

**UKRAINE**  
**Design Law**

On Protection of Industrial Design Rights

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## **Section I GENERAL PROVISIONS**

### **Article 1. Definitions**

For the purposes of this Law, the following definitions shall apply:

National Intellectual Property Office (hereinafter NIPO) means a state organisation that is part of the state system of the legal protection of intellectual property, defined at the national level by the Cabinet of Ministers of Ukraine, exercising powers in the field of intellectual property, defined by this Law, other laws in the field of intellectual property, acts of the central executive authority in charge of shaping and implementing state policy in the field of intellectual property, and the charter, and has the right to represent Ukraine in international and regional organisations;

industrial design is the result of intellectual and creative activity of a person in the field of design engineering;

author is a person who created an industrial design by means of his/her creative output;

certificate is a certificate of state registration of an industrial design;

registered industrial design is an industrial design, information about which is entered in the Register and for which a certificate has been issued;

person is an individual or a legal entity;

application is a set of documents required for state registration of an industrial design;

applicant is a person who has filed an application or acquired the rights of an applicant under another procedure established by law;

priority of an application (priority) is the priority in submitting the application;

priority date is the date when an application is submitted to the NIPO or the relevant body of the state party to the Paris Convention for the Protection of Industrial Property or the Agreement establishing the World Trade Organization for which priority is claimed;

employer is a person who hired an employee on the basis of a labour agreement (contract);

Register is the State Register of industrial designs of Ukraine, which is maintained in electronic form;

Appeals Chamber is a collegiate body of the NIPO for consideration of objections against NIPO decisions on acquisition of intellectual property rights, statements of invalidation of intellectual property

rights in whole or in part, statements of recognising a trademark well known in Ukraine and consideration of other issues within its competence under this Law, other laws and regulations of Ukraine; state system of legal protection of intellectual property is the central executive authority in charge of shaping and implementing state policy in the field of intellectual property, NIPO and a system of scientific, educational, informational, and other state enterprises, institutions, organisations of relevant specialisation that are managed by the central executive authority in charge of forming and implementing state policy in the field of intellectual property;

Attestation commission is the NIPO collegiate body, the main purpose of which is to undertake a performance review of persons who have shown their intention to acquire the right to engage in the activities of a representative in intellectual property cases (patent attorney);

Appeals Commission is the NIPO collegiate body, the main purpose of which is to consider complaints of candidates for representatives in intellectual property cases (patent attorneys) against decisions of the Attestation commission and to consider complaints against the actions of intellectual property representatives (patent attorneys);

Bulletin is the official electronic bulletin of NIPO;

product is any item of industrial production or handmade, in particular parts intended for assembly into a assembled product, packaging, external design, graphic symbols and typographic fonts (elements), except for computer software;

Industrial Design owner is an owner of intellectual property rights to a registered industrial design and/or unregistered industrial design;

WIPO is the World Intellectual Property Organisation;

international registration is international registration of an industrial design carried out in accordance with The Hague Agreement Concerning the International Registration of Industrial Designs;

ICID is the International Classification for Industrial Designs;

industrial design rights is intellectual property rights to an industrial design;

composite product is a product consisting of several elements that can be replaced in such a way that it is possible to disassemble and then assemble the product;

the degree of author's freedom is the limitation of the author's ability to develop a solution for the appearance of a product for a

certain purpose, related, in particular, to the functional features of the product.

**Article 2. Powers of the Central Executive Authority in Charge of Forming and Implementing State Policy in the Field of Intellectual Property**

1. Powers of the central executive authority in charge of forming and implementing state policy in the field of intellectual property, shall include:

ensuring the legal regulation in the field of protection of rights to industrial designs; determination of priority areas for the development of the sphere of protection for rights to industrial designs;

interaction and coordination with central executive authorities, other government bodies when forming and implementing state policy in the field of intellectual property, as well as with a view to strengthening the protection of intellectual property rights;

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

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

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

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

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

interaction with the relevant authorities of foreign states and international organisations in accordance with the established procedure;

approval of regulations on representatives in intellectual property cases (patent attorneys), on the Attestation commission and the procedure for the review of representatives in intellectual property cases (patent attorneys), on the Appeals Commission, on the State register of representatives in intellectual property cases (patent attorneys);

coordination of NIPO activities in the field of intellectual property;  
exercising control over the NIPO observance of the legislation in the field of intellectual property, use of proceeds from the collection of fees for actions related to the protection of intellectual property rights.

2. The central executive authority in charge of forming and implementing state policy in the field of intellectual property shall exercise other powers under the law.

**Article 2-1. Powers of the National Intellectual Property Authority in the Field of Protection of Rights to Industrial Designs**

1. The functions of NIPO shall be performed by a legal entity of public law (state organisation), formed by the central executive authority in charge of forming and implementing state policy in the field of intellectual property, and determined by the Cabinet of Ministers of Ukraine.

2. The powers delegated to NIPO shall include:  
receipt of applications, their examination, decision-making on them;  
implementation of state registration of industrial designs and issuance of certificates;  
recognition of rights to the industrial design as invalid in whole or in part in accordance with the procedure provided for by law;  
publication of official information about industrial designs in the Bulletin, maintenance of the Register, entering information into it, providing extracts and excerpts in electronic and (or) paper format;  
international cooperation in the field of legal protection of intellectual property and representation of Ukraine's interests in the protection of rights to industrial designs at the World Intellectual Property Organisation and international organisations in accordance with the law;  
training, performance review and registration of representatives in intellectual property cases (patent attorneys);  
maintenance of the State Register of Representatives in Intellectual Property Cases (patent attorneys);  
informing and giving explanations on implementation of the state policy in the field of protection of rights to industrial designs.

3. NIPO also shall:

conduct the functions of the "National Office" and "Department" provided for by The Hague and Geneva acts to The Hague Agreement on the International Registration of Industrial Designs;  
conduct informational and publishing activities in the field of legal protection of intellectual property;  
make generalisation of national and international practice of application of legislation in the field of protection of rights to industrial designs, elaboration of proposals for improvement of legislation in this area and submission of such proposals to the central executive authority in charge of forming and implementing state policy in the field of intellectual property;  
approve guidelines for the examination of applications and state registration of industrial designs; arrange training, retraining, and professional development of personnel of the state system for legal protection of intellectual property;  
conduct other functions and powers provided by this Law, other laws and regulations of Ukraine, the charter.  
NIPO shall have the right to receive from ministries, other central and local executive bodies, and local self-government bodies the information, documents, and materials necessary to perform the powers and functions assigned to it free of charge.

4. NIPO shall act on the basis of this Law, other laws of Ukraine, acts of the central executive authority in charge of forming and implementing state policy in the field of intellectual property, and the charter approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

5. The head of NIPO shall be authorised to sign title documents to ensure the implementation of delegated powers by NIPO.

6. The authority shall conduct scientific research, engage experts and consultants to prepare recommendations on matters falling within the competence of NIPO.

7. NIPO shall be chaired by the head, who is appointed and dismissed by the central executive authority in charge of forming and implementing state policy in the field of intellectual property. The head of NIPO may be a citizen of Ukraine who has lived in Ukraine for the last five years, is fluent in the national language,

fluent in one of the official languages of the World Intellectual Property Organisation (WIPO), has a university degree in law and/or intellectual property, work experience in the field of intellectual property for at least 10 years and experience in management positions for at least five years.

The head of NIPO may not be a person who, in accordance with a court decision, is deprived of the right to bring about activities related to the performance of state functions or hold relevant positions, and has been subject to administrative penalties for corruption or corruption-related offences within three years following the day when the court judgment takes effect.

The head of NIPO is appointed subject to the results of an open competition conducted by the central executive authority in charge of forming and implementing state policy in the field of intellectual property, in accordance with the established procedure for competitive selection of heads of business entities in the public sector.

The head of NIPO shall have one principal deputy and two deputies, who are appointed to the position by the central executive authority in charge of forming and implementing state policy in the field of intellectual property, at the request of the head of NIPO.

8. The Supervisory Board is the supervisory body of NIPO that shall be composed of: two representatives of the Verkhovna Rada of Ukraine; two representatives of the central executive authority in charge of forming and implementing state policy in the field of intellectual property;

one representative of the central executive authority in charge of forming and implementing state policy in the fields of science and education;

one representative of public organisations of intellectual property representatives (patent attorneys);

one representative of the National Academy of Sciences of Ukraine.

The Supervisory Board may include two representatives of international and/or regional intellectual property organisations with an advisory voting right.

The personal composition of the Supervisory Board shall be approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

Members of the Supervisory Board shall perform their duties on a pro bono basis.



The Head of the Supervisory Board and his/her deputies shall be elected by members of the Supervisory Board from among them. The Head of the Supervisory Board may not be a representative of the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

Powers of the Supervisory Board shall include the supervision of financial and economic activities of NIPO, budget execution, the use of funds generated from the proceeds from the collection of fees for actions related to the protection of intellectual property rights.

Supervisory Board shall be entitled to:

request any information from NIPO, except for restricted information, and obtain such information;

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

submit recommendations to NIPO that are mandatory for consideration; inform the central authority in charge of forming and implementing state policy in the field of intellectual property, about identified violations.

The term of office of members of the Supervisory Board, except for the head, is two years and may be extended for no more than one term. Upon expiration of the term of office of a member of the Supervisory Board, the relevant body or organisation that delegated the member shall, within one month, delegate a new representative to the Supervisory Board or decide on extending the term of office of a member of the Supervisory Board.

The powers of the Supervisory Board member may be terminated before maturity at the request of the body that delegated him. The powers of a member of the Supervisory Board shall be also terminated at the initiative of the Supervisory Board in the case of:

submission of application for termination of powers at the member's request;

inability to perform the duties due to health issues;

termination of relations with the body delegating the member;

entry into force of a court verdict against such member;

death or based of a court decision recognising the member incapable, of diminished legal capacity, missing or declared dead;

application of administrative penalties for corruption or corruption-related offences.

The body that delegated a member of the Supervisory Board whose powers have been terminated before maturity shall be obliged to delegate a new representative to the supervisory board within one month from the date of early termination of the powers of the previous representative.

The Supervisory Board shall operate in accordance with this Law and the regulations on the Supervisory Board approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

The form of work of the Supervisory Board is a meeting, based on the results of which the protocol is drawn up, a copy of which is sent to NIPO and the central executive authority in charge of forming and implementing state policy in the field of intellectual property. The meeting of the Supervisory Board shall be considered valid if simple majority of the members of the Supervisory Board are present.

The placement and organisational and material support of the Supervisory Board shall be provided by NIPO.

9. NIPO shall annually publish financial statements, in particular annual financial statements, audit reports on annual financial statements, the report on its activities, including budget execution, and the budget for the following year on its official website.

Financial or consolidated financial statements of NIPO shall be subject to audit, which is carried out based on the decision of the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

10. NIPO shall not have a purpose of making a profit from its activities. Funding of NIPO activities shall be provided from the proceeds from the collection of fees for actions related to the protection of intellectual property rights, as well as from other sources not prohibited by law.

NIPO shall procure goods, works and services in the manner and using the procedures established by the Law of Ukraine "On Public Procurement".

11. A qualified electronic signature may be used on documents accepted or approved by NIPO in accordance with this Law. Submission of documents in the electronic form to NIPO and issuance of documents in electronic form shall be carried out in accordance with

the legislation in the field of electronic documents and electronic document management, electronic trust services, this Law and rules established by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

**Article 2-2. Guarantees of Independence of the Appeals Chamber and Experts of the National Intellectual Property Office**

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

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

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

4. Independence of a NIPO experts and correctness of their opinion shall be ensured by: compliance with the procedure established by law for the appointment and conduct of expert examination; prohibition of interference in the expert examination process by anyone; creation of conditions necessary for the activities of the NIPO experts, their financial, social, and other support; ensuring the possibility for the Appeals Chamber to review the conclusions of the expert examination; ensuring the possibility of the applicant and third parties to participate in the expert appraisal in the cases prescribed by law.

**Article 2-3. Attestation Commission**

1. Attestation Commission is a NIPO collegiate body, which is established with the purpose of determining the level of

professional training of persons who have shown their intention to acquire the right to engage in the activities of a representative in intellectual property cases (patent attorney);

2. The Attestation Commission shall consist of NIPO's employees, the central executive authority in charge of forming and implementing state policy in the field of intellectual property employees, and representatives in cases of intellectual property (patent attorneys) who have at least 10 years of practical experience in the field of legal protection of intellectual property.

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

4. The Attestation Commission shall act on the basis of this Law and the regulation approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

#### **Article 2-4. Appeals Commission**

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

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

3. The powers of the Appeals Commission, its composition, formation procedure, requirements for its members, term of office, as well as

rules and procedures of its activities shall be determined by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

4. The Appeals Commission shall act on the basis of this Law and the regulation approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

### **Article 3. International Treaties**

If an international treaty, consent to be bound by which was approved by the Verkhovna Rada of Ukraine, establishes rules other than those provided for by the legislation of Ukraine on industrial designs, the rules of the international treaty shall apply.

### **Article 4. Rights and Obligations of Foreigners and Other Persons**

1. Foreigners and stateless persons shall have the same rights and obligations as persons of Ukraine provided by this Law in accordance with international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine.

2. Foreigners, stateless persons, foreign legal entities, and other persons residing or having a permanent location outside Ukraine, shall exercise their rights in relations with NIPO through representatives in intellectual property cases (patent attorneys) registered in accordance with the provision approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

## **Section II LEGAL PROTECTION OF INDUSTRIAL DESIGNS**

### **Article 5. Conditions of Granting Legal Protection**

1. The legal protection shall be granted to the industrial design that does not contradict public interest, principles of humanity and moral and complies with criterion for registration.

2. The industrial design may be the appearance of a product or part thereof, as determined in particular by lines, contours, colour, shape, texture and/or material of the product, and/or its finish.

3. According to this Law, legal protection may not be granted to: unstable objects made of liquid, gaseous, bulk or similar substances, etc.;

the result of intellectual, creative activity in the field of artistic design, embodied or applied in a product that is part of a composite product and is invisible during normal product use. Normal use of the product is considered to be its use by the end user, while logistics, maintenance or repair of the product is not considered as normal use;

features of the product appearance due solely to its technical functions;

features of the product appearance, which size and shape is accurately reproduced in order for one product to be mechanically connected to another product or located inside, around or in front of another product so that each product can perform its function; this provision does not apply to the appearance of products intended for multiple assemblies or joining of interchangeable products within a modular structure.

4. The industrial design may receive legal protection as:

registered industrial design, if it is entered in the Register in the manner prescribed by this Law, or if it is granted legal protection in Ukraine in accordance with an international agreement, which binding nature has been approved by the Verkhovna Rada of Ukraine;

unregistered industrial design, if it is brought to public notice in the manner prescribed by this Law.

5. Acquisition of rights to a registered industrial design shall be certified with a certificate showing the image of the industrial

design filed in the Register.

Acquisition of the right to the industrial design with international registration shall not require certification.

The term of validity of property rights to the registered industrial design is five years from the date of filing the application with the NIPO and is extended by the NIPO at the request of the owner of the industrial design for one or more five-year periods, subject to payment in accordance with clause 2, Article 24 of this Law. The total validity of property rights to the registered industrial design may not exceed 25 years from the submission date of the application. The procedure for extending the validity of property rights to the registered industrial design shall be established by the central executive body ensuring the formation and implementation of state policy in the field of intellectual property.

The validity of property rights to the registered industrial design shall be terminated before maturity under the conditions specified in Article 24 of this Law.

6. The term of legal protection for the unregistered industrial design is three years from the date of its bringing to the public notice on the territory of Ukraine.

7. The scope of legal protection provided for the registered industrial design shall be determined by the image of the industrial design filed in the Register.

The scope of legal protection of an industrial design shall include any other industrial design that does not make a distinct overall impression on the informed user.

To determine the scope of legal protection, the degree of author's freedom during the creation of an industrial design shall be taken into account.

#### **Article 6. Criteria for Industrial Design Registration**

1. The industrial design shall meet the criteria for registration, if it is new and individual.

The industrial design which is used or embodied in a product which forms part of a composite product shall be deemed to be new and individual if the component included in the composite product remains visible during normal use of the composite product and visible signs of the component assembled product meet the

requirements for novelty and individuality.

2. The industrial design shall be deemed to be new if no identical industrial design has been made public for:  
registered industrial design - before the date of submission of the application to the NIPO or, if priority is declared, before the date of its priority;  
unregistered industrial design - until the date on which the industrial design protection is requested for was first brought to the public.

Industrial designs shall be considered to be identical if their essential features differ only in minor details.

In the process of establishing the novelty of the industrial design, any information becoming publicly available before the submission date and, if priority is claimed, before the priority date shall be taken into account, including the content of all previously received NIPO applications, except for those considered revoked specified on that date, revoked or the NIPO, in respect of them, decided to refuse state registration of the industrial design and exhausted the possibility of appealing such decisions.

Information disclosed to a third party under explicit or implicit conditions of confidentiality shall not be considered publicly available.

3. The industrial design shall be deemed to have an individual character if the general impression it makes on the informed user differs from the general impression made on such user by any other industrial design brought to the public's knowledge of:  
registered industrial design - before the date of submission of the application to the NIPO or, if priority is declared, before the date of its priority;  
unregistered industrial design - until the date on which the industrial design protection is requested for was first brought to the public.

The degree of author's freedom during the creation of an industrial design shall be taken into account to determine the individuality.

4. The registered industrial design shall be deemed to have been made public if it has been published as a result of state registration or for other reasons, or has been exhibited, used in trade or otherwise made public, unless such events could not have



become known during normal conduct of economic activity in circles specializing in the relevant field and conducting their activities on the territory of Ukraine, before the date of submission of the application to the NIPO or, if priority is stated, before the date of priority.

The unregistered industrial design shall be deemed to have been made public if it has been published, exhibited, used in a trade or otherwise made public in such a way that, in the normal course of business, such measures may, for objective reasons, become known in circles specializing in the relevant field and carry out their activities in Ukraine.

The industrial design disclosed to a third party under explicit or implicit confidentiality shall not be deemed to have been made public.

5. Recognition of the industrial design as protected shall not be affected by the disclosure of information about it by the author, his/her successor or a person who received from the author or his/her successor such information, directly or indirectly, within 12 months before the date of application to the NIPO or, if priority is declared, its priority date. In this case, the burden of proving the circumstances of disclosure rests with the person interested in the application of the provisions of this paragraph.

The provisions of this clause shall also apply if the industrial design has been made public as a result of abuse against the author or his successor.

### **Section III RIGHT TO REGISTER INDUSTRIAL DESIGN**

#### **Article 7. Right of the Author**

1. The author or his successor shall have the right to register the industrial design, unless otherwise provided by this Law.

2. The right to register the industrial design created by the joint work of several authors shall belong to the authors jointly, unless otherwise provided by an agreement concluded between them.

3. In case of the revision of terms and conditions of the agreement on the membership of authors, the NIPO shall make changes in appropriate documents according to the procedure specified by the central executive authority in charge of forming and implementing state policy in the field of intellectual property upon joint request of persons stated in the application as authors and authors who are not stated in the application as authors.

4. The author of the industrial design shall have the right of authorship, which is an inalienable personal right and is protected indefinitely.

#### **Article 8. Right of the Employer**

1. The author's employer shall have the right to register the industrial design if the industrial design was created due to the performance of official duties or an order of the employer, provided that the employment contract does not provide otherwise. The employer shall enter into a written agreement with the author on the amount and terms of payment to him (his successor) remuneration in accordance with the economic value of the industrial design and other benefits received by the employer from the industrial design. Disputes over the terms of receiving remuneration and its amount shall be resolved in a judicial proceeding.

2. The author of the industrial design shall submit to the employer a written notice of the industrial design created by him with materials revealing the essence of the industrial design quite clearly and completely.

If the employer does not submit the application to the NIPO within four months from the date of receipt of this notice, the right to register the industrial design shall pass to the author.

**Article 9. Right of the Successor**

The successor of the author or employer shall have the right to register the industrial design, respectively.

**Article 10. Right of the First Applicant**

The right to register the industrial design created by separate labour belongs to the applicant, whose application shall have an earlier date of submission to the NIPO or, if priority is claimed, an earlier date of priority, provided that the application is not considered revoked, not revoked, or a decision was not made to refuse state registration of an industrial design, the possibilities of appeal of which have been exhausted.

## **Section IV PROCEDURE FOR INDUSTRIAL DESIGN REGISTRATION**

### **Article 11. Application**

1. A person who wishes to register the industrial design and has the right thereto shall submit an application to the NIPO.

The application may be submitted in paper or electronic form. The applicant shall choose the method of submitting the application. Applications submitted in electronic form shall be subject to electronic record keeping in accordance with the legislation in the field of electronic documents and electronic document management, this Law and the rules established by the central executive body ensuring the formation and implementation of state policy in the field of intellectual property. Applications in electronic form shall be submitted provided that the applicant (representative in intellectual property cases or other authorised person of the applicant) is identified by using a qualified electronic signature.

2. The application may be submitted via a representative in intellectual property cases or other authorised person on behalf of the applicant.

3. The application may relate to one or more (multiple application) industrial designs belonging to the same class of ICID.

The multiple application may contain no more than one hundred industrial designs.

The applicant(s) as well as the author(s) of the multiple application for all claimed industrial designs shall be the same persons.

4. The application shall be drawn up in the Ukrainian language and shall contain:

application of state registration of the industrial design;  
set of product images (the product itself or in the form of its layout or drawing), which gives a complete picture of its appearance;  
description of the industrial design;  
drawings, diagrams, maps (if necessary).

5. It is necessary to indicate the applicant (applicants) and his address, as well as the author (authors) in the application for state registration of an industrial design.

The author shall have the right to demand that he not be mentioned as such in any publication of the NIPO, in particular in the information on the application or state registration of the industrial design.

6. The application shall disclose the essence of the industrial design clearly and completely enough for it to be carried out by a specialist in the specified field.

7. The application shall be drawn up and submitted following the rules established by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

8. A fee shall be paid for the submission of the application, the amount of which shall be set taking into account the number of declared industrial designs. This fee is paid before the expiration of 2 months from the date of application. This period may be extended but for no more than six months, provided that the relevant request is submitted and the respective fee for its submission has been paid prior to the expiration of this period.

#### **Article 12. Application Submission Date**

1. The date of submitting the application shall be the date when the NIPO receives materials containing at least:  
application in any form for state registration of the industrial design, presented in the Ukrainian language;  
information about the applicant and his address set forth in the Ukrainian language;  
image of the product, which gives an idea of its appearance;  
part that externally resembles a description of the industrial design, presented in Ukrainian or other language. In the latter case, the translation of this part into Ukrainian must be received by the NIPO within two months from the submission date in order to preserve the filing date of the application.

2. The date of application shall be set in accordance with clauses 9, 10 and 11 Article 14 of this Law.

#### **Article 13. Priority**

1. The applicant shall have the right to give priority to a

preliminary application for the same industrial design within six months from the date of submission of the preliminary application to the NIPO or to the relevant body of the Paris Convention for the Protection of Industrial Property or the Agreement establishing the World Trade Organization, unless priority is given to a prior application.

2. The priority of the industrial design used in the exhibition shown at official or officially recognised international exhibitions held in the territory of a state party to the Paris Convention for the Protection of Industrial Property or the Agreement establishing the World Trade Organization may be established by the date of the first public exhibition of an exhibit in which the claimed industrial design is embodied or applied if the application was received by the NIPO within six months from the specified date.

3. The applicant wishing to exercise the right of priority shall submit a priority application with reference to the filing date and number of the previous application and a copy thereof, with a translation into Ukrainian, or a document confirming the display of the specified industrial design at exhibitions held in the state party to the Paris Convention for the Protection of Industrial Property or the Agreement establishing the World Trade Organization within three months from the date of filing of the application with the NIPO. During this period, the specified materials may be amended. If these materials are not submitted in time, the right of priority of the application shall be deemed lost, the applicant should be notified thereof.

4. Priority may be claimed in whole or in part for several previous applications. At that, the time frames, whose initial date is the date of priority, shall be calculated from the earliest priority date.

5. The priority shall cover only those features of the industrial design, which are stated in the preliminary application, whose priority is claimed.

6. The preliminary application shall be deemed revoked to the extent of the claimed priority if the processing of the preliminary application in the NIPO is not completed, then, upon receipt of the

application for priority under clause 3 of this Article.

7. The priority of the industrial design may be established on the date of receipt by the NIPO of additional materials drawn up in accordance with clause 7 of Article 14 of this Law as an independent application, if this application is submitted within 3 months from the date of the receipt by the applicant of the notification that the said materials are not taken into account during the expert appraisal of the application to which they have been attached.

#### **Article 14. Examination of the Application**

1. Examination of the application shall be carried out by the NIPO in accordance with this Law and the rules established on its basis by the central executive body ensuring the formation and implementation of state policy in the field of intellectual property.

2. The NIPO shall exercise the information activity needed for the proceeding expert appraisal of applications and is a centre for international exchange of publications in accordance with the Convention concerning the Exchange of Official Publications adopted on 3 December 1958 by the General Conference of the United Nations Educational, Scientific and Cultural Organisation.

3. Final results of the application examination which is not considered withdrawn or has not been withdrawn are presented in a substantiated conclusion of the expert appraisal on request. Based on such a conclusion, the NIPO shall decide on the state registration for an industrial design or on the refusal of the state registration for an industrial design. The decision on the state registration of certain industrial designs and the refusal of state registration of the remaining designs may be adopted for the multiple application. The NIPO decision along with conclusion shall be sent to the applicant.

The applicant shall have the right to request copies of materials presented against the application within a month from the date of receipt by him/her of the NIPO decision. The copies shall be sent to the applicant within a month.

The final results of the international registration examination in case of refusal to recognize its validity shall be shown in the notification of full or partial refusal to recognize the validity of

the international registration in Ukraine, which is sent to the WIPO International Bureau.

If the international registration is recognized in Ukraine, the relevant notification is not sent to the WIPO International Bureau.

4. The applicant shall have the right on the own initiative or on invitation from the NIPO to take part personally or through the representative in the consideration of issues that have arisen during the examination by the procedure established by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

5. The applicant shall have the right to make corrections of mistakes and changes of his name and address, address for correspondence, name and address of his representative to the application.

The applicant may make changes to the application associated with change of the person of the applicant on condition of consent thereto of other applicants indicated in the application. Such changes may be introduced also by a person who wishes to become an applicant with consent of all applicants.

These corrections and changes shall be taken into account if received by the NIPO not later than the receipt of a document on payment of the state fee for the registration of the industrial design.

Fee shall be charged for the filing of a request for correction of a mistake or making the above- indicated changes on condition that the mistake is not obvious or technical and the change has arisen through circumstances depending on the person that submits the request.

6. The NIPO may request from the applicant submission of additional materials if examination is impossible without them or in the event of appearance of well-founded doubts about credibility of any data or elements contained in materials of the application.

The applicant shall have the right to submit additional materials to request from the NIPO copies of materials presented against the application within a month from the date of receipt of the notification or conclusion of the examination with a request.

Additional materials shall be submitted by the applicant within 2 months from the date of receipt by him of the notification or



conclusion of the expert appraisal or copies of materials presented against the application. The period for filing additional materials shall be extended, but for not more than 6 months, if a corresponding request is submitted and the fee for its filing is paid before the expiry of this period. This period, missed for valid reasons, shall be renewed if the relevant application has been submitted and the application fee has been paid within six months of its expiry. If the applicant fails to submit additional materials within the set time frame, the application shall be considered withdrawn, and the applicant shall be notified thereof.

7. If the applicant has submitted additional materials, then in the course of the examination it becomes clear whether they do not go beyond the essence of the industrial design disclosed in the submitted application.

Additional materials go beyond the essence of the industrial design disclosed in the submitted application, if they contain new essential features.

Additional materials shall not be taken into account during the application examination in the part which extends beyond the essence of the industrial design disclosed in the submitted application and may be executed by the applicant as an independent application after obtaining a corresponding request from the NIPO.

8. During the examination:

the filing date of application shall be determined on the ground of Article 12 of this Law;

the compliance of the declared industrial design with the requirements provided for in paragraph 2 of Article 5 of this Law shall be determined;

it shall be determined whether the declared industrial design belongs to the facilities specified in clause 3 of Article 5 of this Law;

it shall be checked whether the declared industrial design contradicts public order and generally accepted principles of morality;

the application shall be checked for conformity with formal requirements of Article 12 of this Law and rules determined on its basis by the central executive authority in charge of forming and implementing state policy in the field of intellectual property;

the payment of the fee for filing an application for compliance with

the established requirements shall be verified.

9. If materials of the application meet the requirements of Article 12 of this Law and the document about payment of the fee for the filing of the application meets the prescribed requirements, a notification determined date of the application submission shall be sent to the applicant.

10. In case of non-compliance of the application materials with the requirements of Article 12 of this Law, the applicant shall be notified immediately. If the non-conformity is eliminated within 2 months from the date of receiving the notification by the applicant, then the date of receiving corrected materials by the NIPO shall be considered the application submission date. Otherwise, the application shall be considered not submitted, and the applicant shall be notified thereof.

11. If the materials of the application meeting the requirements of Article 12 of this Law contain a reference to the drawing (scheme, map), but there is no such drawing (scheme, map), that reference shall not be taken into account during the examination.

12. In the event of violation of the requirements of clause 8, Article 12 of this Law, the application shall be considered withdrawn, and the applicant is notified thereof.

13. If there are grounds to suggest that the declared industrial design does not meet the requirements of clause 2, Article 5, or the declared industrial design belongs to the objects specified in clause 3, Article 5, or the declared industrial design contradicts public order, generally accepted moral principles or the application does not meet the formal requirements of Article 11 of this Law and the rules established on its basis by the central executive body ensuring the formation and implementation of state policy in the field of intellectual property, or the fee paid does not meet the requirements, the NIPO shall send a reasonable preliminary conclusion to the applicant with a proposal to provide a reasoned response, eliminating, if necessary, the shortcomings indicated in the conclusion.

The applicant's response shall be provided within the period established by clause 6 of this Article for additional materials and

shall be taken into account during the preparation of the expert appraisal report on the application.

If the application violates the requirements of clause 3, Article 11 of this Law, namely more than one hundred industrial designs are declared and/or the claimed industrial designs do not belong to the same class of ICID, the NIPO shall send a notification to the applicant with a proposal to divide the application in accordance with Article 15-1 of this Law within three months from the date of receipt of the said notification.

In case of non-fulfilment of the specified offer by the applicant, the examination shall be carried out concerning the first industrial design declared in the application, as well as concerning the following industrial designs belonging to the same ICID class, as the first one (if available), thus the total number of industrial designs on which examination is carried out shall not exceed 100 designs.

14. If the examination results show that the industrial design belongs to the objects specified in paragraph 2 of Article 5 of this Law, does not belong to the objects specified in clause 3, Article 5 of this Law, does not contradict the public order and generally accepted principles of morality, the effect of international registration on the territory of Ukraine shall be recognized under the international registration.

If it is established that the industrial design does not meet the requirements specified in the previous paragraph under the international registration, notification of complete or partial refusal to recognize the validity of the international registration in Ukraine shall be sent to the WIPO International Bureau.

#### **Article 15. Withdrawal of the Application**

The applicant shall have the right to withdraw the application at any time before the state fee for registration of the industrial design payment date.

#### **Article 15-1. Division of Application**

1. The applicant shall have the right to divide the multiple application into two or more applications by dividing the declared industrial designs between them before the decision of the NIPO in response to a proposal from the NIPO or on its own initiative.

2. The application is divided by the applicant by means of submitting the application for making appropriate changes to the application and the selected application (applications), subject to payment of fees for the submission of these applications (applications).

3. The date of the selected application submission shall be the date of divided application submission. The priority date of the selected application shall be (if there is a ground for this) the priority date of the divided application.

4. Other requirements for the division of the application shall be determined by the rules established in accordance with this Law by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

#### **Article 16. Registration**

1. NIPO shall conduct the state registration of the industrial design by entering the relevant information into the Register based on the decision on state registration of the industrial design and availability of the document on payment of state fee for the registration of the industrial design and paid fee for publication of information in state register of the industrial design. These duties and fees shall be paid by the applicant upon receipt of the decision on state registration for the industrial design. The procedure for the Register maintenance and a list of information contained in the Register shall be determined by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

State registration of the industrial design shall be conducted under the responsibility of its owner for compliance of the industrial design with the criteria of protection.

If the document on payment of state fee for registration of industrial design and fee for publication of information on state registration of industrial design in the amount and manner prescribed by law were not obtained by the NIPO within three months from the date of receipt by the applicant decision on state registration of industrial design, the application is considered withdrawn.

The term of receipt of the document on payment of the state fee for the registration of the industrial design and payment of the fee for

publication of information on state registration of an industrial design shall be extended, but for not more than for six months if a corresponding request is submitted and the fee for its submission is paid before the expiry of this period. If the deadline for receipt of the document on payment of the state fee for industrial design registration and payment of the fee for publication of information on state registration of the industrial design is missed, the applicant's rights to the application shall be restored in case of submission of the relevant application together with the document on payment of the state fee for registration of the industrial design and payment of the fee for submission of the specified application and the fee for publication of information on the state registration of the industrial design within six months from the expiration of the specified period.

2. Upon entering the information in the Register, any person shall have the right to familiarise him/herself with it according to the procedure to be specified by the central executive authority in charge of forming and implementing state policy in the field of intellectual property and to obtain in reply to his/her request an extract from the Register as to the data on the industrial design on condition of payment of a fee for the submission of the request.

3. Errors in the information in the Register shall be corrected at the initiative of the owner of the industrial design or NIPO. Changes may be made to the Register in accordance with the established list of possible changes at the initiative of the owner of the industrial design. Fee shall be charged for making changes to the Register regarding the certificate.

#### **Article 17. Publication**

1. Simultaneously with the state registration of the industrial design, the NIPO shall publish the information on the state registration of the industrial design, determined in accordance with the established procedure, in the Bulletin.

2. Upon the publication of the information on state registration of the industrial design, any person shall have the right to familiarise with materials of the application according to the procedure. A fee shall be charged for familiarisation with the materials of the application.

**Article 18. Certificate Issuance**

1. The certificate shall be issued by the NIPO within a month from the date of the industrial design state registration. The certificate shall be issued to a person who has the right to register the industrial design. If several persons have the right to register the industrial design, one certificate shall be issued to them.

2. The form of the certificate and the content of the information provided therein shall be specified by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

3. NIPO shall amend obvious mistakes in the issued certificate on request of the certificate holder with subsequent announcement to this effect in the Bulletin.

4. In the event of loss or damage to the certificate, its holder shall be granted a duplicate of the certificate by the procedure determined by the central executive authority in charge of forming and implementing state policy in the field of intellectual property. Fee shall be charged for granting a duplicate of the certificate.

**Article 19. Appealing Against Decision on Application**

1. The applicant may appeal against the NIPO decision on the application in court proceeding, as well as to the Appeals Chamber within two months from the date of receipt of the NIPO decision or copies of materials requested in accordance with clause 3 of Article 14 of this Law.

3. The right to appeal against the NIPO decision to the Appeals Chamber shall be lost in the event of payment of the state fee for the industrial design registration.

4. The NIPO decision shall be appealed to the Appeals Chamber by filing an objection against the decision according to the procedure determined by this Law and on its basis by the Regulation of the Appeals Chamber, approved by the central executive authority in charge of forming and implementing state policy in the field of intellectual property. Fee shall be charged for the submission of

such objection. If the fee has not been paid within the period indicated in clause 1 of this Article, the objection shall be deemed not filed, and a notification will be sent to the applicant.

5. When the Appeals Chamber receives the objection and the document on the payment of the fee for the submission of the objection, the office work on the application shall be suspended until the decision of the Appeals Chamber is approved.

6. The objection against the NIPO decision on the application shall be examined in accordance with the regulation of the Appeals Chamber within two months from the date of receiving the objection and the document on the fee for the submission of the objection, within the scope of arguments presented by the applicant in the objection and during its consideration. The period of consideration of the objection is extended on the initiative of the applicant, but for not more than 2 months if a relevant request is submitted and the fee for its submission is paid before the expiry of this period.

7. On the results of the objection consideration, the Appeals Chamber adopts a motivated decision which is approved by an order of the NIPO and sent to the applicant.

If the objection is satisfied in full or in part, the fee for submission of the objection shall be refunded in the amount of 50 per cent of the established fee for submission of an objection.

9. The applicant may appeal against the approved decision of the Appeals Chamber in court proceeding within two months from the date of receiving of the decision.

10. The NIPO shall publish the information determined by it about the decision on its official website after the Appeals Chamber decision approval.

## **Section V RIGHTS AND OBLIGATIONS OF INDUSTRIAL DESIGN RIGHTS HOLDERS**

### **Article 20. Rights Arising from State Registration of Industrial Design and Rights Granted to Unregistered Industrial Design**

1. The rights to the registered industrial design shall be valid from the date following the date of state registration of the industrial design, subject to payment of a fee for maintaining their validity.

2. The owner of the industrial design shall have the exclusive right to use the industrial design at the own discretion, provided that such use does not infringe the rights of others.

The relationship during the use of the industrial design, the rights to which belong to several persons, shall be determined by the agreement concluded between them. In the absence of the agreement, each of the owners may use the industrial design at the own discretion, but none of them shall have the right to grant permission (issue a licence) to use the industrial design and transfer property rights to the industrial design to another person without the consent of other industrial design owners.

The use of the registered industrial design is the manufacture of the product using the registered industrial design, the use of this product, offers for sale, including via the Internet, sale, import, export and other introduction into civil circulation or storage of such product for mentioned purposes.

The product shall be deemed to have been manufactured using the registered industrial design if the appearance of such product or part thereof gives the informed user the same general impression as the protected industrial design.

3. The owner of the registered industrial design shall have the right to prohibit other persons from using the industrial design without its permission, except for cases when such use is not recognized in accordance with this Law as a violation of the rights to the industrial design.

4. The owner of the registered industrial design may transfer, on the basis of an agreement, intellectual property rights to the industrial design to any person who becomes the owner's legal successor.



5. The owner of the registered industrial design shall have the right to grant permission (to issue a licence) for the use of an industrial design to any person based on the licence agreement.

6. The agreement on the transfer of the industrial design property rights and the licence agreement shall be deemed valid, if made in writing and signed by the parties.

The party to the agreement shall have the right to inform an indefinite number of persons about the transfer of the industrial design property rights or the issuance of licence to use the industrial design. Such informing shall be conducted by means of publishing in the amount and procedure established by the NIPO in the official bulletin, with their simultaneous entry in the Register.

Fee shall be charged for publishing such information and amendments to information on the issuance of the licence proposed by the party to the agreement.

7. The owner of the registered industrial design shall have the right to submit an application for granting any person permission to use the registered industrial design to the NIPO for official publication. The annual fee for maintaining the industrial design rights validity shall be reduced in this case by 50 per cent starting from the year following the year of such application publication. The person who has expressed a desire to use this permit shall be obliged to enter into a payment agreement with the owner of the registered industrial design. Disputes arising in the course of the conclusion and performance of this payment agreement shall be resolved in court.

If no person announced intentions to use the industrial design to the industrial design owner, the latter may submit a written request to the NIPO for the revocation of the statement. In this case, the annual fee for maintaining the validity of the industrial design shall be payable in full starting from the year, which follows the year of the publication of such request.

8. The rights arising from the state registration of the industrial design shall not affect any other personal non-property or author's property rights for the industrial design, which are regulated by the Ukrainian legislation.

9. The owner of the unregistered industrial design, made public, shall have the right to prohibit its copying and use of an industrial design in the manner provided for in the paragraph three, clause 2 of Article 20 of this Law, provided that such use is a consequence of copying an unregistered industrial design. The industrial design shall not be considered the result of copying if it is created by the author's independent creative work, in respect of whom it can be considered that the author was not acquainted with the industrial design brought to the notice of the unregistered industrial design owner.

**Article 22. Actions not Deemed to Constitute Infringement of Rights**

1. Any person who has used the technological (technical) solution identical to the claimed industrial design in the interests of the own activities bona fide or made considerable and serious preparations to such use prior to the date of the submission of the application to the NIPO, shall retain the right to the gratis continuation of such use or to the use of the industrial design envisaged by the said preparations (previous user right). The previous user right may be transferred or passed on to another person only together with the enterprise or the business practice or the part of the enterprise or the business practice, where the solution identical to the claimed industrial design was used or considerable and serious preparations for such use were made.

2. The following shall not be recognized as the violation of the rights to use the registered industrial design:

- design or operation of a vehicle of a foreign state, which is temporarily or accidentally in the waters, airspace or in the territory of Ukraine, provided that the industrial design is used exclusively for the needs of this vehicle, as well as operations for spare parts and components import for repair of this vehicle and repair work on it;
- use without commercial purposes;
- use for scientific or experimental purposes;
- for the purpose of illustration or for educational purposes, provided that the source of the information is indicated and provided that such actions do not contradict trade and other fair practices in economic activity and do not harm the normal use of the industrial design;
- use in case of extraordinary situations (acts of God, disasters,

epidemics, etc.) with notification of the industrial design owner of such use as soon as it becomes practically possible and payment of the corresponding compensation.

3. The introduction into civil circulation of the product manufactured using the registered industrial design, after the introduction of this product into civil circulation by the owner of the industrial design or with his special permit, shall not be recognized as the violation of the rights to the industrial design.

**Article 23. Responsibilities of the Registered Industrial Design Owner**

1. The owner of the registered industrial design shall exercise his/her rights in good faith.

2. If the industrial design is not used or insufficiently used in Ukraine for three years from the date of state registration for the industrial design or from the date when the use of the industrial design was discontinued, any person willing and ready to use the industrial design shall apply to court with the statement on granting to him the permission for use of the industrial design in case of refusal of the owner of the registered industrial design from the conclusion of the licence agreement.

3. If the owner of the registered industrial design does not prove that the fact of non-use or insufficient use of the industrial design is due to good reasons, the court shall decide on granting the permission to use the registered industrial design to the interested person determining the scope of its use, the validity of the permit, the amount and procedure for payment of remuneration to the owner of the registered industrial design.

## **Section VI TERMINATION OF STATE REGISTRATION AND INVALIDATION OF RIGHTS**

### **Article 24. Termination of State Registration**

1. The owner of the registered industrial design may waive the rights to such industrial design at any time in whole or in part by virtue of an application submitted to the NIPO. This waive shall take effect from the date of entry of the relevant information in the Register. At the same time, the NIPO publishes information on such refusal in the Bulletin.

2. The term of validity for the state registration of the industrial design shall be terminated in case of non-payment of the annual fee for maintaining the validity of the rights to the industrial design within the established term.

The annual fee for maintaining the validity of industrial design rights shall be paid for each year of validity of industrial design rights from the application date. The first payment of the specified fee shall be made simultaneously with the payment of the fee for the publication of information on the state registration of the industrial design. The annual fee for each subsequent year shall be paid by the end of the current year, provided that the fee has been paid during the last six months.

The annual fee for maintaining the validity of industrial design rights may be paid within six months after the deadline. In this case, the annual fee amount shall be increased by 50 per cent.

Requests for extension of industrial design rights and fees for its submission shall be submitted to the NIPO no later than six months before the expiration of the state registration or the extended period.

The state registration of the industrial design shall be terminated from the first day of the year for which the fee has not been paid.

### **Article 25. Recognition of Industrial Design Rights Invalid in Judicial Proceeding**

1. Registered industrial design rights may be declared invalid in judicial proceeding in whole or in part in respect of certain options of industrial designs specified in the certificate, in the case of: non-compliance of the industrial design with the conditions for granting legal protection specified by this Law; features that were not provided by the application in the image of

the industrial design; state registration of the industrial design in violation of the rights of others.

2. The bill of complaint from the interested person on recognition of industrial design rights as invalid can be submitted to court during all term of validity of property rights to the industrial design and after their termination.

3. In case of invalidation of industrial design rights, the NIPO shall publish a relevant notice in the Bulletin.

4. The rights to the industrial design, declared invalid, shall be considered invalid from the date of state registration of the industrial design.

5. If the rights to the industrial design are declared invalid in the manner prescribed by law and it has been established that the application was filed in violation of the rights of others, the court may decide to reimburse the owner of the certificate of damages to the person who suffered damages.

**Article 25-1. Recognition of Industrial Design Rights Invalid by the Appeals Chamber**

1. Any person may submit a substantiated application for recognition of industrial design rights invalid in whole or in part to the Appeals Chamber based on non-compliance of the industrial design with the conditions for granting legal protection specified by this Law. Upon instruction of the applicant, the application may be submitted via an intellectual property agent or the other agent.

2. The bill of complaint on recognition of the rights to the industrial design invalid can be submitted during all term of validity of property rights to the industrial design and after their termination. Fee shall be charged for the submission of the application. The application shall be deemed submitted in case of receipt of the fee on the account of NIPO.

3. The parties to the case of industrial design rights invalidation in the Appeals Chamber shall be the persons who filed the application for invalidation of industrial design rights and the owner of the industrial design.

4. The parties shall have equal rights to present evidence, examine it, and prove its persuasiveness before the Appeals Chamber.

5. Each party shall prove the circumstances to which it refers as the basis of its claims or objections.

6. Requirements for the application for recognition of the rights to the industrial design as invalid, the conditions and procedure for its consideration shall be determined by the central executive authority in charge of forming and implementing state policy in the field of intellectual property.

7. The application for invalidation of industrial design rights shall be considered in accordance with the regulations of the Appeals Chamber within three months from the date of receipt of the application by the Appeals Chamber, given the fee for its submission has been paid.

8. The Appeals Chamber shall adopt a motivated decision on results of application consideration which is approved by an order of the NIPO and sent to the parties.

9. The parties may appeal to the court against the Appeals Chamber decision approved by the NIPO within two months from the date of the decision receipt.

10. The Appeals Chamber decision shall enter into force on the date of their approval by the NIPO order and shall be published in full on the NIPO official website.

In case of industrial design rights invalidation, the NIPO shall publish a relevant notification in the Bulletin.

11. The rights to the industrial design, declared invalid, shall be considered invalid from the date of the industrial design state registration.

12. The industrial design recognized by the court or the Appeals Chamber not meeting the conditions for granting legal protection specified by this Law or violating the rights of other persons may not be re-registered.

## **Section VII PROTECTION OF RIGHTS**

### **Article 26. Violation of Owner Rights of Registered or Unregistered Industrial Design**

1. Any encroachment on the registered industrial design owner rights provided for in part 2 of Article 20 of this Law, or any encroachment on the unregistered industrial design owner rights provided for in part 9 of Article 20 of this Law shall be considered a violation of the registered or unregistered industrial design owner rights, respectively, which entails liability under the law.

2. At the request of the registered or unregistered industrial design owner, such violation shall be terminated and the infringer shall be obliged to compensate the registered or unregistered industrial design owner for the damages caused. Restoration of infringed rights of the industrial design owner may also be demanded by his consent by the person who has acquired the licence.

### **Article 27. Remedies**

1. The protection of industrial design rights shall be made in a judicial and other procedure established by law.

2. The jurisdiction of courts shall cover all legal relations arising due to the application of this Law. Courts shall resolve, in particular, in accordance with their competence disputes about: authorship for the industrial design; establishing the fact of the use for the industrial design; establishing the industrial design owner; violation of the industrial design owner rights; right to the previous use; compensation.

## **Section VIII CLOSING PROVISIONS**

### **Article 28. State Duty and Fees**

The amount and procedure of payment of the state duty for the registration of the industrial design shall be defined by the legislation.

Revenues received from the payment of state duty for registration of the industrial design shall be credited to the budgets in the manner prescribed by the Budget Code of Ukraine.

The amount of fees provided for by this Law, terms and the procedure for their payment shall be determined by the Cabinet of Ministers of Ukraine.

Fees provided for by this Law shall be paid to the NIPO current accounts.

Receipts from fees stipulated by this Law shall be target-oriented and used solely for the development and functioning of the state system of legal protection of intellectual property, in particular for the accomplishment of tasks defined by this Law and other regulatory acts in the field of intellectual property.

### **Article 29. Registration of Industrial Design in Foreign States**

1. Any person shall have the right to register the industrial design in foreign states.

2. The application for international registration submitted under the Hague Agreement Concerning the International Registration of Industrial Designs shall be sent by the applicant directly to the WIPO International Bureau.

3. The expenditures associated with the industrial design registration in foreign states shall be borne by the applicant or the other person with his consent.

### **Article 30. State Incentive (Encouragement) for the Creation and Use of Industrial Designs**

The state shall encourage the creation and use of industrial designs, establish preferential conditions for taxation and crediting to the authors and persons who use them, and provides them with other privileges in accordance with the current legislation of Ukraine.