in civil or criminal proceedings, or to file a claim with the prosecutor of the Republic, is twenty working days or thirty-one calendar days if this period is longer, from the date of the order.

## **SECTION II Investigative Measures**

### **Article R615-2**

The descriptive or real seizure set forth in article L615-5 is ordered by the presiding judge of one of the courts specified in article D631-2, in the jurisdiction in which the operations are to be carried out.

The order shall be delivered on request and on presentation either of the patent, the supplementary protection certificate, the utility certificate or the certificate of addition, or, in the circumstance provided for under the first paragraph of article L615-4, a certified copy of the application for a supplementary protection certificate, certificate of addition or utility certificate. In this case, the applicant must also demonstrate that the conditions set forth in this article are met.

If the request is submitted by the concession holder of an exclusive exploitation right or by the holder of a license granted pursuant to articles L613-11, L613-15, L613-17, L613-17-1 and L613-19, the applicant must demonstrate that the conditions prescribed, as applicable, by the second or fourth point of article L615-2 are met. The presiding judge can authorize the bailiff to make any useful finding in order to establish the origin, substance and scope of the infringement.

In order to ensure that business secrecy is protected, the presiding judge can automatically order that the documents seized be placed in provisional escrow in the conditions set forth in article R153-1 of the Commercial Code.

### **Article R615-2-1**

When the judge has made the seizure subject to the applicant constituting guarantees, they must be constituted before the seizure is carried out.

On penalty of nullity and damages against the bailiff, before carrying out the seizure the latter must give to the holders of the items seized or described in the order a copy of the order and, where applicable, of the instrument recording the constitution of guarantees. The same holders must be given a copy of the seizure report.

### **Article R615-3**

The time period laid down in the last point of article L615-5 and

given to the applicant to appeal on the merits is twenty working days or thirty-one calendar days if this period is longer, from the date of the seizure or description.

**Article R615-4**

In view of the seizure report, the presiding judge of the court can order any measure to complement the evidence of the alleged acts of infringement.

**Article R615-5**

Where, in a civil litigation as regards invention patents, a technical expert appraisal appears necessary, the presiding judge of the court hearing the case may consult, as chosen by the expert, one of the organizations appointed by a joint decree of the Keeper of the Seals and the Ministers in question.

If this consultation has taken place, reference shall be made to it in the order or the judgement.



### **SECTION III Joint Conciliation Board**

#### **Article R615-6**

The Chairman of the Joint Conciliation Board referred to in Article L615-21 shall be appointed for a renewable period of three years by an order of the Keeper of the Seals, Minister for Justice, and of the Minister responsible for industrial property. An honorary magistrate may be appointed.

One or more alternates may be appointed in the same manner. They shall replace the Chairman in the event of absence or impediment.

#### **Article R615-7**

The Chairman shall be assisted by two assessors that he shall designate for each case from a list of persons competent in the matters to be heard by the Board.

The list shall be drawn up and periodically updated by the director general of the National Industrial Property Institute on the proposal of the nationally representative professional and union organizations.

One of the assessors shall be chosen from among the persons proposed by the employees' organizations and the other from amongst the persons proposed by the employers' organizations.

If an invention concerns defense or results from a study or manufacturing contract comprising a defense secrecy classification, the assessors shall possess a secrecy clearance issued by the Minister of defense. The same shall apply to the experts appointed or technicians that are consulted.

#### **Article R615-8**

The secretariat of the Board shall be provided by the National Institute of Industrial Property.

#### **Article R615-9**

The Board shall meet at the National Institute of Industrial Property or, on a decision of the Chairman, in one of its provincial centers where circumstances require.

#### **Article R615-10**

The members of the Board shall be allocated a lump sum compensation for the cases that they hear.

The compensation shall comprise the reimbursement of miscellaneous

costs for secretarial work, correspondence or travel outside their place of residence, required for the accomplishment of their task. The rate and conditions for affording the lump sum compensation shall be laid down by a joint order of the Ministers responsible for finance and for industrial property.

**Article R615-11**

Expenditure incurred during travel that the members of the Board may be required to effect outside their place of residence in order to accomplish their tasks shall be refunded to them in accordance with the conditions applicable to group I officials.

**Article R615-12**

The Board shall be petitioned by means of a request filed with the secretariat either by the requester or by a representative holding powers. The request may also be addressed by registered mail with notification of receipt.

**Article R615-13**

The request shall be signed by the requester or his representative. It shall state:

1. The surname, forenames, profession and address of the requester and of the other parties;
2. The subject of the dispute;
3. The requester's grounds and conclusions;
4. All elements in his possession that may be of use in resolving the dispute.

There shall be annexed thereto a copy of the declaration and communications made pursuant to Articles R611-1 to R611-10 together with various documents which the requester wishes to submit.

**Article R615-14**

If the request does not comply with the provisions of the preceding Article, the secretariat shall invite the requester to complete it within one month.

There shall be faculty, prior to expiry of that time limit, to submit the compliance of the request to the judgment of the Chairman. If the Chairman confirms the invitation made by the secretariat, he shall afford the concerned party a new time limit for complying therewith.

The time limits set out in the preceding paragraphs shall be

extended, on a decision by the Chairman, if the requester is able to give good reason.

The date of submission to the Board shall be that on which the request has been completed in accordance with the provisions of this Article.

**Article R615-15**

Submission of the case to the Board shall be notified to the other party by the secretariat.

Such party shall be invited at the same time to communicate, within a time limit afforded by the Chairman, his written observations on the justification of the request.

The Minister for Defense shall be entitled to have cognizance at the secretariat of the Board of all oppositions submitted to the Board.

**Article R615-16**

Within the time limit set by the Chairman, the National Institute of Industrial Property shall communicate to the Board all the elements in its possession that may be disclosed without prejudice to third party rights or to the interests of defense.

A copy of such communication shall be immediately addressed to the parties by the secretariat.

**Article R615-17**

Once the assessors have been designated, the secretariat shall notify the composition of the Board to the parties and shall convene them for a preliminary meeting.

Each party may request the changing of assessors for a serious and legitimate reason to be evaluated by the Chairman.

Such request shall be submitted within 15 days of the notification or on the opening of the preliminary meeting if the latter takes place before expiry of that time limit.

**Article R615-18**

Proceedings before the Board shall be in the presence of the parties.

**Article R615-19**

On the appointed day, the Board shall hear the parties, shall endeavor to harmonize their points of view and reach a conciliation. If one of the parties does not appear, the Board shall note its

absence and shall hear the other party.

A record shall be drawn up.

In the event of full or part conciliation, the record shall mention the contents of the agreement. Failing full conciliation, the contested points shall be recorded.

**Article R615-20**

If one of the parties does not appear or failing full conciliation, the Board shall formulate the conciliation proposal referred to in Article L615-21.

**Article R615-21**

The Chairman may take any examining measure. He may ascertain at any time the conciliation of the parties or bring about to that end a new meeting.

**Article R615-22**

Save authorization by the Chairman, only the members of the Board and of the National Institute of Industrial Property, together with the parties and persons assisting or representing them, shall be present at conciliation meetings.

**Article R615-23**

In the event of a request from the party who has not petitioned the Board or of the joining of more than one request relating to the same invention, the six-month period during which the conciliation proposal is formulated shall begin on the date on which the latest submission was made to the Board.

**Article R615-24**

If the invention concerns defense, the conciliation proposal shall not contain any analysis of the invention liable to lead to its disclosure.

**Article R615-25**

The conciliation proposal shall be signed by the Chairman and by the secretary.

The latter shall notify it to the parties.

**Article R615-26**

Proceedings before the Board shall suspend all terms of

prescription.

**Article R615-27**

On evidence of proceedings before the Board, the court shall suspend its decision until the six-month period referred to in Article L615-21 has elapsed unless the Board has already formulated its conciliation proposal.

**Article R615-28**

Failing agreement between the parties, the Board's proposal alone shall be submitted to the court.

**Article R615-29**

An agreement between the parties resulting from the conciliation proposal in the case referred to in Article L615-21 shall be rendered enforceable by a decision of the president of the court within the competence of which the conciliation proposal has been formulated.

**Article R615-30**

Subject to the measures referred to in Article R615-31, the provisions of Articles R615-6 to R615-29 relating to the Joint Conciliation Board shall apply to disputes deriving from the application, under the conditions set out in Articles R611-11 to R611-14-1 or Article L611-7.

**Article R615-31**

With regard to disputes concerning the officials or servants referred to in Articles R611-11, a special list shall be drawn up from which shall be chosen for each case the two assessors of the Chairman of the Joint Conciliation Board.

Subject to the provisions of the final paragraph of this Article, that list shall contain the persons entered on a proposal, on the one hand, of the Ministers and, on the other, of the organizations representing the staff.

The list of such organizations shall be laid down by order of the Prime Minister on a proposal by the various Ministers.

One of the assessors shall be chosen from persons proposed by the above mentioned organizations, the other among the persons proposed by the Ministers.

Where the invention has been made by a servant subject to the

general status of military persons, the assessor representing the servant shall be designated by the Chairman of the Conciliation Board from a list of five members of the military corps of general inspection of the armies drawn up by the Head of the General Inspectorate of the Armies and periodically updated.

## **CHAPTER VI Utility Certificates**

### **Article R616-1**

From the date of publication set forth in article R612-39 of the application for the utility certificate specified in article L611-2, and until payment of the fee for issue and printing of the specifications of this certificate, any person can send to the National Industrial Property Institute observations as to whether the invention can be patented, in the forms laid down concerning patent applications in article R612-63, point 2.

The applicant shall be notified immediately of the content of these observations and they will have a period of three months to respond.

### **Article R616-2**

The search report that is required in any proceedings for infringement instituted with respect to a utility certificate application or a utility certificate shall be drawn up at the written request of the applicant.

The request shall be admissible only if accompanied by proof of payment of the prescribed fee.

### **Article R616-3**

The provisions of Chapters I, II, III, V, VI and VIII of this Title shall apply to utility certificate applications and to utility certificates, with the exception of Articles R612-56-1 to R612-69, of the third paragraph of Article R612-71 and R613-60 to R613-62.

## **CHAPTER VII Supplementary Protection Certificates**

### **Article R617-1**

The filing fee for a supplementary protection certificate shall not cover the first annual fee. The payment of annual fees shall become due on the last day of the month of the anniversary date of the filing of the application for the basic patent. Overall payment of all annual fees may be accepted if made within the year preceding the entry into effect of the certificate.

### **Article R617-2**

Articles R611-18 to R611-20, R612-1, R612-2, R612-5(1), R612-6, R612-7, R612-36, R612-38, R612-52, R612-71 (first and second paragraphs), R612-72, R613-45 to R613-59 and R618-1 to R618-3 shall apply to applications for supplementary protection certificates and to supplementary protection certificates.

### **Article R617-2-1**

A decision on the application for a supplementary protection certificate shall be given within twelve months from filing. This time period is interrupted if notification is given of an irregularity by the National Industrial Property Institute, until the application is corrected in accordance with the regulations (EC) no. 1610/96 of the European Parliament and Council of 23 July 1996 concerning creation of the supplementary protection certificate for plant protection products and (EC) no. 469/2009 of the European Parliament and Council of 6 May 2009 concerning the supplementary protection certificate for medications.

The provisions of the first paragraph apply to extension applications submitted in accordance with the provisions of article 36 of the regulation (EC) no. 1901/2006 of 12 December 2006 concerning medications for pediatric use, amending the regulation (EEC) no. 1768/92, the directives 2001/20/CE and 2011/83/CE and the regulation (EC) no. 726/2004.

### **Article R617-2-2**

If an express decision is not made within the time period set forth in article R617-2-1, the application is deemed to be rejected.



## **CHAPTER VIII Common Provisions**

### **SECTION Procedure**

#### **Article R618-1**

Any notification shall be deemed regular if it is made:

Either to the last owner of the patent application declared to the National Institute of Industrial Property or, after the publication provided for under Article R612-39, to the last owner of the patent application or of the patent registered with the National Register of Patents;

Or to the representative.

If the holder is not domiciled in a Member State of EU or in a State party to the Agreement on the European Economic Area, the notification will be deemed regular if it is made to the last representative that he has appointed before the National Institute of Industrial Property.

#### **Article R618-2**

The notifications provided for in Article L613-22 and in Articles R612-3-2, R612-8, R612-9, R612-11, R612-46 to R612-49, R612-56, R612-73, R613-44 to R613-45, R613-45-3, R613-52 and R613-58 shall be made by registered letter with advice of delivery.

The registered mail may be replaced by delivery by hand of addressee against receipt, in the premises of the National Institute of Industrial Property, or by a message in electronic form under the terms laid down by the Director General of the National Institute of Industrial Property to guarantee, in particular, the safety of mailing.

If the address of the recipient is unknown, the notification will be made by publication of a notice in the Official Bulletin of Industrial Property.

#### **Article R618-3**

When a time period is expressed in days, the day of the action, event, decision or notification on which it starts does not count. When a time period is expressed in months or years, it ends on the same day of the month and year as the day of the action, event, decision or notification on which it starts. If the same day of the month does not exist, the period ends on the last day of the month. Where a time period is expressed in months and days, the months will

be deducted first, then the days.

All time periods end on the last day at midnight.

When a time period should end on a Saturday, Sunday or public or national holiday, it is extended until the next working day.

**Article R618-4**

The time limits afforded by the National Institute of Industrial Property under this Title shall be neither less than two months nor more than four months.

**Article R618-5**

The implementing provisions for Articles R612-1 to R612-25 and R613-53 to R613-59 shall be laid down by an order of the Minister of the national institute of industrial property.

**Article R618-6**

Any correspondence or documents concerning a procedure before the National Industrial Property Institute as stipulated in this book shall be filed at the head office of the institute or sent by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date of receipt at the Institute's head office.

The director general of the National Industrial Property Institute can require electronic filing when this method could facilitate examination and publication of these documents.

The Institute provides assistance to applicants by any appropriate means, specified by decision of the director general.

## **TITLE II Protection of Technical Knowledge**

### **CHAPTER II Semiconductor Products**

#### **Article R622-1**

The topographies of semi-conductor products shall be filed with the National Industrial Property Institute or be sent to it by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date of receipt at the institute's head office.

The director general of the National Industrial Property Institute can require electronic filing when this method could facilitate examination and publication of the topographies of semi-conductor products.

The Institute provides assistance to applicants by any appropriate means, specified by decision of the director general.

#### **Article R622-2**

A deposit may concern one topography only.

It shall contain:

1. A declaration of deposit containing information adequate to identify the depositor, the topography and the date and place of first exploitation or, failing that, the date on which it was fixed or encoded for the first time;
2. A graphical representation of the topography, inserted in an envelope, in which those parts that the depositor does not wish to have communicated to third parties have been masked; the representation may be accompanied by a data medium and specimens of a product incorporating the topography;
3. Proof of payment of the fee.

The form of the deposit declaration and the physical specifications to be met by the representation of the topography and the envelope in which it is inserted shall be laid down by decision of the director general of the National Industrial Property Institute.

#### **Article R622-3**

The date of deposit to be accorded to the depositor shall be the date on which the elements referred to in the preceding Article have been submitted. He shall also enjoy that date if the elements are irregular as to form, on condition that their regularization does not imply any change in the representation of the deposited

topography.

In the event of non-compliance of the deposit or of physical irregularity, notification shall be made to the depositor to regularize the deposit within a time limit afforded him by the director general of the National Industrial Property Institute and which may not be less than two months or more than four months. Failing regularization, the deposit shall be refused.

Once the deposit has been recognized as in compliance it shall be registered. The registration shall be notified to the depositor and mentioned in the Official Bulletin of Industrial Property.

**Article R622-3-1**

A decision on the filing of semi-conductor product topographies shall be given within six months from filing. This time period is interrupted by the notification stipulated in article R622-3 until the filing is corrected.

**Article R622-3-2**

If an express decision is not made within the time period set forth in article R622-3-1, the filing is deemed to be accepted.

**Article R622-4**

Any person may inspect the deposit files at the headquarters of the National Institute of Industrial Property. No copy of a file may be made without the authorization of the holder.

**Article R622-5**

The deposit may not be invoked against third parties if the wording of the declaration supplemented by the representation accessible to the public does not enable the protected topography to be identified.

**Article R622-6**

Articles R411-19 to R411-26, R612-1 (second paragraph), R612-2, R612-38, R613-45, R613-53 to R613-59, R615-1 to R615-4 and R618-1 to R618-3 shall apply to the conditions for accepting deposits, for transmitting or modifying the rights deriving therefrom, for issuing the notifications of the National Institute of Industrial Property and for settling disputes.

For the application of Articles R613-53 to R613-59, the national register referred to in those Articles shall comprise a section

known as the National Register of Deposits of Topographies of Semiconductor Products. The first entry referred to in Article R613-53 shall concern the contents of the deposited declaration, supplemented by the dates and references of the deposit and its registration.

**Article R622-7**

During the two months preceding expiry of the term of protection, the holder of the deposit may request a return of the elements or their conservation for an additional, renewable period of ten years. The request for conservation shall be admitted only if accompanied by payment of the prescribed fee. Failing a request for return or conservation, the elements of the deposit may be destroyed.

**Article R622-8**

The determination of reciprocity required for the application of Article L622-2 shall be given by a joint order of the Minister responsible for foreign affairs and the Minister responsible for industrial property.

**Article R622-9**

Chapter IV bis of title I of this book applies to this chapter.

## **CHAPTER III New Plant Varieties**

### **SECTION I The Issue and Renewal of New Plant Variety Certificates**

#### **SUBSECTION I Filing of Applications for New Plant Variety Certificates**

##### **Article R623-1**

The application for a new plant variety certificate shall be filed at the head office of the National Plant Variety Authority. The application can also be filed by sending it to the National Plant Variety Authority either by registered post with acknowledgement of receipt or by a message using any method of electronic transmission, according to the terms and conditions laid down by the Head of the National Plant Variety Authority to guarantee secure transmission.

##### **Article R623-2**

The application may be filed by the applicant or by a representative with their domicile, registered office or establishment in a member state of the EU.

##### **Article R623-3**

Natural persons or legal entities which do not have their domicile, registered office or establishment in a member state of the EU and which apply for new plant variety certificates pursuant to article L623-6 must, within two months from receipt of the notification sent to them for this purpose, appoint a representative with domicile, registered office or establishment in a member state of the EU. Unless stipulated to the contrary, the proxy of the representative appointed in the conditions set forth in article R623-2 and in the previous paragraph covers all actions and the receipt of all notifications stipulated in this section, except for withdrawal of the application or surrender of the certificate. The proxy is exempted from legalization.

##### **Article R623-4**

The application for a new plant variety certificate must contain in particular:

- a description of how the variety has been obtained or discovered;
- a complete description of the variety mentioning the characteristics that, according to the requester, can be used to

distinguish it from varieties already known. For varieties where commercial production requires repeated use of another variety, the characteristics of this other variety must also be described;

- the denomination proposed by the plant breeder;
- indication, where applicable, of the countries in which a protection application has been filed and the authorization for the Head of the National Plant Variety Authority to exchange with the competent authorities of any state or any intergovernmental organization, whether or not members of the International Union for the Protection of New Varieties of Plants, all information about the results of the examinations in progress or that may have been conducted on said variety.

Designs or photographs and all information that can be used to inform the National Plant Variety Authority concerning in particular official or private culture examinations conducted in France or other countries can be attached to the application.

#### **Article R623-5**

The applicant must attach to the application for a new plant variety certificate:

1. A statement asserting that:

- the variety for which protection is applied for constitutes, to their knowledge, a new breed as defined by article L623-1;
- it has not been offered for sale or marketed in France or within the European Economic Area with the agreement of the breeder or their successors in title for longer than twelve months on the application date;
- it has not been offered for sale or marketed with the agreement of the breeder on the territory of any other state for longer than six years in the case of grape vine, forest trees, fruit trees and ornamental trees, including in each case their rootstocks, or for longer than four years in the case of other genera or species;

2. Where applicable, if the application concerns a variety for which commercial production requires repeated use of a protected variety, written authorization from the holder of the new plant variety certificate to use this protected variety;

3. The undertaking to provide, at the request of the Head of the National Plant Variety Authority and by the deadlines they set, on penalty of the application being rejected, the reproduction or plant multiplication material of the variety so that said variety can be examined, including where applicable, the various hereditary

components required for reproduction of the variety;

4. Where applicable, the agent's proxy;
5. Proof that the fees due have been paid at the time of filing the application.

#### **Article R623-6**

Subject to the provisions laid down in Article R623-7 below, to register the denomination it must enable the variety to be identified and distinguished from any other variety, and should not give rise to any risk of confusion with another variety of the same or a closely related botanical species, in France or in states party to the International Convention for the Protection of New Varieties of Plants. The denomination should not be susceptible to mislead or cause confusion as to the origin, source, characteristics or value of the variety, or the identity of the breeder. It should not be contrary to public policy or morality.

Where the denomination has been filed as a trademark by the breeder or their successor or successors in title in France or in a state party to the convention mentioned above within the meaning of the law on trademarks for goods or for services arising from the provisions of Book VII of this Code in respect of identical or similar goods, or where the denomination is likely to cause confusion with another trademark used by him, the breeder shall make a written undertaking, on his own behalf and, where appropriate, on behalf of all his successors in title, with effect from the date of issue of the new plant variety certificate, to definitively waive all rights to use the said trademark in France and in the member states of the International Union for the Protection of New Varieties of Plants in which their variety may be protected by legislation enacted in accordance with the convention mentioned above.

Trademarks filed pursuant to Book VII of this Code shall be understood as including trademarks for goods or for services registered internationally and extended to France under the Madrid Agreement of 14 April 1891 concerning the international registration of trademarks for goods or for services or EU trademarks registered in accordance with Chapter IV of the Regulation (EU) no. 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the EU trademark, which enjoy protection within the territories to which the law relative to the protection of plant varieties applies. This waiver shall not affect the validity of the trademark filing



itself.

#### **Article R623-7**

Where a variety has already been the subject of an application for protection in another State of the International Union for the Protection of New Varieties of Plants and if a denomination has been accepted by that state, it shall be mandatory to use that denomination in France for designating the variety in question, unless it has been the subject of observations found to be justified under the conditions provided for in articles R623-17 to R623-26, or the Committee of the National Plant Variety Authority has found it to be unsuitable in the territories to which this law applies, or the denomination does not meet the requirements of the first paragraph of article R623-6.

#### **Article R623-8**

The application for a new plant variety certificate may include, under the conditions provided for in article L623-6, a priority claim based on a prior filing in one of the member states of the International Union for the Protection of New Varieties of Plants. Such claim shall be submitted in writing at the same time as the documents referred to in article R623-5. It shall specify the date and references of the prior filing, the denomination under which the variety was registered or, failing this, the provisional breeder's reference, the member state of the International Union for the Protection of New Varieties of Plants in which the filing was made and the name of the owner of the rights deriving from the filing. It shall be accompanied by proof of payment of the fee due.

#### **Article R623-9**

The benefit of the priority right will be granted only if:

1. Within three months from the date of filing the application, the applicant provides to the Head of the National Plant Variety Authority copies of the documents constituting the prior filing in any other member country of the International Union for the Protection of New Varieties of Plants, certified to be true copies by the office having received such filing and accompanied by a translation;
2. Within two years from the expiry of the priority period, the applicant provides the supplementary documentation and, where applicable, the multiplication or plant reproduction material

necessary for the preliminary examination.

**Article R623-10**

The documents to be submitted in accordance with articles R623-4 to R623-6 above and articles R623-15, R623-17 and R623-36 below shall be drawn up in French.

The Head of the National Plant Variety Authority may require any other document sent to it to be drawn up in French or accompanied by a translation.

**Article R623-11**

The filing date of an application for a certificate shall be secured if at least the documents specified in article R623-5 are submitted at the time of such filing, even if they are not correct in terms of form.

If the filing does not include the aforementioned documents, the application shall be declared inadmissible and returned to the applicant; any fees paid shall be refunded.

If the form is not correct, it shall be corrected within two months from the notification to the applicant, failing which the application will be rejected and returned to the applicant.

**Article R623-12**

Notwithstanding the provisions of article R623-4, a provisional reference may be given in place of a denomination to designate the variety described in the application at the time of the filing of the application. In such case, the denomination must be proposed, on penalty of inadmissibility of the application, within two months from the notification sent by the Head of the National Plant Variety Authority.

**Article R623-13**

A copy of the application for a new plant variety certificate, bearing a stamp giving the date and time of filing and a registration number, shall be handed to the applicant at the time of filing.

Where the application is sent by post or electronically, the applicant's copy of the application may be sent to them by the same means. The date and time of filing shall in that case be the date and time the envelope containing the application is received at the head office of the National Plant Variety Authority; if the fees due

at the time of filing are not paid until later, the date of filing of the application by post shall be the date of such payment and the time of filing shall be the closing time, on that day, of the head office of the National Plant Variety Authority. The application will be declared inadmissible if payment is not made within two months from receipt of the application at the head office of the National Plant Variety Authority.

**Article R623-14**

The application shall be entered in the Register of Applications for New Plant Variety Certificates provided for in article R623-38 below, in the order of filing and under the number communicated to the applicant.

This number shall appear on all notifications provided for under this section until such time as the new plant variety certificate is issued.

**Article R623-15**

Until the new plant variety certificate is issued, the applicant may request correction of substantive errors discovered in the documents submitted.

Such request shall be submitted in writing and shall contain the text of the amendments proposed by the applicant. It shall be entered in the Register of Applications for New Plant Variety Certificates and will not be admissible unless it is accompanied by proof of payment of the fee due.

## **SUBSECTION II Examination of Applications for New Plant Variety Certificates**

### **Article R623-16**

Subject to the provisions of article R623-44, any application for a new plant variety certificate filed in due form shall be announced in an official gazette to be published by the National Plant Variety Authority.

The purpose of this publication shall be, in particular, to bring the application for a new plant variety certificate to the notice of any person having an interest therein.

The publication shall specify the date of filing, the name and address of the applicant, and that of the breeder when not the applicant, the denomination proposed or, failing this, the breeder's reference, the genus or species to which the variety belongs and a summary of its characteristics.

As from the date of publication in accordance with the preceding paragraphs, any person may review the application as entered in the Register of Applications for New Plant Variety Certificates.

### **Article R623-17**

Within two months of the date of the publication in accordance with the preceding Article, any person having an interest therein may submit observations to the National Plant Variety Authority.

### **Article R623-18**

Disputes relating to the validity of the breeder's right to the variety for which a new plant variety certificate is sought shall be brought directly before the courts or, in overseas territories, before the courts of the first instance.

Such disputes shall be entered in the Register.

### **Article R623-19**

Where the variety denomination proposed by the breeder or their successor in title does not appear in the initial application, or where the breeder proposes a new denomination at the request of the Head of the National Plant Variety Authority, such denomination shall be published in the Official Gazette of the National Plant Variety Authority.

**Article R623-20**

The applicant shall be notified of observations submitted by the Head of the National Plant Variety Authority, which sets the deadline by which the applicant must reply.

**Article R623-21**

When an application is filed correctly in the conditions above the Head of the National Plant Variety Authority Observations shall investigate the application for a new plant variety certificate, and, where applicable, examine any observations relating thereto. They shall determine the terms and conditions of the investigation. Pursuant to the provisions of article L623-12, they may decide not to make a preliminary examination of the variety if French or foreign documents in their possession show that such an examination has already been conducted and the information contained in those documents appears sufficient for it to be able to make a decision. Where the Head of the National Plant Variety Authority decides to order an examination of the variety, they shall stipulate its duration and its terms and conditions. This examination shall relate to novelty, homogeneity and stability, excluding any evaluation of the variety's value for cultivation; it shall be conducted only upon proof of payment of the fee due.

**Article R623-22**

Where a proposed denomination is found by the Head of the National Plant Variety Authority to be at variance with articles R623-6 and R623-7 and with the orders issued for the implementation of this section, or is the subject of observations found to be valid by the Head of the National Plant Variety Authority, the breeder will be invited to submit another denomination within two months of the notification to this effect. The new denomination will undergo the same process of investigation and publication. If the breeder does not propose a new denomination within this period, the application for a certificate will be declared inadmissible. Fees already paid will not be refunded.

**Article R623-23**

The investigation shall be suspended at the written request of any person who provides proof that they have brought before the highest court or, in overseas territories, before their equivalent court of first instance, an action claiming title to the application for a

new plant variety certificate. However, the tests decided by the Head of the National Plant Variety Authority can be conducted. The investigation shall be resumed as soon as the court has rendered a final decision. It may also be resumed at any time, with the written consent of the person who has brought the claim. This consent is then irrevocable. During this period, the owner of the application may not withdraw it without the consent of the person who has brought the claim. Furthermore, the latter shall be called upon to take part in the investigation on the same footing as the owner of the application.

#### **Article R623-24**

When the various investigation measures decided by the Head of the National Plant Variety Authority have been carried out, a summary report on the results of the investigation shall be communicated to the owner of the application; the latter will have two months in which to submit their observations. They may, during this period, inspect the whole investigation file at the Head of the National Plant Variety Authority.

Any person who has submitted observations under the conditions laid down in this section and in such orders of the minister of agriculture as may be issued for implementation shall be informed of the conclusions of the report on their actions. On request, the Head of the National Plant Variety Authority can authorize them to inspect the file concerning this action. They may submit further observations during the same period as stated above.

### **SUBSECTION III Issue of New Plant Variety Certificates**

#### **Article R623-25**

On expiry of the period laid down in the preceding article, the Head of the National Plant Variety Authority shall take a decision on the application. They may decide either to issue the new plant variety certificate, or to reject the application, or to have an additional investigation carried out under the conditions and within the periods which it shall itself fix.

Their decision shall be explained. The applicant and, where appropriate, any persons who have submitted observations shall be notified of the decision.

#### **Article R623-26**

The new plant variety certificate is issued by the Head of the National Plant Variety Authority. It shall be drawn up in the name of the owner of the application for a new plant variety certificate. If the owner of the application is not the breeder, the latter's name will be stated on the new plant variety certificate.

In addition to the denomination of the variety and its botanical description, the certificate shall in particular specify the application filing date, the date of issue of the certificate, the various publication measures and details concerning the priorities where such are claimed.

Where, pursuant to the provisions of articles R623-4, R623-7 and R623-22 above, the variety is designated by one or more other denominations in the various member states of the International Union for the Protection of New Varieties of Plants, those other denominations shall be mentioned on the new plant variety certificate for information purposes.

#### **Article R623-27**

The certificate shall be entered in the National Register of New Plant Variety Certificates in accordance with Article R623-40 below.

#### **Article R623-28**

The issue of the new plant variety certificate shall be published in the Official Bulletin of the National Plant Variety Authority within three months from the date of notification of issue to the owner of the new plant variety certificate.

**Article R623-29**

As from the day of publication in the Official Bulletin, any person may take cognizance of the new plant variety certificate as entered in the Register of New Plant Variety Certificates, at the headquarters of the National Plant Variety Authority. Such person may obtain, at his expense, extracts from the Register. He may also take cognizance of the documents in the file relating to the application and the examination procedure, or obtain copies thereof at his expense, and generally receive all information on the variety concerned, subject to any special measures which may be decided by the National Plant Variety Authority to protect the rights of the breeder in varieties whose commercial production requires the repeated use of one or more other varieties.

**Article R623-30**

The National Plant Variety Authority shall not be obliged to retain applications for new plant variety certificates beyond a period of ten years after the expiration of the rights deriving from the corresponding certificates.



## **SUBSECTION IV Annual Fees**

### **Article R623-30-1**

The fee scale for services provided as set forth in the first paragraph of article L623-16 is set by order of the budget and agriculture ministers.

This scale determines the amount of the fees corresponding to the costs incurred by the National Plant Variety Authority for:

- investigation of the application, according to the species in question if the examination is conducted in France;
- issuing the title;
- maintaining the validity of the certificates;
- the other actions carried out to keep the registers.

It can provide for payment of an additional fee in the event of late payment.

The order of the budget and agriculture ministers also specifies the conditions in which the applicant pays the costs incurred by the National Plant Variety Authority when it entrusts examination of a variety to the competent service of another country or an intergovernmental organization that is a member of the International Union for the Protection of New Varieties of Plants.

### **Article R623-31**

The annual fee referred to in Article L623-16 shall fall due for the first time on the date of issue of the new plant variety certificate. It shall be paid within two months of the notification to the owner of the new plant variety certificate from the National Plant Variety Authority.

In subsequent years, the fee shall fall due on the last day of the same month as that in which the new plant variety certificate was issued.

As from the second year, if payment of the annual fee is not made on the due date as defined above, it may still be validly made within a further period of six months, subject to payment of a surcharge.

### **Article R623-32**

If the payment of an annual fee is not made on the normal due date, a reminder shall be sent to the owner of the new plant variety certificate, informing him that he will risk the forfeiture of his rights if such payment, together with the surcharge for late payment, is not made before expiration of the period provided for in

the third paragraph of Article R623-31 above. Failure to send a reminder or any error which such reminder might contain shall not give ground for reinstatement of the rights of the owner of the new plant certificate.

**Article R623-33**

If the annual fee, together with the surcharge for late payment, where appropriate, is not paid within the periods specified above, the Head of the National Plant Variety Authority shall declare the breeder's rights to be forfeited.

Such forfeiture shall be entered in the National Register of New Plant Variety Certificates and published in the Official Gazette of the National Plant Variety Authority. The grounds for the decision shall be stated and the forfeiture shall be notified to the owner of the new plant variety certificate on the date of the entry in the National Register of New Plant Certificates. The person concerned shall be informed that they have six months from expiry of the last period in which to appeal to the Head of the National Plant Variety Authority for reinstatement of their rights under the conditions provided for in article L623-23.

To be valid, the appeal must be accompanied by proof of payment of the annual fee and of a fee for entering the appeal in the National Register of New Plant Variety Certificates.

**Article R623-34**

The Head of the National Plant Variety Authority shall make a decision within two months. Where the appeal is dismissed, the amount of the last annual fee will be refunded.

The owner of the new plant variety certificate shall be notified of the Head of the National Plant Variety Authority' decision; it shall be entered in the National Register of New Plant Variety Certificates and published in the Official Gazette of the National Plant Variety Authority.

**Article R623-35**

If the owner of the new plant variety certificate has lodged an appeal before the Court of Appeal of Paris against the decision taken by the committee under article L623-23, this fact shall be entered ex officio in the National Plant Variety Authority and the effects of forfeiture suspended until the decision of the Court has become definitive.

The decision of Paris Court of Appeal shall be entered in the National Register of New Plant Variety Certificates. It shall be accompanied, where applicable, by mention of the fact that the owner of the New Plant Certificate has lodged an appeal with the Court of Cassation. In the latter case, the decision of the Court of Cassation shall be entered in the register under the same conditions.

## **SUBSECTION V Surrender - Forfeiture**

### **Article R623-36**

A new plant variety certificate may be surrendered in writing. Such surrender shall be made to the Head of the National Plant Variety Authority by the certificate owner or by a representative invested with special powers. If the certificate belongs to several persons, it may only be surrendered at the request of all the joint owners. Where real property rights, deriving from a pledge or license, have been entered in the National Register of New Plant Variety Certificates, the surrender will be admissible only if it is accompanied by the consent of the owners of such rights. The surrender shall be recorded after payment of a fee for removal from the National Register of New Plant Variety Certificates. It will take effect on the date of such entry.

### **Article R623-37**

A breeder which is liable to forfeiture of their rights under 1 and 2 of the first paragraph of article L623-23 shall be formally requested to put an end to the situation in a notification addressed to them by the Head of the National Plant Variety Authority. On expiry of a period of two months from receipt of the notification, if the formal request has not been complied with, the Head of the National Plant Variety Authority will declare the breeder's rights to be forfeited.

The owner of the new plant variety certificate shall be notified of the decision of the Head of the National Plant Variety Authority. It shall be entered in the National Register of New Plant Variety Certificates and published in the Official Gazette of the National Plant Variety Authority.

## **SUBSECTION VI National Registers**

### **Article R623-38**

The Head of the National Plant Variety Authority keeps a Register of Applications for New Plant Variety Certificates and a National Register of New Plant Variety Certificates.

### **Article R623-39**

Applications for new plant variety certificates shall be entered in chronological order in the Register of Applications as soon as such applications have been filed. The entry relating to each application shall, in particular, comprise:

- the provisional registration number;
- the filing date;
- the genus or species to which the variety belongs;
- the name and address of the breeder and, where applicable, of their agent or successor in title where the breeder is not the applicant;
- the denomination proposed or, failing this, the breeder's reference, and, where applicable, the denomination used to designate the variety in other member states of the International Union for the Protection of New Varieties of Plants;
- the claim to priority, where made;
- mention of the observations referred to in articles R623-17 to R623-26 above;
- the date of issue of the new plant variety certificate, with the number of the entry in the National Register of New Plant Variety Certificates or mention of a final decision of rejection.

The description of the variety given by the applicant and that of the breeding process shall appear in an appendix to the register, subject to the provisions of article R623-44.

### **Article R623-40**

New plant variety certificates shall be entered in the National Register of New Plant Variety Certificates in the order of their issue.

The entry shall comprise:

- the serial number under which the certificate was issued;
- the genus or species to which the variety belongs;
- the denomination and, where applicable, any other denomination under which it is already designed by the other member states of the International Union for the Protection of New Varieties of Plants;

- a botanical description;
- the name and address of the owner of the new plant variety certificate and the name and address of the breeder if they are not the owner of the new plant variety certificate;
- where applicable, the claim priority;
- the dates on which protection begins and ends and, where applicable, premature surrender or the decision declaring forfeiture of the owner's rights;

The entry shall be supplemented, where applicable, by mention of any judicial decisions as to ownership of the right.

The entry shall be further supplemented by mention of any instruments concerning the transfer of ownership of the breeder's rights, the assignment or the granting of a right of exploitation, any ex officio license and any other instrument for the transfer or modification of the rights deriving from a new plant variety certificate including, where applicable, those concerning recognition of essentially derived varieties as defined by point IV of article L623-4. These additional entries shall be subject to the payment of fees.

#### **Article R623-40-1**

Mention of essentially derived varieties as defined by point IV of article L623-4, whether or not covered by a new plant variety certificate, identified by their variety denomination, can be entered in addition to the compulsory mentions concerning the new plant variety certificate of a protected initial variety.

It can also be entered in addition to the compulsory indications concerning the certificate for an essentially derived variety.

This additional mention is entered:

- on notification to the Head of the National Plant Variety Authority of a definitive court decision;
- on submission of one of the originals of the private agreement showing recognition by the parties in question of the initial variety and essentially derived variety classifications; or
- on production of a statement by the holder of a certificate concerning an initial variety if they are also a breeder of essentially derived varieties as defined by point IV of article L623-4.

Entering additional mentions shall not incur the liability of the National Plant Variety Authority.

The additional mentions concerning essentially derived varieties can

be published in the Official Gazette of the National Plant Variety Authority.

**Article R623-41**

The supplementary entries relating to judicial decisions shall be made at the request of the Registrar of the court which rendered the decision, and other entries at the request of any interested party, on presentation of one of the originals of the instrument if it is a private agreement, or of a copy if it is authentic, or of a document evidencing the transfer in the case of transfer on death.

**Article R623-42**

Any person shall be issued, on request and against payment of the prescribed fee, with copies of supplementary entries in the National Register of New Plant Variety Certificates, or with certificates stating that no entries exist.

## **SUBSECTION VII Applications for New Plant Variety Certificates with Defense Implications**

### **Article R623-43**

Specially authorized agents of the Minister of Defense, whose names and capacities shall have been made known to the Minister of Agriculture by the Minister of Defense, shall take cognizance of the applications filed for new plant variety certificates at the headquarters of the National Plant Variety Authority.

The applications shall be presented to the agents within fifteen days from the date of their receipt by the officer in charge of the National Plant Variety Authority.

When so requested by the agents of the Minister of Defense, the officer in charge of the missions of the National Plant Variety Authority shall, if he has not already done so, invite the breeder or his successor in title to provide in as short a time as is compatible with the mode of reproduction or vegetative propagation of the variety, the material referred to in item 3 of Article R623-25 above and communicate it on receipt to the agents of the Minister of Defense.

### **Article R623-44**

With respect to applications for new plant variety certificates relating to varieties belonging to the species included in the list fixed by order issued under Article L623-9, the procedures provided for under Articles R623-16 to R623-30 may not, except where special authorization under Article L623-9 has been given, be initiated during the period in which the prohibitions specified in the aforementioned Article are in force. Neither may they be initiated during the period for which the prohibitions have been extended under Article L623-10.

During the period of those prohibitions, the annexing to the Register of Applications for New Plant Variety Certificates, provided for by Article R623-39 above, of the description of the variety made by the applicant and of the breeding process shall also be suspended.

### **Article R623-45**

The request for authorization to disclose and freely use a new plant variety belonging to one of the species referred to in the preceding Article before the end of the period laid down in Article L623-9,



shall be submitted to the National Plant Variety Authority; it may be submitted as soon as the application for a certificate has been filed.

Authorization shall be notified to the applicant by the Minister of Agriculture after consulting with the Minister of Defense.

In the absence of such authorization, a request for special authorization to perform specific acts of exploitation may, at any time, be submitted directly by the owner of the application for a certificate to the Minister of Defense. If he grants the authorization requested, the latter shall specify the conditions to which such acts shall be subject.

Where the special authorization concerns the assignment of the application for a certificate or the granting of an exploitation license, the Minister of Defense shall send a copy of his decision to the Minister of Agriculture.

#### **Article R623-46**

The demand sent to the Minister of Agriculture by the Minister of Defense for the extension of the prohibitions on disclosure and free use of a new plant variety which is the subject matter of an application for a certificate, must reach the National Plant Variety Authority not later than fifteen days before the end of the five-month period provided for in Article L623-9.

Any demand for the renewal of an extension must arrive under the same conditions not later than fifteen days before the end of the current period of one year.

The extension of the prohibitions on disclosure and free use shall be declared by order of the Minister of Agriculture and notified to the applicant before the end of the current period of prohibition. Special authorizations to carry out specific acts of exploitation may be granted under the conditions laid down in the second and third paragraphs of Article R623-45.

The Minister of defense may at any time inform the Minister of Agriculture of the lifting of prohibitions extended under Article L623-10. This measure shall be the subject of an order of the Minister of Agriculture, which shall be notified to the owner of the application for a certificate.

#### **Article R623-47**

The provisions of Articles R612-29, R612-30, R612-32 and R613-42 shall apply to requests submitted and proceedings instituted under

Articles L623-10 and L623-11.

## **SUBSECTION VIII Miscellaneous Provisions**

### **Article R623-48**

The notifications provided for in this section and in article L623-18 shall be sent by registered letter with acknowledgement of receipt.

Sending the letter by registered post with acknowledgement of receipt can be replaced by sending the letter to the recipient against receipt, to the head office of the National Plant Variety Authority, or by an electronic message, according to the terms and conditions laid down by the head of said office to guarantee secure transmission.

If the address of the recipient is unknown, the notification will be made by publication of a notice in the Official Gazette of the National Plant Variety Authority.

### **Article R623-49**

Any notification shall be deemed to be in order if it is served on the last owner of the application for a new plant variety certificate, or of the new plant variety certificate, as appearing in the Register of Applications for New Plant Variety Certificates or in the National Register of New Plant Variety Certificates.

If the owner is domiciled abroad, notification shall be made to the last agent at the last address for service communicated to the National Plant Variety Authority.

### **Article R623-50**

All periods prescribed by this section shall be in whole days. Neither the day of the act or decision which causes the period to run nor the last day shall be counted.

Any period which normally would expire on a Saturday, Sunday or public holiday shall be extended to the next working day.

### **Article R623-50-1**

The time period laid down in the last point of article L623-27 and given to the applicant to appeal on the merits in civil or criminal proceedings, or file a claim with the prosecutor of the Republic, is twenty working days or thirty-one calendar days if this period is longer, from the date of the order.

**Article R623-51**

The descriptive or real seizure set forth in article L623-27-1 is ordered by the presiding judge of one of the courts specified in article D631-1, in the jurisdiction in which the operations are to be carried out.

The order shall be issued on request and on presentation of the new plant variety certificate, or, in the case provided for in article L623-26, of a certified copy of the application for a supplementary new plant variety certificate. In this last case, the applicant must show in addition that the conditions provided for in said article L623-26 are met.

If the request is submitted by the concession holder of an exclusive exploitation right or by the holder of a license granted pursuant to articles L623-17 or L623-20, the requester must demonstrate that the conditions of article L623-25 are met.

The presiding judge can authorize the bailiff to make any useful finding in order to establish the origin, substance and scope of the infringement.

In order to ensure that business secrecy is protected, the presiding judge can automatically order that the documents seized be placed in provisional escrow in the conditions set forth in article R153-1 of the Commercial Code.

**Article R623-51-1**

When the judge has made the seizure subject to the applicant constituting guarantees, they must be constituted before the seizure is carried out.

On penalty of invalidity and damages against the bailiff, before carrying out the seizure the latter shall give a copy of the order and, where applicable, of the instrument recording the constitution of guarantees to the holders of the items seized or described. The same holders shall be given a copy of the seizure report.

**Article R623-52**

Where effective seizure of goods is ordered, the judge may require a security bond to be deposited by the applicant before the seizure is carried out. On penalty of invalidity and damages against the bailiff, before carrying out the seizure the latter shall give a copy a copy of the order and, where applicable, of the instrument recording the deposit of the security bond to the holders of plants, parts of plants or reproduction or vegetative multiplication

elements of the variety in question. The same holders shall be given a copy of the seizure report.

**Article R623-53**

The time period laid down in the last point of article L623-27-1 and given to the applicant to appeal on the merits is twenty working days or thirty-one calendar days if this period is longer, from the date of the seizure or description.

**Article R623-53-1**

In view of the seizure report, the presiding judge of the court can order any measure to complement the evidence of the alleged acts of infringement.

**Article R623-54**

Orders by the agriculture minister on recommendation of the Head of the National Plant Variety Authority shall specify, as required, the conditions of application of this section.

**SECTION II Scope of Application of New Plant Variety Certificates,  
Duration and Scope of the Breeder's Right**

**Article R623-58**

Any person who desires, at the time of any act of assignment, concession or marketing of the varieties referred to in the foregoing articles, to use the possibility offered under article L623-15 of adding a trademark to the variety denomination for goods or services, whether their own trademark or one conceded to it, shall take the necessary precautions, especially in correspondence, publication, the preparation of trade catalogues, and on packaging or labels, to ensure that this denomination is sufficiently visible in its context so as to prevent any likelihood of confusion in the mind of the purchaser as to the variety's identity.

**Article R623-58-1**

The composition and option of the joint conciliation board specific to the domain of plant breeds are governed by articles R615-9 to R615-11, R615-13 to R615-34, subject to the following adaptations:

1. The words: "the Director General of the National Industrial Property Institute" are replaced by the words: "Head of the National Plant Variety Authority" and the words: "National Industrial Property Institute" are replaced by the words: "National Plant Variety Authority";
2. The decisions specified in articles R615-6 and R615-10 are made jointly by the minister of justice and the agriculture minister. The joint conciliation board meets at the head office of the National Plant Variety Authority.

## **SECTION II bis Farm-saved seed**

### **Article R623-59**

I. Species, other than those listed by the regulation (EC) no. 2100/94 of the Council of 27 July 1994 instituting an EU protection scheme for plant breeds for which farmers have the right, pursuant to article L623-24-1, to use on their own farm, without the authorization of the breeder, for reproduction or multiplication purposes, the product of the harvest they have obtained by growing a protected variety, are as follows:

1. Fodder:

- a) *Trifolium pratense* - purple clover;
- b) *Trifolium incarnatum* - crimson clover;
- c) *Lolium multiflorum* - Italian Ray Grass;
- d) *Lolium hybridum* - Ray Grass hybrid;
- e) *Lathyrus* spp. - vetches;

2. Oleaginous plants:

*Glycine max* - Soy;

3. Plants for use as nitrogen-fixing intermediate crops:

- a) *Sinapis alba* - white mustard;
- b) *Avena strigosa* - bristle oat;

4. Proteaginous plants:

- a) *Pisum sativum* - proteaginous peas;
- b) *Lupinus albus* - white lupin;
- c) *Lupinus angustifolius* - blue lupin;

5. Vegetable plants:

- a) *Lens culinaris* - Lentil;
- b) *Phaseolus vulgaris* - Haricot.

II. Except with respect to small farmers as defined by article L623-24-2, point I takes effect subject to the signature of the contracts or agreements specified in article L623-24-3 or failing this, the effect of the implementing decree specified in the same article determining the terms and conditions for setting the compensation amount provided for in article L623-24-2.

**SECTION III Withholding**

**Article R623-60**

Chapter IV bis of title I of this book applies to this chapter.



**TITLE III Courts Competent to Hear Proceedings Relating to Inventions and Technical Knowledge**

**CHAPTER**

**Article R631-1**

As stated in article D211-5 of the Judicial Organization Code, the seat and jurisdiction of the courts that are exclusively competent to hear proceedings about plant breeds pursuant to article L623-31 of the Intellectual Property Code are set in accordance with table V attached to the Judicial Organization Code, as shown hereinafter: Headquarter and jurisdiction of the courts with jurisdiction to hear proceedings about plant breeds (appendix to article D211-5).

	Headquarter	the jurisdiction of the Courts
Aix-en-Provence	Marseille	Aix-en-Provence, Bastia, Nîmes
Bordeaux	Bordeaux	Agen, Bordeaux, Poitiers
Colmar	Strasbourg	Colmar, Metz
Douai	Lille	Amiens, Douai
Limoges	Limoges	Bourges, Limoges, Riom
Lyon	Lyon	Chambéry, Lyon, Grenoble
Nancy	Nancy	Besançon, Dijon, Nancy
Paris	Paris	Basse-Terre, Cayenne, Fort-de-France, Nouméa, Orléans, Papeete, Paris, Reims, Rouen, Saint-Denis, Versailles, and the High Appeal Courts of Saint-Pierre.
Rennes	Rennes	Angers, Caen, Rennes
Toulouse	Toulouse	Pau, Montpellier, Toulouse

**Article R631-2**

The seat and jurisdiction of the courts that are exclusively competent to hear proceedings about invention patents, utility certificates, supplementary protection certificates and semi-conductor product topographies pursuant to articles L611-2, L615-17 and L622-7 of the Intellectual Property Code are set in accordance with article D211-6 of the Judicial Organization Code.

**BOOK VII Trademarks for goods or services and Other Distinctive Signs**

**TITLE I Trademarks for goods or services**

**CHAPTER I Elements constitutes Trademark**

**Article R711-1**

The trademark shall be represented in the National Trademarks Register in a form that is appropriate to the means of the commonly available technology, provided it allows to be represented in this Register in a clear, precise, distinct, easily accessible, comprehensible, durable and objective manner.

This representation may be accompanied by a description, provided it corresponds to the representation of the trademark and does not extend the scope of protection.

When the trademark belongs to one of the types of trademarks defined by decision of the Director General of the National Institute of Industrial Property, it shall be accompanied by an indication corresponding to the representation of the trademark.

The representation of the trademark may not be validly ensured by the filing of a sample or specimen.

The trademark representation methods shall be laid down by decision of the Director General of the Institute.

## **CHAPTER II Acquisition of Rights in Trademarks**

### **Article R712-1**

The application for registration of a trademark shall be filed with the head office of the National Industrial Property Institute or sent there by post or by any electronic transmission method in the conditions defined by decision of its director general. The filing date is the date the application is received at the institute's head office.

The director general of the National Industrial Property Institute can require electronic filing when this method could facilitate examination and publication of the application.

The institute provides assistance to applicants by any appropriate means, specified by decision of the director general.

This article is also applicable to the renewal statements set forth in article R712-24.

### **Article R712-2**

The filing may be done personally by the applicant or by his representative who has his residence, his head office or his premises in a Member State of EU or in a State party to the Agreement on the EU.

Subject to the exceptions provided for in Articles L422-4 and L422-5, the representative appointed to file the application for registration of a trade mark and any subsequent deed relating to the procedure of registration, except for the simple payment of fees and renewal declarations must be an industrial property attorney.

Persons not having their residence or their seat in a Member State of EU or in a State party to the Agreement on the European Economic Area must, within the time limit which is assigned to them by the National institute of Industrial Property, appoint a representative who fulfils the requirements provided for in the preceding paragraph.

Where there are several applicants, a common representative must be appointed. If this one is not one of the applicants, he must fulfil the requirements provided for in the second paragraph.

Except where he is an industrial property attorney or a lawyer, the representative must attach a power of attorney which extends, subject to the provisions of Articles R712-21 and R714-1 and except contrary stipulation, to all deeds excepting all the notifications referred to under this Title. The power of attorney shall be

dispensed of authentication requirements.

### **Article R712-3**

The filing shall contain:

1. the application for registration of the trademark drawn up in the manner provided for by the decision referred to under Article R712-26 and specifying in particular:

a) the identity of the applicant;

b) the representation of the trademark established in accordance with Article R711-1;

c) the enumeration of the goods or services to which it applies, as well as the enumeration of the corresponding classes according to Article R712-3-1;

d) as the case may be, a reference with respect to the claim to a priority right attached to a former filing abroad or a delivery of a guaranteed certificate pursuant to the Law of 13 April 1908.

2. the following annexed documents:

a) proof of payment of the prescribed fees;

b) if a representative is appointed, the power of attorney of the latter, unless he has the capacity of industrial property attorney, or lawyer;

c) if the distinctive character of the sign filed as a trademark was obtained by use, the proof of this use;

d) if a Collective Mark or a Certificate Mark is concerned, the regulation defining the conditions to which the use of the mark is subject, as defined in Articles R715-1 and R715-2;

e) if the applicant is a foreigner who is neither domiciled nor established in France, and subject to International Conventions, the document showing that he has properly filed the trademark in the country of his residence or his establishment and that this country grants a reciprocal protection to French Trademarks.

The same filing may relate to only one mark.

### **Article R712-3-1**

The goods and services shall be designated in a sufficiently clear and precise manner so as to enable any person to determine, on this basis alone, the scope of protection.

The goods and services shall be classified in accordance with the system established by the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks of 15 June 1957.

The use of general terms, including the general indications contained in the class headings of the Nice classification shall be interpreted as including all the goods or services that clearly relate to the literal meaning of the indication or term.

The belonging of goods or services to the same class or to different classes shall not have any effect on the appreciation of their identity or similarity.

The methods of designation and classification of goods or services shall be specified by decision of the Director General of the National Institute of Industrial Property.

#### **Article R712-4**

The claim to a priority right, when making a deposit in France, deriving from a preceding deposit abroad shall imply the obligation to submit to the National Institute of Industrial Property within three months of the deposit in France an official copy of the prior deposit and, if appropriate, proof of the right to claim the priority.

Where this obligation is not complied with, the priority shall be deemed not to have been claimed.

#### **Article R712-5**

On receipt of the filing, the following shall be entered on the application for registration: the date, the place and the serial number of the filing or the national number referred to in Article R712-6.

A receipt for filing shall be handed to the applicant.

Where the filing is made with the registrar of the commercial court or of the court acting in its stead, the filing documents and the amount of the fees shall be transmitted without delay to the National Institute of Industrial Property by the registrar.

#### **Article R712-6**

As of its reception by the National Institute of Industrial Property, the filing shall be given a national file number. Where it could not be mentioned on the receipt of the deposit, this number will be notified to the applicant.

A letter or a subsequent filing of documents which does not refer to the national filing number of the application for registration, which is not signed by the applicant or his representative or which, as the case may be, is not accompanied by the proof of payment of

the prescribed fee shall not be admitted.

#### **Article R712-7**

An application shall be declared inadmissible if it does not include the information provided for in article R712-3 (1. a, b and c) and is not accompanied by proof of payment of the filing fee.

However, this inadmissibility can only be enforced by the National Industrial Property Institute after the applicant has been invited to provide the missing information. The application for correction shall state that if not corrected within the time period set it will be declared inadmissible.

If the correction is carried out within this period, the filing date to be considered is that on which the missing information has been provided.

#### **Article R712-8**

Filings recognized as admissible shall be published in the Official Bulletin of Industrial Property unless it emerges that their presentation does not satisfy the technical requirements necessary for reproduction or that their publication would be such as to be prejudicial to public policy or morality.

Publication in the Official Bulletin shall be effected within six weeks following receipt of the filing at the National Institute of Industrial Property. Publication shall contain a notice of the faculty available to any person to formulate observations within a period of two months and to the persons referred to in Article L712-4-1 to enter opposition to registration within that same period.

#### **Article R712-9**

Observations formulated under Article L712-3 shall be communicated without delay to the applicant by the Institute or shall be dismissed without effect if it is ascertained that they have been submitted after the expiry of the prescribed period of time or that their subject matter is obviously foreign to the legislative provisions in force. The author of the observations shall be informed thereof.

#### **Article R712-10**

Each filing shall be checked by the Institute:

1. to ascertain that the application for registration and the documents annexed thereto comply with the requirements of the

- legislation and the regulations in force;
2. to determine that the trademark may not be validly registered pursuant to items 1 to 10 of Article L711-2;
  3. to determine that, as applicable, the application for the registration of the trademark may not be refused pursuant to Articles L715-4 and L715-9.

#### **Article R712-11**

1. If the application does not comply with the provisions of article R712-10, a reasoned notification will be sent to the applicant. A time limit shall be given to them in order to correct the application or dispute the objections of the institute. If the application is not corrected or an observation is not made so that the objection can be lifted, it shall be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed accepted if the applicant does not dispute it within the time limit given.
2. In the case provided for in article R712-10(2), the notification of irregularity may not be issued more than four months after the date of receipt of the application to the institute. In the absence of observations or if the observations do not make it possible to lift the objection, a draft decision will be drawn up. The applicant will be notified and given a time limit to dispute its merits if necessary. The draft decision, if not disputed, shall require a decision.
3. No correction carried out in accordance with the provisions of this article may have the effect of extending the scope of the filing.

#### **Article R712-12**

The reinstatement of rights provided for in article L712-10 shall be applicable to the time limits provided for under this title, with the exception of those mentioned in articles R712-15, R712-16-1 and R712-18, in 1 of article R712-24 as well as in articles R716- 5, R716-6, R716-11, R717-2, R717-5 and R717-8.

The application must be made within two months as from the disappearance of the obstacle, and the non-accomplished deed must be accomplished within the same time limit. It is no longer admissible after a prefixed period of six months from expiry of the time limit not observed.

The application shall be submitted to the director general of the

institute by the holder of the filing, who must be the registered holder with the National Trademark Register if the registration application is published, or by their representative.

It shall be admitted only after payment of the prescribed fee.

The application shall be made in writing. It shall state the facts and grounds on which it relies.

If the application is non-compliant, the applicant will be notified and an explanation given. They will be given a period of time to correct the application or contest the institute's objections. If the application is not corrected or an observation is not made so that the objection can be lifted, it shall be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

The plaintiff shall be notified of the decision with explanations.

#### **Article R712-12-1**

A decision on the application for reinstatement of rights shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R712-12, until the application is corrected or the objection lifted.

#### **Article R712-12-2**

If an express decision is not made within the time period set forth in article R712-12-1, the application is deemed to be accepted.

#### **Article R712-13**

An opposition to registration brought in the conditions set forth in Articles L712-4 and L712-4-1 may be filed by the objector acting in person or through a representative who meets the conditions laid down in the second paragraph of Article R712-2. These terms shall also apply to the observations presented in response to this application.

If the opposition is filed jointly by several objectors, a common representative meeting the same requirements shall be appointed.

#### **Article R712-14**

The opposition shall be submitted in writing in the manner stipulated by decision of the Director General of the National Institute of Industrial Property.

It shall contain:



1. the identity of the objector, together with the particulars suitable to establish the existence, nature, origin and scope of his rights;
2. the references of the application for registration against which the opposition is entered together with a statement of the goods or services concerned by the opposition;
3. the statement of the grounds on which the opposition rests;
4. proof of payment of the prescribed fee;
5. where appropriate, except where he has the capacity of industrial property attorney or lawyer, the power of attorney of the representative.

The documents and information mentioned above shall be submitted within the time limit referred to in Article L712-4.

However, the statement of grounds referred to in item 3 and the documents presented in support of the information referred to in items 1, 2 and 5 may be submitted within an additional time limit of one month from the expiry of the above mentioned time limit, under the conditions stipulated by decision of the Director General of the National Institute of Industrial Property, provided that the objector does not extend the scope of the opposition and does not invoke other earlier rights or other goods or services than those invoked in support of the opposition.

#### **Article R712-15**

Any opposition entered outside the time limits, submitted by a person not entitled thereto, or not in compliance with the conditions set out in Articles R712-13 and R712-14 shall be declared inadmissible.

If the opposition relies on several earlier rights, it shall only be declared inadmissible if the totality of these rights does not comply with the conditions set out in Articles R712-13 and R712-14. Otherwise, the opposition shall be declared admissible, but it shall be deemed ungrounded only with regard to the earlier rights that do not comply with these conditions.

In case of ex officio inadmissibility, the Director General of the National Institute of Industrial Property shall notify the objector of the reasons for this inadmissibility. The Director General shall grant the latter a time limit to challenge these reasons. In the absence of grounded observations, the opposition shall be declared inadmissible.

**Article R712-16**

When it has to rule on an opposition, the National Institute of Industrial Property shall ensure compliance and shall itself comply with the adversarial principle. It may not ground its decision on pleas, explanations and documents invoked or submitted by the parties without having enabled the parties to discuss these in adversarial proceedings. Any observation or document submitted to the Institute by one of the parties shall be notified without delay to the other parties.

The parties to the opposition shall be required to state expressly their requests and the pleas of fact and law underlying each of their claims. All communications addressed to the Institute shall be made, under sanction of inadmissibility, in accordance with the terms and conditions established by decision of the Director General of the National Institute of Industrial Property.

**Article R712-16-1**

Subject to inadmissibility raised ex officio by the Institute, the examination phase referred to in Article L712-5 shall commence upon the expiry of the additional time limit mentioned in the last paragraph of Article R712-14.

Subject to the cases of suspension or closure of proceedings referred to in Articles R712-17 and R712-18, the opposition shall be examined in accordance with the following procedure:

1. The opposition shall be notified to the holder of the contested application for registration, who shall be afforded a period of two months to submit written counter observations and to provide all documents he deems useful, in person or through a representative who satisfies the conditions laid down in Article R712-2.

By these observations, the holder of the contested application for registration may invite the objector, who invokes an earlier trademark, to submit the documents able to prove that there was genuine use of this trademark within the meaning of Article L714-5;

2. If the holder of the application for registration responds, the objector shall be afforded a time limit of one month to submit written observation in response or all documents he deems useful and, as applicable, to provide the documents able to prove the genuine use or the justified grounds of nonuse of the earlier trademark, according to Article L712-5-1;

3. If the objector responds, the holder of the application for registration shall be afforded a time limit of one month to submit

new written observations and to present new documents and, as applicable, to challenge the documents provided or the grounds for nonuse;

4. If the holder of the application for registration responds, the objector shall be afforded a new time limit of one month to present his last written observations in response or to provide new documents;

5. If the objector responds, the holder of the application for registration shall be afforded a last time limit of one month to present his last written observations or to present new documents, without being allowed to invoke new pleas.

As part of the submission of its written observations, each party may request to present oral observations. The Director General of the Institute may also invite, without prior request, the parties to present oral observations if he deems it necessary for the purposes of the examination.

In this case, the parties shall be brought together at the end of the written phase of the examination in order to present their oral observations under the terms set by decision of the Director General of the Institute.

The Director General of the Institute shall rule on the opposition taking into account all the written and oral observations presented, as applicable, by the parties.

At any time during the proceedings, the objector may surrender one or more of the earlier rights or narrow the scope of his application to certain goods or services invoked or concerned, by an express request.

#### **Article R712-16-2**

The time limit referred to in the second paragraph of Article L712-5 shall be three months.

The end date of the examination phase referred to in the same Article shall occur if either party has not submitted observations until the expiry of the time limits referred to in items 1 to 5 of Article R712-16-1 and, at the latest, on the date of presentation of oral observations. The Director General of the Institute shall notify without delay the parties of this date.

#### **Article R712-17**

The examination phase or the time limit set forth in the first paragraph of Article R712-16-2 shall be suspended:

1. where the opposition is grounded in whole or in part on an application for trademark registration, on an application for geographical indication, or on a geographical indication the specifications of which are subject to a modification request affecting the ground of the opposition;
2. in case of an application for declaration of invalidity, for revocation, claiming ownership, or for assignment pursuant to Article L712-6-1, of the trademark or one of the trademarks on which the opposition relies in whole or in part;
3. in case of an action against a company name or style, a domain name, a trade name or a signpost on which the opposition relies in whole or in part;
4. upon the joint request of the parties, for a period of four months that may be extended twice;
5. at the initiative of the Institute while awaiting information and elements likely to affect the resolution of the dispute or the situation of the parties.

#### **Article R712-18**

The opposition proceedings shall be closed:

1. where the objector has withdrawn his opposition or has lost his capacity to act;
2. where the opposition has become devoid of object following either an agreement between the parties, or the cessation of effects of the application for trademark registration against which the objection was brought;
3. where the effects of all earlier rights have ceased;
4. where, after suspension of the opposition proceedings in the cases referred to in items 2 and 3 of Article R712-17, the objector did not respond, within the time limit afforded by the Institute, to the request of the latter inviting him to inform it about the outcome of the initiated proceedings.

The parties shall be notified without delay of the proceedings closure decision.

#### **Article R712-19**

Where the opposition proceedings are suspended pursuant to item 1 of Article R712-17, they shall be resumed, at the request of one of the parties or, as applicable, at the initiative of the Institute when the registration of the trademark or of the geographical indication or the approval of the modification of the geographical indication

specifications has been ascertained.

Where the opposition proceedings are suspended pursuant to items 2 and 3 of Article R712-17, they shall be resumed upon request of one of the parties, by transmitting to the Institute the decision that is no longer subject to appeal.

The Institute shall notify the parties without delay of the resumption of proceedings, indicating the resumption date.

Where the opposition relies on several earlier rights and one of these is subject to the case mentioned in item 4 of Article R712-18 or the effects of one of these have ceased, the opposition proceedings shall be deemed ungrounded with respect to such right and shall be resumed only on the grounds of the remaining rights.

#### **Article R712-20**

Until the beginning of the technical preparations with respect to the registration, the applicant may be allowed, on written petition filed with the Director of the National Institute of Industrial Property, to rectify the clerical errors noted in the documents filed.

The National Institute of Industrial Property may require evidence of the existence of the clerical error to be corrected and the meaning of the correction requested.

#### **Article R712-21**

The application for registration may be withdrawn up to the time the technical preparations for registration have begun. Withdrawal may be limited to a part of the application. It shall be effected by means of a written declaration addressed to the National Institute of Industrial Property, under the conditions set out by decision of the Director General of the Institute.

A declaration of withdrawal may concern one trademark only. It shall be formulated by the applicant or by his representative who, unless he has the capacity of industrial property attorney or lawyer, shall be required to attach a special power of attorney.

It shall state whether or not exploitation rights have been granted or pledges have been entered into. If this is the case, it shall be accompanied by the written consent of the beneficiary of such right or of the pledgee.

If the application for registration has been formulated by more than one person, it may be withdrawn only if requested by all such persons.

Withdrawal shall not prevent the publication referred to in the first paragraph of Article R712-8.

#### **Article R712-23**

The mark shall be registered, unless the application was not rejected or was withdrawn. A certificate shall be sent to the applicant.

The registration shall be published in the Official Bulletin of Industrial Property.

The date on which a mark is deemed registered, in particular for the application of Articles L712-4 and L714-5, shall be:

1. for French Trademarks, that of the Official Bulletin of Industrial Property in which the registration is published;
2. for international Trademarks not having been subject to a notification of irregularity based on the Article R712-11(2) or to notification of objection, notification of expiry of the time limit provided for in Article R717-4 or, if it is posterior, notification of the expiry of the time limit to file the objection;
3. for international Trademarks having been subject to a notification of irregularity based on Article R712-11(2) or notification of objection, that, if necessary, notification of registration, in the international register of Trademarks, of the total or partial lifting of the refusal.

#### **Article R712-23-1**

A decision on the application for trademark registration shall be given within six months from the application date. Where applicable, this time period is interrupted by the opposition application stipulated in article L712-4 until the decision ruling on the latter or by the notification stipulated in article R712-11, until the application is corrected.

#### **Article R712-23-2**

If an express decision is not made within the time period set forth in article R712-23-1, the application is deemed to be rejected.

#### **Article R712-24**

The trademark proprietor shall be informed about the expiry of the registration by the National Institute of Industrial Property at the latest six months before the expiry date. The lack of this information shall have no effects on the expiry of the registration.

The registration may be renewed for an additional period of ten years by the declaration of the proprietor of the trademark or of any authorized person, drawn up according to the conditions provided for in the decision referred to in Article R712-26. It may be specified that the renewal shall apply only for certain goods or services stated in the registration document.

The renewal shall take effect on the day following the expiry date of the registration.

The declaration must, under penalty of inadmissibility:

1. be filed within a one-year period immediately preceding the expiry date of the registration and be accompanied by a proof of payment of the prescribed fee.

However, the declaration may still be filed and the fees may be paid within an additional six-month period to be counted as of the day after the expiry day of registration, subject to the payment of a supplementary fee within the same time limit.

2. contain the designation of the trademark to be renewed and be issued by the proprietor who, on the day of the declaration, is registered with the National Register of Trademarks, or from the authorized person.

If the declaration does not satisfy these requirements, the procedure provided for under item 1 of Article R712-11 shall apply. The inadmissibility may not be decided without giving the applicant the opportunity to put forward his observations.

#### **Article R712-24-1**

A decision on the statement of renewal shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R712-11, until the statement is corrected.

#### **Article R712-24-2**

If an express decision is not made within the time period set forth in article R712-24-1, the statement of renewal is deemed to be rejected.

#### **Article R712-26**

The conditions for setting out the application and the contents of the file shall be specified by an order of the director general of the National Industrial Property Institute, in particular with regard to:

1. The application for registration referred to in Article R712-3;
2. The opposition referred to in Article R712-14;
3. The withdrawal declaration referred to in Article R712-21 or the renunciation declaration referred to in Article R714-1;
4. The renewal declaration referred to in Articles R712-24;
5. The request for entry in the National Trademark Register referred to in Articles R714-4, R714-4-1 and R714-6;
6. The applications for international trademark registration and subsequent entry in the international register submitted for the approval of the Institute.

#### **Article R712-27**

Until the beginning of the technical preparations for registration or after the registration of the trademark, the proprietor or his representative may proceed to the division of his initial application for registration or of his initial registration.

The declaration of division prepared for this purpose may only be effected after the expiry of the time limit set out in Article L712-4. It may only refer to the list of goods and services designated in the application for the registration of the trademark. The goods or services covered by the divisional application or the divisional registration may not include the goods or services included in the initial application or registration, or included in other divisional applications or registrations.

If an opposition has been filed or an application for revocation or for declaration of invalidity has been submitted against the initial application or registration, the declaration of division may not refer to the goods or services that are covered by such opposition or application for revocation or for declaration of invalidity. This shall apply until the decision ruling on the opposition, revocation or declaration of invalidity becomes final or until such procedures are surrendered.

Divisional applications or registrations shall benefit from the filing date and, as applicable, the priority date of the initial application or initial registration.

#### **Article R712-28**

The declaration of division referred to in Article R712-27 shall be accompanied by proof of payment of the prescribed fee.

The conditions of submission and the content of the declaration of division shall be defined by decision of the Director General of the



National Institute of Industrial Property.

If the declaration does not satisfy these requirements, the procedure provided for under item 1 of Article R712-11 shall apply.

**Article R712-28-1**

The Director General of the National Institute of Industrial Property shall rule on the declaration of division referred to in Article R712-27 within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in item 1 of Article R712-11, until the declaration is corrected.

**Article R712-28-2**

If an express decision is not made within the time period set forth in Article R712-28-1, the declaration of division shall be deemed to be rejected.

**Article R712-29**

To benefit from the free right of alert provided for by article L712-2-1, local authorities and the public institutions specified in article L712-2-1 shall send an application to the National Industrial Property Institute by electronic means according to the terms and conditions set by decision of the director general of the institute.

This request shall include:

1. The denomination or the name of the country for which the alert is requested;
2. The email address to which the alert must be sent;
3. Identification of the applicant local authority or institution and its Siren identification number.

The application gives rise to issue of an electronic receipt. The alert application registration date is the date of the receipt.

**Article R712-30**

The alert shall be sent by the National Industrial Property Institute electronically within five working days from publication of the filing of an application to register the trademark, containing the denomination of the local authority or the name of the country in question, in the Official Bulletin of Industrial Property.

When the trademark is filed pursuant to Regulation (EU) no. 2017/1001 of 14 June 2017 on the EU trademark or to Madrid Agreement

concerning international registration of trademarks of 14 April 1891 as amended and its protocol of 27 June 1989 as amended, the Institute shall send the alert by electronic means within three weeks from publication of the trademark application in the EU Trade Marks Bulletin or the Gazette of International Marks. The alert shall specify the facility open to any interested person to make observations pursuant to Article L712-3 and to local authorities to object pursuant to Articles L712-4 and L712-4-1.

## **CHAPTER IV Transfer and Loss of Rights in Trademarks**

### **Article R714-1**

The holder of a registered mark may at any time surrender it, with respect to some or all of the goods or services.

To be admissible, the notice of surrender must:

1. Be issued by the holder of the registered mark, on the statement date, with the National Register of Trademarks, or by their representative;
2. Be accompanied by proof of payment of the prescribed fee.

The provisions of article R712-21 shall apply to surrender.

If the declaration is non-compliant, the applicant will be notified and an explanation given. They are given a period of time to correct the statement or contest the institute's objections. If the application is not corrected or an observation is not made by which the objection is lifted, the statement shall be rejected. The notification may be accompanied by a proposed correction. This proposal is deemed to be accepted if the applicant does not contest it within the time period given.

### **Article R714-1-1**

A decision on the declaration of surrender shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R714-1, until the application is corrected or the objection lifted.

### **Article R714-1-2**

If an express decision is not made within the time period set forth in article R714-1-1, the application is deemed to be accepted.

### **Article R714-2**

The National Register of Trademarks shall be kept by the National Institute of Industrial Property.

It shall mention for each trademark:

1. the identity of the applicant and the references of the filing, together with any subsequent acts affecting the existence or scope of the trademark;
2. any acts modifying the ownership of the mark or enjoyment of the rights deriving therefrom; in the event of a claim to ownership, the corresponding assignation;
3. as applicable, the identity, modification or deregistration of

the representative;

4. any changes of name, legal form or address together with any corrections of clerical errors relating to entries.

No entry shall be made in the Register until the filing has been published in accordance with Article R712-8.

### **Article R714-3**

The particulars referred to in Article R714-2(1) shall be registered at the initiative of the National Institute of Industrial Property or, if it concerns a court order, at the request of court clerk or one of the parties.

Only final court decisions may be entered into the National Register of Trademarks.

### **Article R714-4**

The deeds modifying the ownership of a trademark or the possession of the rights deriving therefrom, such as assignment, concession of a right of exploitation, creation or assignment of a right of exploitation, creation or assignment of a pledge or waiver of this right, restraint, approval and release from restraint, shall be registered at the request of one of the parties to the deed or the holder of the filing on the day of the application for registration if he is not party to the deed.

However, a deed may be registered only if the person mentioned in the deed as holder of the application for registration or proprietor of the trademark before the notification resulting from the deed has been entered as such into the National Register of Trademarks.

The application shall contain:

1. an application form for registration;
2. a copy or an abstract of the deed stating the change in ownership or possession;
3. a proof of payment of the prescribed fee;
4. where appropriate, the power of attorney of the representative, unless the latter is an industrial property attorney or a lawyer.

### **Article R714-4-1**

Amendments to the regulations determining the conditions governing the use of the trademark shall be recorded upon request of the trademark proprietor on the day of the application for registration.

The application shall contain:

1. an application form for registration;
2. the regulation determining the conditions governing the use of the trademark, as amended;
3. a proof of payment of the prescribed fee;
4. where appropriate, the power of attorney of the representative, unless the latter is an industrial property attorney or a lawyer.

#### **Article R714-5**

By way of exception to Article R714-4(2), the following may be produced together with the application:

1. in the event of a change mortis causa: a copy of any deed proving the transfer, at the request of the heirs or legatees;
2. In the event of a transfer as a result of merger, division or acquisition: the unique identification number or, for operators located outside France, a copy of a document equivalent to the extract of registration in the Trade and Companies Register up to date of the amendment;
3. on proof of a material obstacle to produce a copy: any document proving change in ownership or possession.

#### **Article R714-6**

The identity of a representative shall be entered at his request or at the request of the trademark proprietor registered in the National Register of Trademarks.

The change or deregistration of a representative shall be registered at his request or at the request of the new representative or of the trademark proprietor registered in the National Register of Trademarks.

Changes of name, legal form and address of the trademark proprietor or of the representative, as well as corrections of clerical errors shall be registered at the request of the holder of the application for registration or the trademark proprietor, who must be the registered holder or proprietor with the National Register of Trademarks, or at the request of his representative. However, when these changes and corrections relate to a deed previously registered, the request may be filed by any party to the deed.

The application shall contain:

1. an application form for registration;
2. where appropriate, the power of attorney of the representative, unless the latter is an industrial property attorney or a lawyer.;
3. if it concerns a correction of a clerical error, the proof of

payment of the prescribed fees;

The Institute may require evidence of the existence of the identification, deregistration or change whose registration is requested or that of the clerical error to be corrected.

#### **Article R714-7**

If an application for registration is non-compliant, a notification shall be sent to the applicant with explanation.

They shall be given a time limit for correcting the application or for submitting observations. In the absence of any correction or observations by which the objection can be lifted, the application will be rejected by decision of the director general of the National Industrial Property Institute.

The notification may be accompanied by a proposed correction. This proposal is deemed accepted if the applicant does not dispute it within the time limit given.

#### **Article R714-7-1**

A decision on the application for registration as set forth in articles R714-4 ,R714-4-1 and R714-6 shall be given within six months from filing. Where applicable, this time period is interrupted by the notification stipulated in article R714-7, until the application is corrected or the objection lifted.

#### **Article R714-7-2**

If an express decision is not made within the time period set forth in article R714-7-1, the application is deemed to be accepted.

#### **Article R714-8**

A reference of all registrations with the National Register of Trademarks shall be entered into the Official Bulletin of Industrial Property.

All interested persons may obtain from the National Institute of Industrial Property:

1. an identity certificate containing the model of the mark, the details with respect to the filing and registration, and, where appropriate, the restrictions with respect to the list of the goods or services resulting from a withdrawal, waiver, division or decision;
2. a reproduction of the registrations entered into the National Register of Trademarks;

3. a certificate of non-registration.

As from the day of the publication provided for in the first paragraph, all interested persons may ask to consult the file of the application for registration of a mark and to obtain at his expense a reproduction of the documents. The National Institute of Industrial Property may subordinate the exercise of this right to the proof of a sufficient interest.

However, documents that are not disclosed to the applicant as well as those which contain personal data or which relate to business secrets shall be excluded from disclosure to the public.

**Article R714-9**

The inadmissible, rejected or no renewed filings may be restored to the owner, at his request and at his expense.

If they are not claimed, they may be destroyed by the National Institute of Industrial Property, at the end of a one-year period with respect to inadmissible and rejected filings, or at the end of a ten-year period with respect to not renewed filings.

## **CHAPTER V Certificate Mark and Collective Mark**

### **SECTION I Certificate Mark**

#### **Article R715-1**

The regulations governing use referred to in Article L715-2 shall contain:

1. the name of the mark proprietor;
2. a declaration stating that the mark proprietor complies with the requirements of Article L715-2;
3. the representation of the mark;
4. the goods or services covered by the mark;
5. the characteristics of the goods or services that are certificated by the mark;
6. the persons authorized to use the mark;
7. the conditions of use of the mark, including the sanctions;
8. as applicable, if the law so requires, the name, accreditation number and accreditation certification of the certification body or bodies. The accreditation must relate to the filing of the mark. If the certification body is not accredited yet, the document certifying the admissibility of the application for accreditation and the scope of the requested accreditation shall also be provided;
9. the manner in which the person providing the certificate verifies the characteristics of the goods and services and monitors the use of the mark.

The regulations governing use shall be published in the Official Bulletin of Industrial Property. Any regulations governing use submitted by the mark proprietor to the National Institute of Industrial Property shall be registered in the National Register of Trademarks after verification of their compliance with the provisions of this Article.



## **SECTION II Collective Mark**

### **Article R715-2**

The regulations governing use referred to in Article L715-6 shall contain:

1. the name of the mark proprietor;
2. the object of the association, group or legal person under public law who is the proprietor of the mark;
3. the bodies authorized to represent the association, group or legal person under public law;
4. in case of an association or group, the conditions of membership;
5. the representation of the mark;
6. the goods or services covered by the mark;
7. the persons authorized to use the mark;
8. the conditions of use of the mark, including sanctions.

The regulations governing use shall be published in the Official Bulletin of Industrial Property. Any regulations governing use submitted by the mark proprietor to the National Institute of Industrial Property shall be registered in the National Register of Trademarks after verification of their compliance with the provisions of this Article.

## **CHAPTER VI Disputes**

### **SECTION I Disputes regarding the Invalidity and Revocation of a Trademark**

#### **SUBSECTION I Application for Declaration of Invalidity or for Revocation**

##### **Article R716-1**

The application for declaration of invalidity or for revocation referred to in Article L716-1 shall be submitted in writing in accordance with the conditions and terms stipulated by decision of the Director General of the National Institute of Industrial Property.

It shall contain:

1. the identity of the applicant;
2. as applicable, the particulars suitable to establish the existence, nature, origin and scope of the earlier rights invoked;
3. the references of the contested trademark, as well as the indication of the goods or services to which the application for declaration of invalidity or for revocation relates;
4. the statement of the grounds on which rests the application for declaration of invalidity or for revocation, except for the application grounded on Article L714-5;
5. proof of payment of the prescribed fee;
6. where appropriate, except where he has the capacity of industrial property attorney or lawyer, the power of attorney of the representative, which may be submitted to the Institute within one month.

After its filing, the application for declaration of invalidity or for revocation may not be extended to grounds or goods or services other than those invoked or referred to in the initial application.

##### **Article R716-2**

The application for declaration of invalidity or for revocation submitted under the conditions set out in Article L716-2, the second paragraph of Article L716-2-1 and Article L716-3 may be submitted by a natural or legal person, acting in person or by means of a representative that meets the requirements of Article R712-2. These terms shall apply to the observations presented in response to this application.

In case of a joint application submitted by more than one applicant, a common representative meeting the same requirements shall be appointed.

## **SUBSECTION II Administrative Proceedings for Declaration of Invalidity or for Revocation**

### **Article R716-3**

The National Institute of Industrial Property shall ensure compliance and shall comply itself with the adversarial principle. It may not ground its decision on pleas, explanations and documents invoked or submitted by the parties without having enabled the parties to discuss these in adversarial proceedings. Any observation or document submitted to the Institute by one of the parties shall be notified without delay to the other parties.

The parties shall be required to state expressly their requests and the pleas of fact and law underlying each of their claims. Any exchange between the parties and the Institute shall take place under the terms established by decision of the Director General of the National Institute of Industrial Property.

### **Article R716-4**

An agent of the National Institute of Industrial Property who has examined an application for registration of a trademark or an opposition against an application for registration of a trademark may not examine the application for declaration of invalidity or for revocation concerning the same trademark.

### **Article R716-5**

Any application for declaration of invalidity or for revocation filed in breach of Article L716-5 or by a person not entitled thereto, or not in compliance with the conditions set out in Articles R716-1 and R716-2 shall be declared inadmissible. However, such inadmissibility may not be enforced by the National Institute of Industrial Property until the applicant has been invited to complete the missing mentions and documents or to present observations.

The observations or documents submitted after the filing of the application by a person not entitled thereto, or not in compliance with the conditions set out in Article R716-2 or with the terms set out in the second paragraph of Article R716-3 shall be declared inadmissible.

### **Article R716-6**

Subject to inadmissibility raised ex officio by the Institute and to

the cases of suspension or closure of proceedings referred to in Article R716-9 and R716-11, respectively, the application for declaration of invalidity or for revocation shall be examined in accordance with the following procedure:

1. The proprietor of the contested trademark shall be notified of the application. He shall be afforded two months to submit written observations in response and, as applicable, to provide all documents he deems useful.

In case of applications for revocation grounded on Article L714-5, the documents submitted by the trademark proprietor must prove that there was genuine use of the contested trademark during the five years prior to the application for revocation;

2. If a response is submitted, the applicant shall be afforded a new time limit of one month to present written observations in response and to provide all documents he deems useful;

3. If the applicant responds, the trademark proprietor shall be afforded a new time limit of one month to present new observations or to provide new documents. In case of an application for revocation grounded on Article L714-5, this time limit shall be granted to the trademark proprietor even in the absence of the applicant's observations in response;

4. If a response is submitted, the applicant shall be afforded a new time limit of one month to present his last written observations or to provide new documents;

5. If the applicant responds, the trademark proprietor shall be afforded a last time limit of one month to present his last written observations or to present new documents, without being allowed to invoke new pleas or to submit new evidence of use.

As part of the submission of its written observations, each party may request to present oral observations. The Director General of the Institute may also invite, without prior request, the parties to present oral observations if he deems it necessary for the purposes of the examination. In this case, the parties shall be brought together at the end of the written phase of the examination in order to present their oral observations under the terms set by decision of the Director General of the National Institute of Industrial Property.

#### **Article R716-7**

The Director General of the Institute shall rule on the application for declaration of invalidity or for revocation taking into account

all the written and oral observations presented, as applicable, by the parties.

At any time during the proceedings, by an express request:

1. the applicant for declaration of invalidity may surrender one or more of the pleas invoked or narrow the scope of his application to certain goods or services invoked or concerned;
2. the applicant for revocation may narrow the scope of his application to certain goods or services concerned.

#### **Article R716-8**

The time limit referred to in the last paragraph of Article L716-1 shall be three months.

The end date of the examination phase described in the same Article shall be notified to the parties without delay by the Director General of the Institute. This date shall occur if either party has not submitted observations until the expiry of the time limits referred to in Article R716-6 and, at the latest, on the date of presentation of oral observations. The Director General of the Institute shall notify without delay the parties of this date.

#### **Article R716-9**

The examination phase and the time limit set forth in the first paragraph of Article R716-8 may be suspended:

1. where the application for declaration of invalidity is grounded in whole or in part on an application for registration of trademark or geographical indication, or on a geographical indication the specifications of which are subject to a modification affecting the ground of the application for declaration of invalidity;
2. in case of an application for declaration of invalidity, for revocation, claiming ownership, or for assignment pursuant to Article L712-6-1, of the trademark or one of the trademarks on which the application for declaration of invalidity relies in whole or in part;
3. in case of an action against a company name or style, a domain name, a trade name or a signpost on which the application for declaration of invalidity relies in whole or in part;
4. upon the joint request of the parties, for a period of four months that may be extended twice;
5. at the initiative of the Institute, in particular while awaiting information and elements likely to affect the resolution of the dispute or the situation of the parties.

**Article R716-10**

Where the administrative proceedings seeking invalidation are suspended pursuant to item 1 of Article R716-9, they shall be resumed, at the request of one of the parties or, as applicable, at the initiative of the Institute when the registration of the trademark or of the geographical indication or the approval of the modification of the geographical indication specifications has been ascertained.

Where the invalidation proceedings are suspended pursuant to items 2 and 3 of Article R716-9, they shall be resumed upon request of one of the parties, by transmitting to the Institute the decision that is no longer subject to appeal.

The Institute shall notify the parties without delay of the resumption of proceedings, indicating the resumption date.

Where the invalidation proceedings are grounded on several earlier rights and one of these is subject to the case mentioned in item 6 of Article R716-11, the proceedings shall be resumed only on the grounds of the remaining rights.

**Article R716-11**

The invalidation or revocation proceedings shall be closed:

1. where the applicant has withdrawn his application;
2. where the applicant has lost his capacity to act;
3. where the application has become devoid of object following an agreement between the parties;
4. where the effects of the trademark against which the application had been filed have ceased, unless the applicant justifies a legitimate interest in obtaining a decision on the merits;
5. where the effects of all earlier rights invoked have ceased;
6. where, after suspension of the invalidation proceedings in the cases referred to in items 2 and 3 of Article R716-9, the applicant did not respond, within the time limit afforded by the Institute, to the request of the latter inviting him to inform it about the outcome of the initiated proceedings. However, where the opposition is grounded on several earlier rights, the closure shall only apply to the earlier rights deemed unfounded pursuant to the preceding provisions, and the Director General of the National Institute of Industrial Property shall rule on the remaining rights.

The parties shall be notified without delay of the proceedings closure decision.

**Article R716-12**

The notification mentioned in the last paragraph of Article L411-5 shall indicate the time limit for appeal, the terms under which the appeal may be exercised and the names and addresses of the parties to the proceedings in front of the National Institute of Industrial Property.

The time limits for appeals shall not be binding on the author of the appeal if the notification letter does not contain the indications set out in the first paragraph.



**SUBSECTION III Relationship between Judicial and Administrative Proceedings**

**Article R716-13**

Applications for declaration of invalidity or for revocation of trademarks shall be inadmissible where a decision relating to the same subject matter and the same case has been delivered, between the same parties acting in the same capacities, by the National Institute of Industrial Property or by a court of law, and this decision is no longer subject to appeal.

Notwithstanding the provisions of the second paragraph of Article R411-19, applications for declaration of invalidity or for revocation of trademarks brought before a court of law in breach of point I of Article L716-5 shall be inadmissible. The court of law shall raise ex officio this ground for inadmissibility.

**Article R716-14**

Where a court of law is called to rule on a counterclaim for declaration of invalidity or for revocation of a trademark that is subsequent to an application submitted, between the same parties and for the same facts, to the National Institute of Industrial Property, the court of law may postpone ruling on this issue until the decision ruling on the invalidity or revocation is no longer subject to appeal.

During the suspension of proceedings, any provisional or protective measures may be ordered.

## **SECTION II Provisional and Protective Measures**

### **Article R716-15**

The time period laid down in the last paragraph of Article L716-4-6 and given to the applicant to appeal on the merits in civil or criminal proceedings, or file a claim with the prosecutor of the Republic, is twenty working days or thirty-one calendar days if this period is longer, from the date of the order.

### **SECTION III Investigative Measures**

#### **Article R716-16**

The descriptive or real seizure set forth in Article L716-7 is ordered by the presiding judge of the court of law with jurisdiction to hear cases on the merits.

The presiding judge can authorize the bailiff to make any useful finding in order to establish the origin, substance and scope of the infringement.

In order to ensure that business secrecy is protected, the presiding judge may order ex officio that the documents seized be placed in provisional escrow in the conditions set forth in Article R153-1 of the Commercial Code.

#### **Article R716-17**

When the judge has made the seizure subject to the applicant constituting guarantees, the latter must be constituted before the seizure is carried out.

On penalty of nullity and damages against the bailiff, before carrying out the seizure the latter must give a copy of the order and, where applicable, of the instrument recording the constitution of guarantees to the holders of the items seized or described in the order. The same holders must be given a copy of the seizure report. However, in terms of substitution of goods or services, the bailiff is only required to give a copy of the order and the instrument recording the constitution of guarantees after delivery of the goods or provision of the services.

#### **Article R716-18**

The time period laid down in the last paragraph of Article L716-4-7 and given to the applicant to appeal on the merits is twenty working days or thirty-one calendar days if this period is longer, from the day of the seizure or description.

#### **Article R716-19**

In view of the seizure report, the presiding judge of the court can order any measure to complement the evidence of the alleged acts of infringement.

#### **SECTION IV Withholding at Customs**

##### **Article R716-20**

Chapter V bis of Title III of Book III applies to the customs administration withholding merchandise that could infringe a trademark, as stipulated in Chapter VI bis of Title I of Book VII.

## **SECTION V Miscellaneous Provisions**

### **Article R716-21**

The seat and jurisdiction of the courts of law that are exclusively competent to hear proceedings about trademarks pursuant to Article L716-5 of the Intellectual Property Code are set in accordance with table VI attached to Article D211-6-1 of the Judicial Organization Code.

### **Article R716-22**

The court called to rule on an application for declaration of invalidity filed by the holder of an application for trademark registration shall postpone its ruling until the publication of the registration.

## **CHAPTER VII International Trademarks and EU Trademarks**

### **SECTION I International Trademarks**

#### **Article R717-1**

Articles R712-3(2) (d), R712-9 to R712-11, R712-13 to R712-19, R712-23 and R712-23-1, R714-2, R714-4 to R714-8 and R716-1 to R716-14 shall be applicable to international registrations of trademarks extended to France in compliance with the Madrid Agreement of 14 April 1891 and the Madrid Protocol of 27 June 1989, within the ambit of and subject to the provisions provided for in this Chapter.

#### **Article R717-1-1**

Article R.712-23-2 applies to international trademark registrations as specified in article R717-1, within the same limit and under the same reservations.

#### **Article R717-2**

If the international registration relates to a Collective Mark or a Certificate Mark, the regulations governing use referred to in Article R712-3(2) (d), accompanied where appropriate by a translation into French, shall be furnished within a period of six months as from entry of the mark in the International Register.

Where this requirement is not complied with, the international registration shall be deemed rejected.

#### **Article R717-3**

The two-month period within which the observations of third parties must be filed pursuant to article L712-3 shall run as from the publication of the Bulletin "La Gazette" by the World Intellectual Property Organization.

#### **Article R717-4**

The examination referred to in Article R712-10 shall be restricted to verifying the suitability of the sign to constitute a trademark or to be adopted as a trademark. If the international registration relates to a Collective Mark or a Certificate Mark, it shall also be verified that the mark cannot be refused pursuant to Articles L715-4 and L715-9.

The four-month period within which notifications of irregularity are to be issued in accordance with item 2 of Article R712-11 shall

begin with the notification to the National Institute of Industrial Property of the extension to France of the international registration.

Irregularities shall be notified to the holder of the international registration through the International Bureau of the World Intellectual Property Organization.

**Article R717-5**

The time limit to file opposition in accordance with the article L712-4 shall run as from the publication of the Bulletin "La Gazette" by the World Intellectual Property Organization.

The holder of the international registration shall be notified of the opposition through the International Office of the World Intellectual Property Organization.

The holder of the international registration will be deemed to have received the notification of opposition within fifteen days as from the date of issue of this notification by the National Industrial Property Institute.

**Article R717-6**

Any decision to refuse shall be given in the form of a refusal to protect the international registration in France.

The holder of the international registration shall be notified through the International Office of the World Intellectual Property Organization.

**Article R717-7**

Acts relating to international registrations that have effect in France may be entered in the National Register of Trademarks once they may not be entered in the International Register.

**Article R717-8**

All applications for international registration or posterior registration to this registration which is subjected, under the terms of the Madrid Agreement of 14 April 1891 and the Madrid Protocol of 27 June 1989, to the approval of the National Institute of Industrial Property for transmission to the international office, must be filed under the conditions provided for in the order referred to in Article R712-26.

The provisions of Article R712-11 shall be applicable to all applications that don't meet the conditions provided for in the

preceding paragraph. The application date to the National Institute of Industrial Property shall be that on which the application has, as the case may be, been regularized.



## **SECTION II EU Trademarks**

### **Article R717-9**

An EU trademark or an application for an EU mark shall be converted into an application for a French trademark as soon as the National Institute for Industrial Property has received the application for conversion addressed to the EU Intellectual Property Office. A national number will be allocated.

1. The applicant will be given a deadline for providing:

- a) The application for registration as provided for in Article R712-3(1);
- b) proof of payment of royalties under Article R712-3(2, a);
- c) translation into French, where applicable, of the application for conversion and the attached documents.
- d) if a Collective Mark or a Certificate Mark is concerned, the regulation defining the conditions to which the use of the mark is subject.

If the applicant is not domiciled, or does not have its registered office, in and EU Member State or in a State that has signed the European Economic Area agreement, they must, by the same deadline, appoint a representative who satisfies the conditions of Article R712-2 and supply the name and address of the latter to the National Institute for Industrial Property;

2. The request resulting from the application for conversion shall be rejected if the documents referred to in point 1 have not been produced by the stipulated deadline;

3. When the request resulting from the application for transformation has been recognized as admissible, it will be published in the Official Journal of Industrial Property within the six weeks following acceptance by the National Institute for Industrial Property of the documents referred to in point 1. Subject to the provisions of paragraph 3 of Article L717-5, reference is made to the right of any person concerned to express their comments within a period of two months and to the right of any persons referred to in Article L712-4-1 to oppose the registration within the same period of time.

### **Article R717-10**

The request for a national mark resulting from the application for conversion shall be examined and registered or rejected under the terms of Articles R712-9 to R712-23-1.

**Article R717-10-1**

The national trademark application arising from the transformation request is also examined and registered or rejected in the conditions set forth in article R712-23-2.

**Article R717-11**

The proceedings and claims concerning EU trademarks provided for by article L717-4 are brought before the courts specified in article R211-7 of the Judicial Organization Code.

## **CHAPTER VIII Common Provisions**

### **SECTION I**

#### **Article R718-1**

The time limits afforded by the National Institute of Industrial Property shall be no less than one month and no more than four months.

#### **Article R718-2**

Where a time limit is expressed in days, the day of the deed, of the event, of the decision or of the notification that makes it run will not count.

Where a time limit is expressed in months or years, this time limit will expire on the day of the last month or of the last year which carries the same date of the month as the date of the deed, of the event, of the decision or of the notification that makes the time limit run. In absence of identical date of the month, the time limit shall expire on the last day of the month.

Where a time limit is expressed in months and days, the months will first be deducted, then the days.

Any time limit shall expire the last day at mid night.

The time limit which would expire normally on Saturday, on Sunday or on a public holiday or on a non-working day shall be extended until the first next working day.

#### **Article R718-3**

Any notification shall be considered duly given if made:

1. To the last holder of the application for registration of the mark filed with the institute or to the last owner entered into the National Trademark Register;
2. To the local authorities and public institutions specified in article L712-2-1;
3. To the representative of the abovementioned natural persons or legal entities.

If the natural person or legal entity to whom the notification is sent does not have their residence in a Member State of the EU or a State that is party to the agreement on the European Economic Area, the notification will be deemed regular if made to the last representative they have appointed before the institute.

**Article R718-4**

The notifications provided for in this Title shall be made by a registered letter with advice of delivery.

The registered mail may be replaced by delivery by hand of the letter to its addressee against receipt, in the premises of the National Institute of Industrial Property, or by an electronic message in the manner laid down by the Director General of the National Institute of Industrial Property to guarantee, in particular, the safety of mailing.

If the address of the addressee is unknown, the notification will be made by publication of a notice in the Official Bulletin of Industrial Property.

**Article R718-5**

Any correspondence or documents concerning a procedure before the National Industrial Property Institute set forth in this title shall be filed at the head office of the Institute or sent by post or by any electronic transmission method in the conditions defined by decision of its Director General. The filing date is the date of receipt at the Institute's head office.

The Director General of the National Industrial Property Institute can require electronic filing when this method could facilitate examination and publication of these documents.

The Institute provides assistance to applicants by any appropriate means, specified by decision of the Director General.

Any correspondence or documents concerning a procedure set forth in this title, submitted to the Institute under the conditions set out in the first paragraph by a representative other than the one mentioned in the National Register of Trademarks shall be deemed irregular. In the absence of an express indication, this representative shall be substituted to the one mentioned in the Register for the subsequent notifications made during the initiated procedure.

## **SECTION II Transitional Provisions**

### **Article R718-6**

Where a trademark has been subject, before the effective date of Decree no. 2019-1316 of 9 December 2019, to an early renewal application pursuant to Article R712-25 in its applicable version prior to the said effective date, it may be renewed at the same time as its associated filing or filings by a single declaration accompanied by proof of payment of the prescribed fee for each trademark to be renewed.

### **Article R718-7**

Collective certification marks submitted before the effective date of Decree no. 2019-1316 of 9 December 2019 shall remain governed by Articles R715-1 and R715-2 in their version prior to the version resulting from this Decree. During one year from the effective date of the latter, the proprietor of such a mark may request the National Institute of Industrial Property to make in the National Register of Trademarks the following mention: "collective certification mark".

Collective Marks submitted before the effective date of the same Decree shall remain governed by Articles R715-1 and R715-2 in their version prior to the version resulting from this Decree. During one year from the effective date of the latter, the proprietor of such a mark may request the National Institute of Industrial Property to make in the National Register of Trademarks the following mention: "simple certification mark".

## **TITLE II Geographical indications**

### **CHAPTER I General aspects**

#### **SECTION Geographical indications protecting industrial and craft products**

##### **Article R721-1**

I. The application for approval or modification of the approved specifications and all the documents relating to the application shall be sent to the National Industrial Property Institute by electronic means according to the terms and conditions set by decision of the director general of the institute, by the defense and management organization defined in article L721-4 or by a representative meeting the conditions laid down in article R712-2. The filing date is the date the application is received by the institute.

II. The approval application file shall comprise:

1. The approval application drawn up in the conditions set by decision of the director general of the institute;
2. The name and postal and email addresses of the defense and management organization and the full name of its legal representative;
3. The draft specifications of the geographical indication containing all the information provided for in article L721-7;
4. The elements of information that can be used to assess, in particular in view of the rules laid down in the third paragraph of article L721-4 and article L721-6(4), the representation of the operators within the defense and management organization;
5. Proof of payment of the fee stipulated in article R411-17;
6. Where applicable, the representative's proxy.

III. The file for the application to modify approved specifications shall include, in addition to the information specified in 2, 5 and 6 of II:

1. The modification application drawn up in the conditions set by decision of the director general of the institute;
2. The modified elements of the approved geographical indication specification in question;
3. The elements of information that can be used to assess, in

particular in view of the rules laid down in the third paragraph of article L721-4 and article L721-6(4), the representation of the operators within the defense and management organization, if these elements are modified.

IV. The documentary evidence to be submitted in support of the applications set forth in this article is specified by decision of the director general of the institute.

V. All the correspondence exchanged between the applicant and the institute shall be sent by electronic means.

#### **Article R721-2**

I. The National Industrial Property Institute, to which an application for approval of specifications is submitted, shall send a receipt of filing with the application number to the applicant organization or its representative.

II. The institute shall notify the applicant within a period of two months from the date of filing the application specified in I:

1. Either, when the file is complete, of receipt of the complete file;
2. Or, when the file is incomplete, of receipt of the incomplete file.

In the latter case, it accompanies the notification of a request for the missing documentary evidence and, where applicable, a request for information to complement the elements of the file as specified in article R721-1.

Within one month from the notification date, the applicant shall submit the documents requested, on penalty of the application being found inadmissible, and any additional information requested, on penalty of the application being rejected.

Within a month from receipt of these documents and additional information, the institute shall send to the applicant a notification certifying receipt of the complete file.

III. The complete file, of which the applicant has been informed of receipt in the conditions described in point II, shall be sent at the same time to the minister for industrial property for notification to the European Commission pursuant to the provisions of directive 98/34/CE of the European Parliament and Council of 22

June 1998 providing for a notification procedure in the field of technical standards and regulations and regulations concerning information society services.

IV. The institute shall publish the application for approval of the specifications in the Official Industrial Property Gazette within one month from the date of notification of the complete file as set forth in point II. V. The provisions of points I, II and IV shall apply to applications to modify approved specifications. The provisions of point III only apply to applications for modification concerning the information specified in (1) to (5) and (11) of article L721-7.

### **Article R721-3**

I. The opening of the public inquiry on an application for approval of specifications as laid down in article L721-3(2) shall give rise to a notice published simultaneously to the publication specified in point IV of article R721-2, in electronic form on the institute's website and in the Official Industrial Property Gazette and the Official Gazette of the French Republic.

This recommendation shall also indicate:

1. That the inquiry will be closed at the end of a period of two months from the date of publication of the recommendation in the Official Gazette;
2. That during this period the draft specifications can be consulted electronically on the institute's website;
3. That during this same period any person can submit observations according to the terms and conditions set by decision of the director general of the institute.

II. A public inquiry shall be organized in the conditions laid down in point I for any application to modify approved specifications. This inquiry only concerns the information in the specifications for which modification is requested.

### **Article R721-4**

I. The National Industrial Property Institute shall open the consultation on an application for approval of specifications as laid down in article L721-3(3) simultaneously to the publication of opening of public inquiry laid down in R721-3(1). The terms and conditions of such consultation shall be determined by decision of



the director general of the institute.

The consultation shall be terminated at the end of a period of two months from the date of referral to the natural persons or legal entities specified in article L721-3(3).

The interested professional groupings specified in article L721-3 are the national organizations representing companies and craft and the professional organizations representing the organizations assessing the compliance of industrial and craft products specified in article R721-9.

II. A consultation shall be organized in the conditions laid down in point I for any application to modify approved specifications. This consultation only concerns the information in the specifications for which modification is requested.

#### **Article R721-5**

I. The National Industrial Property Institute shall draw up a summary of the public inquiry and the consultation, that it sends to the applicant, accompanied by its conclusions and any recommendations, within two months from the end of the consultation. The applicant has a period of two months from receipt of these documents to submit its observations.

They may, within the same period, where necessary state their intention to revise the provisions of the specifications within the scope of an application for approval of the specifications, or modifications to the approved specifications, within the scope of an application to modify these specifications.

II. In the situation stipulated in the last paragraph of I, if the planned revisions concern the elements specified in (1) to (6) of article L721-7, a new inquiry and a new consultation, limited only to the elements of the amended specifications, shall be organized by the institute.

Within two months from the date of receipt of these revisions, a notice of opening of this new investigation shall be published in the forms set forth in point I of article R721-3.

The institute shall open the new consultation on the elements of the amended specifications at the same time as publication of the notice of opening of the new public inquiry stipulated in the previous paragraph. The provisions of the second and third paragraphs of point I of article R721-4 are applicable to this new consultation,

the terms and conditions of which shall be specified on decision of the director general of the institute.

The institute shall draw up a summary of the new public inquiry and the new consultation that it sends to the applicant, accompanied by its conclusions, within two months from the end of the consultation. The applicant has a period of one month from receipt of these documents to submit its observations.

Following this new public inquiry and this new consultation, the applicant can no longer revise the draft specifications or the draft modifications to the approved specifications unless the desired revisions have the objective to return to the initial draft.

III. The summary of the public inquiry and consultation, laid down in point I, shall be published on the website of the National Industrial Property Institute at the end of the time period given to the applicant to submit its observations. If a new public inquiry and new consultation have been organized in the conditions laid down in point II, a summary of them shall be published on the same website at the end of the time period given to the applicant to submit observations.

#### **Article R721-6**

The applicant shall be notified of decisions to approve or reject approval of specifications and decisions to approve or reject modification of approved specifications by the institute within two months from the end of the observation periods set forth in the second paragraph of point I and the fourth paragraph of point II of article R721-5, or within two months from the end of the deferment period set forth in article 9 of directive 98/34/CE of the European Parliament and Council of 22 June 1998, if the transfer stipulated in point III of article R721-2 and/or the expiry date of these deferment periods is later than the expiry date of the observation periods. This two-month period can be extended for a maximum of one month, by decision of the director general of the institute accompanied by explanations, of which the applicant is notified. Decisions to approve specifications are accompanied, when notification is given, by the approval number.

#### **Article R721-6-1**

If an express decision is not made within the time period set forth in article R721-6, the application to approve or modify the

specifications is deemed to be rejected.

**Article R721-7**

Before any decision to withdraw approval of the specifications, the institute shall send notification of formal notice to the defense and management organization to comply with its obligations in a time period that allows it to organize the audit operations set forth in article L721-9 or the implementation of corrective measures guaranteeing compliance with the specifications.

Decisions to withdraw approval shall be notified by the institute to the defense and management organization.

**Article R721-8**

A logo dedicated to geographical indications, laid down in article L721-2, shall be defined jointly by the industrial property minister and the minister for craft. When an operator is a member of the defense and management organization and wishes to indicate that the product complies with the approved specifications of a geographical indication, the logo, accompanied by the name of the geographical indication and the approval number, can be affixed to the product, its packaging or its labelling.

**Article R721-9**

Accredited organizations, coordinating the audit operations provided for in article L721-9 at the request of the defense and management organization or an operator, are third party organizations, independent from the parties involved. Their personnel must not practice any activity which, in carrying out their duty to assess compliance, may affect their independence of judgment, their impartiality and their integrity.

Compliance of approved specifications can only be audited by an inspection or certification organization that has filed an accreditation application admitted as operational by decision of the accreditation organization for a field of competence covering the specifications. The accreditation must be obtained within one year from the date of notification if this decision is in favor of operational admissibility.

The accreditation organization shall make an updated list of the accredited inspection or certification organizations available on its website. These organizations must immediately inform the defense and management organizations of any change to their accreditation

status.

This report shall contain the accreditation mark or a textual reference to the accreditation.

#### **Article R721-10**

I. The accredited inspection organizations shall send the audit report to the operator audited and to the defense and management organization within one month from completion of the audit.

On the basis of the report sent by the accredited inspection organization, or any other information brought to its attention and used to establish that the operator does not comply with the specifications, the defense and management organization shall invite the operator to comply within a specific period of time. The operator shall inform the defense and management organization of the corrective measures taken for this purpose.

Before excluding an operator pursuant to article L721-6(6), the defense and management organization shall send it formal notice asking it to comply with its obligations within a specific period which cannot be shorter than one month and informing it of the exclusion it risks if it fails to comply.

II. The accredited audit organizations shall send the audit report to the operator audited within one month from completion of the audit.

The certification is only granted by the certification organization after major failings are corrected by the operator within the period set by the certification organization. The certification decision is shown in a certificate sent to the operator. The certification organization shall send to the defense and management organization a copy of the certification decision.

The certification organization shall oversee the certified operator. In the event of a major failing, the certification organization shall send it a formal notice to correct this failing within a specific period.

The certification organization shall inform the defense and management organization if the certificate is modified or if the certification is reduced, terminated, suspended or withdrawn. If the certification is not granted, terminated, suspended or withdrawn, the defense and management organization shall exclude the operator immediately in accordance with article L721-6(6).

III. The audit report specified in points I and II of this article and, where applicable, the certificate issued by the certification organization, contain the accreditation mark or a textual reference to the accreditation.

IV. The information about the results of the audits conducted by the inspection or certification organizations on the corrective measures taken by the operators, certification decisions, certification modifications and certification reductions, terminations, suspensions or withdrawals shall be sent to the National Industrial Property Institute by the defense and management organization electronically by the deadlines and in the conditions set by the decision of the director general of the institute. The institute shall verify that the audit reports and corrective measures requested and applied are consistent.

#### **Article R721-11**

Any notification shall be considered duly given if made:

1. Either to the defense and management organization of the geographical indication specified in article L721-4;
2. Or to the representative of the legal entity specified in point 1.

If the legal entity to whom the notification is sent does not have its residence in a Member State of the EU or a State that is party to the agreement on the European Economic Area, the notification will be deemed regular if made to the last representative they have appointed before the institute.

#### **Article R721-12**

The provisions laid down in articles R718-2 and R718-4 shall apply to this section.

## **CHAPTER II Litigation**

### **SECTION I Civil proceedings**

#### **Article R722-1**

The time period laid down in the last point of article L722-3 and given to the applicant to appeal on the merits in civil or criminal proceedings, or to file a claim with the prosecutor of the Republic, is twenty working days or thirty-one calendar days if this period is longer, from the date of the order.

#### **Article R722-2**

The descriptive or real seizure set forth in article L722-4 is ordered by the presiding judge of the court to hear cases on the merits.

The presiding judge can authorize the bailiff to make any useful finding in order to establish the origin, substance and scope of the infringement of a geographical indication.

In order to ensure that business secrecy is protected, the presiding judge can automatically order that the documents seized be placed in provisional escrow in the conditions set forth in article R153-1 of the Commercial Code.

#### **Article R722-3**

When the judge has made the seizure subject to the applicant constituting guarantees, they must be constituted before the seizure is carried out.

On penalty of nullity and damages against the bailiff, before carrying out the seizure the latter must give a copy of the order and, where applicable, of the instrument recording the constitution of guarantees to the holders of the items seized or described in the order. The same holders must be given a copy of the seizure report.

#### **Article R722-4**

The time period laid down in the last point of article L722-4 and given to the applicant to appeal on the merits is twenty working days or thirty-one calendar days if this period is longer, from the date of the seizure or description.

#### **Article R722-5**

In view of the seizure report, the presiding judge of the court can

order any measure to complement the evidence of the alleged acts of infringement of a geographical indication.

**Article R722-6**

The seat and jurisdiction of the courts that are exclusively competent to hear proceedings about geographical indications pursuant to article L722-8 of the Intellectual Property Code are set in accordance with table VI attached to article D211-6-1 of the Judicial Organization Code.

## **SECTION II Withholding**

### **Article R722-7**

Chapter V bis, title III, book III applies to the customs administration withholding merchandise that could infringe a geographical indication, as stipulated in section II, chapter II, title II, book VII.



**BOOK VIII Provisions specific to Mayotte, Saint-Barthelemy, Saint-Pierre-et-Miquelon, the Wallis and Futuna Islands, New Caledonia and the French Austral and Antarctic Territories**

**Article R811-1**

Subject to the adaptations laid down in Article R811-3 hereinafter the following apply in New Caledonia:

1. the provisions of Book I, except for Articles R133-1, R133-2(4) and R135-1 to R135-4;
2. the provisions of Book II;
3. the provisions of Book III, except for Articles R326-1 to R326-7; Article R321-47 is applicable in the Wallis and Futuna Islands in its version resulting from Decree no. 2019-1333 of 11 December 2019;
4. the provisions of Book IV, except for Articles R421-1 to R421-12, R422-1 to R422-66, R423-1 and R423-2;
5. the provisions of Book V, except for Articles R522-1 and R717-11, as well as Articles R512-2, R512-3, R512-13, R512-15, R513-1 and R513-2, exclusively to the extent that they relate to industrial property attorneys;
6. the provisions of Book VI, except for Articles R612-2, R612-38, R613-25-1 to R613-25-4, R613-46, R613-56 and R613-58, exclusively to the extent that they relate to industrial property attorneys; Article R411-25 is applicable in the Wallis and Futuna Islands in its version resulting from Decree no. 2019-1333 of 11 December 2019;
7. the provisions of Book VII, except for Articles R712-2, R712-13, R712-14, R712-21, R712-24, R714-4 and R714-6, exclusively to the extent that they relate to industrial property attorneys;

However, Article R613-63 reads as follows:

Article R613-63.- The application for reduction of the fees set out in Article L612-20, in its version prior to Law no. 2005-842 of 26 July 2005, shall be submitted in writing to the Director General of the National Institute of Industrial Property.

It shall be accompanied by a tax exemption notification or an equivalent supporting document. It shall be ruled on by a reasoned decision. The decision shall be notified to the applicant.

If the application is admitted, the applicant shall benefit from the reduction provided he submits every year a tax exemption notification or an equivalent supporting document.

**Article R811-1-1**

Subject to the adaptations laid down in Article R811-3 hereinafter

the following apply in the Wallis and Futuna Islands:

1. the provisions of Book I, except for Article R133-1, item 4 of Article R133-2 and Articles R135-1 to R135-4, R136-1 is applicable in its wording resulting from Decree No. 2021-1369 of 20 October 2021;

Articles R122-3, R122-6, R122-7, R122-8, R122-10, R122-11, R122-12, R122-23 to R122-32, R134-3 to R134-9, R137-1 and R138-1 are applicable in their wording resulting from Decree No.2022-928 of 23 June 2022.

2. the provisions of Book II in their version resulting from Decree no. 2017-338 of 15 March 2017;

Articles R211-2 and R211-3 are applicable in their wording resulting from Decree No.2022-928 of 23 June 2022.

3. the provisions of Book III, except for Articles R326-1 to R326-7; Articles R331-88, R332-1 and R343-2 are applicable in their version resulting from Decree no. 2018-1126 of 11 December 2018;

The provisions of Title I bis are applicable in their wording resulting from Decree No.2021-539 of 29 April 2021;

Articles R323-1, R323-5, R324-1, R331-56, R331-59, R331-60, R331-62 and R331-74-1 are applicable in their wording resulting from Decree No.2021-1369 of 20 October 2021;

Articles R331-2 to R331-53 are applicable in their wording resulting from Decree No.2021-1853 of 27 December 2021;

Articles R321-4-1, R321-29, R328-1 to R328-8, R329-13 to R329-20, R341-2 and R341-3 are applicable in their wording resulting from Decree No.2022-928 of 23 June 2022.

4. the provisions of Book IV mentioned in the left column of the table below, in their version indicated in the right column of the same table:

Applicable provisions	In their drafting resulting from
Article R411-1	Decree No.2023-166 of 7 March 2023
Articles R411-1-1 and R411-1-2	Decree No.2007-280 of 1st March 2007
Article R411-1-4	Decree No.2015-595 of 2 June 2015
Article R411-2	Decree No.2004-199 of 25 February 2004
Article R411-3	Decree No.2015-515 of 7 May 2015
Article R411-4	Decree No.2004-199 of 25 February 2004

Article R411-5	Decree No.2007-280 of 1st March 2007
Article R411-6	Decree No.95-385 of 10 April 1995
Articles R411-8 and R411-9	Decree No.2012-1247 of 7 November 2012
Articles R411-10 to R411-13	Decree No.95-385 of 10 April 1995
Article R411-16	Decree No.95-385 of 10 April 1995
Article R411-17	Decree No.2023-166 of 7 March 2023
Article R411-18	Decree No.2023-166 of 7 March 2023
Article R411-19	Decree No.2019-1316 of 9 December 2019
Articles R411-20 to R411-43	Decree No.2019-1316 of 9 December 2019
Articles R412-15 and R412-16	Decree No.2014-731 of 27 June 2014
Article R412-17	Decree No.2012-634 of 3 May 2012
Articles R412-18 and R412-19	Decree No.95-385 of 13 April 1995
Articles R412-20 and R412-21	Decree No.2014-731 of 27 June 2014

5. the provisions of Book V, except for Article R522-1 and Articles R512-2, R512-3, R512-13, R512-15, R513-1 and R513-2, exclusively to the extent that they relate to industrial property attorneys  
Articles R521-2 and R521-5 are applicable in their version resulting from Decree no. 2018-1126 of 11 December 2018;

6. the provisions of Book VI, except for Articles R612-2, R612-38, R613-25-1 to R613-25-4, R613-44, R613-44-1, R613-46, R613-56 and R613-58, exclusively to the extent that they relate to industrial property attorneys, under the following conditions:

a) the provisions of Title I mentioned in the left column of the table below, in their wording indicated in the right column of the same table:

Applicable provisions	In their drafting resulting from
Articles R611-1 to R611-11	Decree No.95-385 of 10 April 1995
Article R611-12	Decree No.96-857 of 2 October 1996
Articles R611-13 and R611-14	Decree No.95-385 of 10 April 1995
Article R611-14-1	Decree No.2009-645 of 9 June 2009
Articles R611-15 to R611-18	Decree No.95-385 of 10 April 1995
Article R611-19	Decree No.2019-966 of 18 September 2019
Article R611-20	Decree No.95-385 of 10 April 1995
Article R612-1	Decree No.2014-650 of 20 June 2014

Article R612-2	Decree No.2020-225 of 6 March 2020
Article R612-3	Decree No.95-385 of 10 April 1995
Articles R612-3-1 and R612-3-2	Decree No.2020-15 of 8 January 2020
Article R612-4	Decree No.95-385 of 10 April 1995
Article R612-5	Decree No.2020-15 of 8 January 2020
Article R612-6	Decree No.2007-280 of 1st March 2007
Article R612-7	Decree No.2014-650 of 20 June 2014
Articles R612-8 and R612-9	Decree No.2008-1472 of 30 December 2008
Article R612-10	Decree No.95-385 of 10 April 1995
Article R612-11	Decree No.2008-1472 of 30 December 2008
Articles R612-12 to R612-14	Decree No.95-385 of 10 April 1995
Article R612-15	Decree No.2004-199 of 25 February 2004
Articles R612-16 and R612-17	Decree No.95-385 of 10 April 1995
Article R612-17-1	Decree No.2007-280 of 1st March 2007
Articles R612-18 to R612-20	Decree No.95-385 of 10 April 1995
Article R612-21	Decree No.2020-15 of 8 January 2020
Article R612-22	Decree No.95-385 of 10 April 1995
Article R612-24	Decree No.2020-15 of 8 January 2020
Article R612-25	Decree No.95-385 of 10 April 1995
Articles R612-26 to R612-28	Decree No.2022-196 of 17 February 2022
Article R612-29	Decree No.2020-15 of 8 January 2020
Article R612-30	Decree No.95-385 of 10 April 1995
Article R612-31	Decree No.2020-15 of 8 January 2020
Articles R612-32 to R612-34	Decree No.95-385 of 10 April 1995
Articles R612-35 and R612-36	Decree No.2004-199 of 25 February 2004
Article R612-37	Decree No.95-385 of 10 April 1995
Article R612-37-1	Decree No.2020-15 of 8 January 2020
Article R612-38	Decree No.2007-731 of 7 May 2007
Articles R612-39 and R612-39-1	Decree No.2020-15 of 8 January 2020
Article R612-40	Decree No.95-385 of 10 April 1995
Article R612-41	Decree No.2004-199 of 25 February 2004
Articles R612-42 to R612-44	Decree No.95-385 of 10 April 1995
Article R612-45	Decree No.2020-15 of 8 January 2020
Article R612-46 to R612-49	Decree No.95-385 of 10 April 1995

Article R612-50	Decree No.2008-1472 of 30 December 2008
Articles R612-51 and R612-52	Decree No.95-385 of 10 April 1995
Articles R612-53 to R612-55	Decree No.2020-15 of 8 January 2020
Articles R612-56-1 and R612-57	Decree No.2007-280 of 1st March 2007
Articles R612-58 to R612-65	Decree No.95-385 of 10 April 1995
Article R612-66	Decree No.2004-199 of 25 February 2004
Articles R612-67 to R612-70	Decree No.95-385 of 10 April 1995
Articles R612-70-1 and R612-70-2	Decree No.2015-1436 of 6 November 2015
Article R612-71	Decree No.2004-199 of 25 February 2004
Article R612-72	Decree No.95-385 of 10 April 1995
Articles R612-73 and R612-73-1	Decree No.2020-225 of 6 March 2020
Article R* 612-73-2	Decree No.2015-1436 of 6 November 2015
Article R612-73-3	Decree No.2020-225 of 6 March 2020
Article R612-74	Decree No.2004-199 of 25 February 2004
Article R612-75	Decree No.95-385 of 10 April 1995
Articles R613-4 to R613-9	Decree No.95-385 of 10 April 1995
Article R613-10	Decree No.2012-597 of 27 April 2012
Articles R613-11 to R613-25	Decree No.95-385 of 10 April 1995
Articles R613-25-1 to R613-25-3	Decree No.2008-625 of 27 June 2008
Article R613-25-4	Decree No.2012-597 of 27 April 2012
Articles R613-26 to R613-33	Decree No.95-385 of 10 April 1995
Articles R613-34 to R613-37	Decree No.2020-15 of 8 January 2020
Article R613-38 to R613-41	Decree No.95-385 of 10 April 1995
Article R613-42	Decree No.2022-196 of 17 February 2022
Article R613-43	Decree No.2008-1472 of 30 December 2008
Article R613-43-1 to R613-45	Decree No.2020-225 of 6 March 2020
Article R613-45-1	Decree No.2015-1436 of 6 November 2015
Article R613-45-2	Decree No.2015-511 of 7 May 2015
Article R613-45-3	Decree No.2020-225 of 6 March 2020
Article R613-46	Decree No.95-385 of 10 April 1995
Article R613-47	Decree No.2004-199 of 25 February 2004
Article R613-48	Decree No.95-385 of 10 April 1995

Articles R613-49 and R613-49-1	Decree No.2015-511 of 7 May 2015
Article R613-50	Decree No.2008-1472 of 30 December 2008
Article R613-51	Decree No.2004-199 of 25 February 2004
Articles R613-52 to R613-52-2	Decree No.2015-1436 of 6 November 2015
Article R613-53	Decree No.95-385 of 10 April 1995
Article R613-54	Decree No.2004-199 of 25 February 2004
Article R613-55	Decree No.2007-731 of 7 May 2007
Article R613-56	Decree No.2004-199 of 25 February 2004
Article R613-57	Decree No.2007-731 of 7 May 2007
Article R613-58	Decree No.95-385 of 10 April 1995
Articles R613-58-1 and R613-58-2	Decree No.2015-1436 of 6 November 2015
Articles R613-59 to R613-62	Decree No.95-385 of 10 April 1995
Article R613-63	Decree No.2020-225 of 6 March 2020
Article R614-1	Decree No.2014-650 of 20 June 2014
Article R614-4	Decree No.95-385 of 10 April 1995
Article R614-5	Decree No.2007-280 of 1st March 2007
Articles R614-6 and R614-7	Decree No.95-385 of 10 April 1995
Articles R614-11 to R614-13	Decree No.2008-625 of 27 June 2008
Articles R614-14 to R614-17	Decree No.95-385 of 10 April 1995
Article R614-18	Decree No.2008-625 of 27 June 2008
Articles R614-19 and R614-20	Decree No.95-385 of 10 April 1995
Article R614-21	Decree No.2014-650 of 20 June 2014
Article R614-23	Decree No.2004-199 of 25 February 2004
Article R614-24	Decree No.2014-650 of 20 June 2014
Articles R614-25 and R614-26	Decree No.95-385 of 10 April 1995
Articles R614-27 and R614-29	Decree No.2007-280 of 1st March 2007
Articles R614-31 to R614-35	Decree No.95-385 of 10 April 1995
Articles R614-36 and R614-37	Decree No.2015-427 of 15 April 2015
Article R615-1	Decree No.2014-1550 of 19 December 2014
Article R615-2	Decree No.2019-966 of 18 September 2019

Articles R615-2-1 and R615-3	Decree No.2008-624 of 27 June 2008
Article R615-4	Decree No.2018-1126 of 11 December 2018
Article R615-5	Decree No.2004-199 of 25 February 2004
Article R615-6	Decree No.95-385 of 10 April 1995
Article R615-7	Decree No.2020-15 of 8 January 2020
Articles R615-8 to R615-29	Decree No.95-385 of 10 April 1995
Article R615-30	Decree No.96-857 of 2 October 1996
Article R615-31	Decree No.95-385 of 10 April 1995
Article R616-1	Decree No.2007-280 of 1st March 2007
Article R616-2	Decree No.95-385 of 10 April 1995
Article R616-3	Decree No.2020-15 of 8 January 2020
Article R617-1	Decree No.95-385 of 10 April 1995
Article R617-2	Decree No.2008-1472 of 30 December 2008
Article R618-1	Decree No.2004-199 of 25 February 2004
Article R618-2	Decree No.2020-225 of 6 March 2020
Article R618-3	Decree No.2008-1472 of 30 December 2008
Article R618-4	Decree No.95-385 of 10 April 1995
Articles R618-5 and R618-6	Decree No.2014-650 of 20 June 2014

However, Article R613-63 reads as follows:

"Article R613-63.- The application for reduction of the fees set out in Article L612-20, in its version prior to Law no. 2005-842 of 26 July 2005, shall be submitted in writing to the Director General of the National Institute of Industrial Property.

"It shall be accompanied by a tax exemption notification or an equivalent supporting document. It shall be ruled on by a reasoned decision. The decision shall be notified to the applicant.

"If the application is admitted, the applicant shall benefit from the reduction provided he submits every year a tax exemption notification or an equivalent supporting document. ";

b) the provisions of Title II;

Articles R623-51 and R623-53-1 are applicable in their version resulting from Decree no. 2019-966 of 18 September 2019.

Articles R623-6 and R623-58 are applicable in their version resulting from Decree no. 2019-1316 of 9 December 2019.

Articles R623-43, R623-45 and R623-46 are applicable in their

version resulting from Decree no. 2020-15 of 8 January 2020.

7. the provisions of Title I of Book VII, except for Articles R712-2, R712-3, R712-13, R712-14, R712-21, R714-4, R714-4-1, R714-6, R716-1 and R716-2, exclusively to the extent that they relate to industrial property attorneys, under the following conditions:

a) the provisions of Title I mentioned in the left column of the table below, in their wording indicated in the right column of the same table:

Applicable provisions	In their drafting resulting from
R711-1	Decree No.2019-1316 of 9 December 2019
R712-1	Decree No.2014-650 of 20 June 2014
R712-2 to R712-3-1	Decree No.2019-1316 of 9 December 2019
R712-4	Decree No.95-385 of 10 April 1995
R712-5	Decree No.2019-1316 of 9 December 2019
R712-6	Decree No.2004-199 of 25 February 2004
R712-7	Decree No.2007-280 of 1st March 2007
R712-8	Decree No.2019-1316 of 9 December 2019
R712-9	Decree No.95-385 of 10 April 1995
R712-10	Decree No.2019-1316 of 9 December 2019
R712-11	Decree No.2004-199 of 25 February 2004
R712-12 to R712-19	Decree No.2019-1316 of 9 December 2019
R712-20	Decree No.2004-199 of 25 February 2004
R712-21	Decree No.2019-1316 of 9 December 2019
R712-23	Decree No.2004-199 of 25 February 2004
R712-23-1	Decree No.2015-1436 of 6 November 2015
R* 712-23-2	Decree No.2015-511 of 7 May 2015
R712-24	Decree No.2019-1316 of 9 December 2019
R712-24-1	Decree No.2015-1436 of 6 November 2015
R* 712-24-2	Decree No.2015-511 of 7 May 2015
R712-26 to R712-28-2	Decree No.2019-1316 of 9 December 2019
R714-1 to R714-1-2	Decree No.2015-1436 of 6 November 2015
R714-2	Decree No.2019-1316 of 9 December 2019
R714-3	Decree No.2004-199 of 25 February 2004
R714-4 and R714-4-1	Decree No.2019-1316 of 9 December 2019
R714-5	Decree No.2004-199 of 25 February 2004
R714-6	Decree No.2019-1316 of 9 December 2019
R714-7	Decree No.2004-199 of 25 February 2004
R714-7-1 and R714-7-2	Decree No.2019-1316 of 9 December 2019
R714-8 and R714-9	Decree No.2004-199 of 25 February 2004
R715-1 and R715-2	Decree No.2019-1316 of 9 December 2019



R716-1 to R716-22	Decree No.2019-1316 of 9 December 2019
R717-1	Decree No.2019-1316 of 9 December 2019
R* 717-1-1	Decree No.2015-1436 of 6 November 2015
R717-2	Decree No.2019-1316 of 9 December 2019
R717-3	Decree No.2008-1472 of 30 December 2008
R717-4	Decree No.2019-1316 of 9 December 2019
R717-5	Decree No.2008-1472 of 30 December 2008
R717-6 and R717-7	Decree No.2002-215 of 18 February 2002
R717-8	Decree No.2014-650 of 20 June 2014
R717-9	Decree No.2019-1316 of 9 December 2019
R717-10 and R717-10-1	Decree No.2015-1436 of 6 November 2015
R717-11	Decree No.2019-1316 of 9 December 2019
R718-1	Decree No.2019-1316 of 9 December 2019
R718-2	Decree No.2008-1472 of 30 December 2008
R718-3	Decree No.2015-595 of 2 June 2015
R718-4	Decree No.2004-199 of 25 February 2004
R718-5 to R718-7	Decree No.2019-1316 du 9 December 2019

b) the provisions of Title II.

Articles R722-2 and R722-5 are applicable in their version resulting from Decree no. 2018-1126 of 11 December 2018.

**Article R811-1-2**

Subject to the adaptations provided for in this Chapter, the following provisions are applicable in the Wallis and Futuna Islands:

1. the provisions of Book IV mentioned in the left column of the table below, in their version indicated in the right column of the same table:

Applicable provisions	In their drafting resulting from
Article D. 411-1-3	Decree No.2020-119 of 12 February 2020
Article D. 411-19-2	Decree No.2020-225 of 6 March 2020
Articles D. 412-7 to D. 412-13	Decree No.2014-731 of 27 June 2014

2. the provisions of Title I of Book VII mentioned in the left column of the table below, in their version indicated in the right column of the same table:

Applicable provisions	In their drafting resulting from
D. 712-29	Decree No.2015-671 of 15 June 2015
D. 712-30	Decree No.2019-1316 of 9 December 2019

**Article R811-2**

Subject to the adaptations laid down in Article R811-3 hereinafter, the provisions of this Code apply in Mayotte, except for Articles R133-1, R133-2, R326-1, R326-2, R522-1 and R613-25-1 to R613-25-4. For the application of this Code in Mayotte, the following words listed below shall be replaced by the following words:

- a) "region" and "department" shall be replaced by "Mayotte";
- b) "court of appeal" shall be replaced by "appeal chamber of Mamoudzou".

**Article R811-3**

Subject to the adaptations laid down in Article R811-3 hereinafter, the following apply in the French Austral and Antarctic Territories:

1. The provisions of Book I with the exception of Article R133-1, 4 of Article R133-2 and Articles R135-1 to R135-4;

Article R136-1 is applicable in its wording resulting from Decree No.2021-1369 of 20 October 2021;

2. The provisions of Book II;

3. The provisions of Book III with the exception of Articles R326-1 to R326-7;

Articles R323-1, R323-5, R324-1, R331-32-1, R331-56, R331-59, R331-60, R331-62 and R331-74 bis are applicable in their wording resulting from Decree No.2021-1369 of 20 October 2021;

4. The provisions of Book IV with the exception of Articles R421-1 to R421-12, R422-1 to R422-66, R423-1 and R423-2;

5. The provisions of Book V with the exception of Article R522-1 and Articles R512-2, R512-3, R512-13, R512-15, R513-1 and R513-2 only in so far as they concern industrial property attorneys;

6. the provisions of Book VI, except for Articles R612-2, R612-38, R613-25-1 to R613-25-4, R613-44, R613-44-1, R613-46, R613-56 and R613-58, exclusively to the extent that they relate to industrial property attorneys.

However, for its application in the French Austral and Antarctic Territories, Article L613-63 shall read as follows:

"Article R613-63.- The application for reduction of the fees set out in Article L612-20," in its version prior to Law no. 2005-842 of 26

July 2005, shall be submitted in writing to the Director General of the National Institute of Industrial Property.

"It shall be accompanied by a tax exemption notification or an equivalent supporting document. It shall be ruled on by a reasoned decision. The decision shall be notified to the applicant.

"If the application is admitted, the applicant shall benefit from the reduction provided he submits every year a tax exemption notification or an equivalent supporting document. ";

Articles R612-26 to R612-28 and R613-42 are applicable in their wording resulting from Decree No.2022-196 of 17 February 2022;

7. the provisions of Book VII, except for Article R717-11, as well as Articles R712-2, R712-3, R712-13, R712-14, R712-21, R714-4, R714-4-1, R714-6, R716-1 and R716-2, exclusively to the extent that they relate to industrial property attorneys.

#### **Article R811-4**

For the application of this Code and of the provisions it renders applicable in the Overseas Territories, the following words listed below shall be replaced by the following words:

- "high court" by "court of first instance";
- "region" by "territory" and, with regard to Mayotte, by "departmental local authority";
- "court of appeal" by "higher court of appeal" and "police commissioner" shall be replaced by "judicial police officer", with regard to Mayotte;
- "commercial court" by "court of first instance with jurisdiction in commercial matters" with regard to Mayotte, and "joint commercial court" with regard to the territories of New Caledonia, French Polynesia and Wallis-et-Futuna;

For the application of this Code to the overseas collectivities, any references to the Customs Code shall be replaced by references to the customs codes applicable to these collectivities, with the same purpose.