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REPUBLIC OF LITHUANIA PATENT LAW

18 January 1994 No I-372
Vilnius

CHAPTER ONE GENERAL PROVISIONS

Article 1. Purpose and scope of the Law

1. This Law shall legitimise inventions as objects of industrial property, regulate the rights and duties of legal and natural persons with respect to inventions, and provide legal protection thereof.

2. This Law shall apply to inventions, which are the object of a patent application filed or of a patent granted in accordance with the procedure set forth by this Law, of a patent application or a patent which are equated to them in accordance with the procedure set forth by this Law, and actions related to these patent applications or patents.

3. The provisions of this Law have been harmonised with the legal acts of the European Union referred to in the Annex to this Law.

Article 2. Main terms of this Law

1. **European patent with unitary effect** – means a European patent the unitary effect of which is regulated by Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection (hereinafter – Regulation (EU) No 1257/2012).

Supplemented by the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

2. **Biological material** – means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

3. **European patent** – means a patent issued according to the European Patent Convention.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

4. **European patent application** – means an application for the European patent files in accordance with the European Patent Convention, as well as an international patent application where the European Patent Office is a designated or elected office and the Republic of Lithuania is a designated state.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

5. **European Patent Convention** – means the Convention on the Grant of European Patents (the European Patent Convention) signed on 29 November 2000, in Munich.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

6. Exclusive patent licence – means a patent licence according to which the licensor authorises the licensee to use the subject matter of the licence and loses the right to issue the same licences to other persons and the right to use the rights conferred to the licensee by the subject matter of the licence.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

7. Extended European patent – means a patent granted by the European Patent Office according to the European patent application in respect of which extension to the Republic of Lithuania has been requested.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

8. Inventor – means a natural person who creates an invention.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

9. Microbiological process – means any process involving or performed upon or resulting in microbiological material.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

10. Non-exclusive patent licence – means a patent licence according to which the licensor authorises the licensee to use the subject matter of the licence and retains the right to confer such right to other persons and to use the subject matter of the licence himself.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

11. Applicant – means a person filing a patent application or a group of such persons.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

12. Paris Convention – means the Convention for the Protection of Industrial Property, signed in Paris on 20 March 1883 and last amended on 28 September 1979.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

13. Patent Cooperation Treaty – means the Patent Cooperation Treaty, signed in Washington on 19 June 1970, as modified on 28 September 1979 and on 3 February 2001.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

14. Repealed with effect from 01-05-2018.

Amended paragraph of the Article:

No [XIII-548](#), 2017-06-29, published in RLA 2017-07-11, i. k. 2017-11945

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

15. Patent licence – means an authorisation of a licensor – the applicant or proprietor of the patent – to another person – licensee to use the invention which is the object of the published patent application or of the granted patent under the conditions specified in the licensing agreement. A licence may be exclusive and non-exclusive.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

16. Patent application – means all documents and data submitted to the State Patent Bureau of the Republic of Lithuania (hereinafter – the State Patent Bureau) for obtaining a patent.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

17. Proprietor of the patent – means a person who is granted a patent in the Republic of Lithuania in accordance with the procedure established by this Law.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

18. Patent sub-licence – means an authorisation of a licensor to another person to use the invention which is the object of the published patent application or of the granted patent under the conditions specified in the sub-licensing agreement.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

19. Regulations on filing and examination of patent applications and on grant of patents (hereinafter – **Regulations**) – means the Regulations of the State Patent Bureau defining the procedure for filing and examining patent applications and granting of patents.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

20. International exhibition – means an official or officially recognised exhibition in accordance with the Convention on International Exhibitions signed at Paris on 22 November 1928, as amended and supplemented by Protocols of 10 May 1948, 16 November 1966, 30 November 1972 and as modified on 24 June 1982 and 31 May 1988.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

21. International patent application – means a patent application filed in accordance with the Patent Cooperation Treaty.

Changed numbering of the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

SECTION TWO PROTECTION OF INVENTIONS

Article 3. Form of Protection of Inventions

The form of protection of inventions shall be a patent granted by the State Patent Bureau in accordance with the procedure established by this Law.

Article 4. Patentable inventions

1. Inventions in all areas of technology which are new, which involve an inventive step and which are susceptible of industrial application shall be patentable.

2. The following shall not be patentable:

- 1) discoveries, scientific theories and mathematical methods;
- 2) design of products;
- 3) schemes, rules and methods of games, intellectual or economic activities, as well as programmes for computers;
- 4) presentations of information;
- 5) the human body or its element in the natural environment, including the sequence or partial sequence of a gene, at the various stages of its formation and development. This provision shall not apply to an element isolated from the human body or otherwise produced by means of a technical

process, as well as to the sequence or partial sequence of a gene, even if the structure of that element is identical to that of a natural element.

Article 5. Patentability exemptions

1. The following shall be considered unpatentable:

1) methods for treatment of the human or animal body by surgery or therapy, and diagnostic and prophylactic methods practised on the human or animal body. This provision shall not apply if an object of invention is equipment, materials or composition utilised for the methods referred to in this paragraph;

2) plant or animal varieties or essentially biological processes for the production of plants or animals. This provision shall not apply to microbiological processes for the production of plants or animals or the products thereof, as well as to plants or animals, if technical implementation of the invention is not restricted to a concrete plant or animal variety;

3) inventions the commercial exploitation of which would be contrary to public interests, principles of morality and humanity. Decisions to refuse granting patents may not be adopted merely because the exploitation of such inventions is prohibited by laws or other legal acts.

2. On the basis of subparagraph 3 of paragraph 1 of this Law, the following *inter alia* shall be considered unpatentable:

1) processes for cloning human beings;

2) processes for modifying the germ line genetic identity of human beings;

3) uses of human embryos for industrial or commercial purposes;

4) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

3. Recognised as patentable may be inventions which concern an object consisting of or containing biological material or a process by means of which biological material is produced, processed or used. Biological material which is isolated from its natural environment or produced by means of a technical process may be the subject of an invention even if it previously occurred in nature.

4. Where the object of invention is a process, legal protection provided by the patent shall also be granted the product produced by means of such process

Article 6. Novelty of inventions

1. An invention shall be considered new if it does not form part of the state of the art.

2. The state of the art shall consist of everything which, before the filing date of patent application or where priority is claimed, before the priority date, has been published or was in public use in the Republic of Lithuania or abroad.

3. An invention shall not be considered new if although unknown from the state of the art it had been described in a patent application of a different applicant having an earlier filing date and published in the Official Bulletin of the State Patent Bureau later or on the same date, that the state of the art had been established or had been described in a European patent application having an earlier filing date and the translation within the meaning of Article 78(2) of this Law was published later or on the same day on which the state of the art was established.

4. Provisions of paragraphs 2 and 3 of this Article shall be without prejudice to the recognition of patentability of any state of the art material or composition when such material or composition is used by applying the process referred to in Article 5(1) of this Law provided that such use is state of the art.

5. Provisions of paragraphs 2 and 3 of this Article shall be without prejudice to the recognition of patentability of the specific use of the material or composition referred to in paragraph 4 of this Article by applying the process referred to in Article 5(1) of this Law provided that such use is state of the art.

Article 7. Inventive step

1. An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

2. If the state of the art also includes documents within the meaning of Article 6(3) 3 of this Law, these documents are not to be considered in deciding whether there has been an inventive step.

Article 8. Industrial applicability

An invention shall be considered industrially applicable if it can be made or used in industry, agriculture, health protection and other spheres.

Article 9. Grace period

1. Disclosure of information shall not affect the patentability of an invention if the information was disclosed within 6 months preceding the filing date of a patent application and where the disclosure of information has been made:

1) by a person having an interest in making an abuse with respect to inventor or his successor in title to their disadvantage;

2) by an inventor or his successor in title when displaying the invention at an international exhibition.

2. An inventor or his successor in title willing to benefit from the grace period provided for in paragraph 1 of this Article, shall have the burden of proving that he has the right to the grace period.

Article 10. Right to a patent. Right to a patent where an invention is made by several inventors

1. The right to a patent shall belong to the inventor or his successor in title, or the employer, in the case of a service invention. If an invention is made by a person who carries out scientific research, designing, construction works and other works of creative character under contract with a client who finances an appropriate work, the right to a patent for the invention shall be established by such contract. Joint inventors shall, unless they agree otherwise, have equal rights to the patent.

2. Where several inventors have made the same invention independently of each other, the right to a patent shall belong to the inventor whose application has the earliest filing date with the State Patent Bureau or who has the earliest priority right to this invention as long as his application is not withdrawn or deemed to be withdrawn.

Article 11. Service inventions

1. A service invention shall be an invention made:

1) during the execution of an employment contract which provides for inventing activities;

2) on a concrete assignment, in the course of designing, constructing, scientific research or creation of technologies;

3) when using the experience accumulated by an employer or its technologies and equipment.

2. The worker who made a service invention must immediately inform the employer in writing. Until the filing of a patent application, the employer and worker may not disclose the essence of an invention to third parties. Where the employer waives the right to receive the patent or fails to notify the inventor within 4 months of the intention to exercise such right, the right to the patent shall transfer to the inventor.

3. A patent application regarding a service invention shall be filed with the State Patent Bureau, on behalf of an employer.

4. Upon the receipt of a patent on a service invention, the employer must pay remuneration to the inventor. The amount of remuneration shall depend on the economic value of the invention and any benefit derived by the employer from the utilisation of the invention. The conditions of remuneration and the payment thereof shall be established in a remuneration agreement which is signed by the employer and inventor, and which is concluded within six months following the granting of a patent or within one year of the beginning of the use of an invention, if the beginning of

the use of the invention is prior to the granting of a patent.

5. Remuneration shall not be paid if the employment contract of a worker provides for making inventions and he has been or is paid an agreed increased salary.

6. If no agreement exists between the parties, the amount of royalty shall be established by the court.

7. The rights and duties of the employer and worker, related to service inventions, with the exception of the payment of royalty, shall expire when the patent becomes null and void or after one year of the termination of labour relations.

8. The employer and the worker may agree that the right to obtain a patent, the right to a patent application or the right to a patent shall belong to the worker who makes the invention. In this case, royalty to the worker shall not be paid, unless agreed otherwise.

Article 12. Mention of an inventor

1. The patent application and the patent must contain the forenames and surnames of the inventor or inventors.

2. Any publication of the State Patent Bureau of a patent application or patent must contain the name of the inventor or inventors.

3. An inventor shall have the right to request that his forename and surname is not mentioned. To that end, he shall have to submit a request to the State Patent Bureau. The State Patent Bureau shall have to proceed accordingly.

CHAPTER THREE GRANT OF PATENTS

Article 13. Filing a patent application. According a date of filing of a patent application

1. A person wishing to obtain a patent must file a patent application with the State Patent Bureau. An application may be filed by several persons.

2. The date of filing of a patent application shall be the date on which the State Patent Bureau receives:

1) a request for the grant of a patent or a document containing a reference that the submitted documents should be considered to be the patent application;

2) data allowing to identify or contact the applicant;

3) a description of the invention, even if it does not conforming to requirements of the Regulations, or a drawing (drawings), or a reference conforming to requirements of the Regulations to the prior patent application, the certified copy of which must be submitted to the State Patent Bureau within the time limit fixed in the Regulations.

3. The filing date of a patent application shall not be accorded if at least one document or data specified in paragraph 2 of this Article is not submitted or if they do not conform to requirements established in the Regulations on according the date of filing of the application, and such irregularities are not rectified within the time limits set in the Regulations. The State Patent Bureau shall notify the applicant of not accorded date of filing of a patent application and indicate the reasons for not according of the date of filing of a patent application. When the irregularities are rectified within the time limit set in the Regulations, the filing date of a patent application shall be the date on which the State Patent Bureau received the documents or data specified in paragraph 2 of this Article. When the irregularities referred to in this paragraph are not rectified, the filing date of a patent application shall not be accorded.

4. The State Patent Bureau, having identified any missing part of the invention description or the drawing (drawings) mentioned in the patent application, shall notify the applicant. Where the missing part of the invention description or the drawing (drawings) are submitted within the time limit set in the Regulations, the filing date of a patent application shall be the date on which the State Patent Bureau received such missing parts of the invention description or the drawing (drawings) or all documents or data specified in paragraph 2 of this Article, whichever of these dates is later.

5. Where the applicant filing a patent application claimed a priority and submitted the missing part of the invention description or the drawing (drawings) under paragraph 4 of this Article 4, the filing date of a patent application shall be the date assigned under paragraph 2 of this Article provided that the applicant submits within the time limit set in the Regulations:

- 1) a claim for according a date of filing of the application under paragraph 2 of this Article 2;
- 2) a copy of the prior patent application certified according to requirements of the Regulations;
- 3) a mention of the part of the prior patent application or of its translation which contains the missing part of the invention description or the drawing (drawings).

6. Where the missing part of the invention description or the drawing (drawings) are not submitted within the time limit set in paragraph 4 of this Article or are withdrawn under paragraph 7 of this Article, the respective part of the invention description or the drawing (drawings) shall not be considered to be a part of the patent application.

7. The applicant shall have the right to withdraw within the time limit set in the Regulations the missing part of the invention description or the drawing (drawings) submitted under paragraph 4 of this Article. In such case, the filing date of the application shall be the date on which all documents or data referred to in paragraph 2 of this Article are received.

8. Acting on the basis of point 3 of paragraph 2 of this Article, the State Patent Bureau may request the submission of the translation of the certified copy of the prior patent application into the official language in the cases provided for in the Regulations.

Article 14. Representation

1. A patent application may be filed by an applicant personally or through a patent attorney, with the exception of the case specified in paragraph 2 of this Article.

2. An applicant having his residence or principal place of business, a registered branch or representative office in the Republic of Lithuania, any other state of the European Economic Area or in the Contracting State to the European Patent Convention for the purpose of filing a patent application may be represented by an employee authorised in accordance with the procedure laid down by the legal acts.

3. Foreign natural and legal persons not having either a residence or their principal place of business, a registered branch or representative office in the Republic of Lithuania, any other state of the European Economic Area or in the Contracting States to the European Patent Convention, shall perform all actions relating to the granting of a patent in the State Patent Bureau, including representation at the Appeals Division of the State Patent Bureau, through the patent attorney. The patent application may be filed under Article 13 of this Law, the fee may be paid according to this Law and the State Patent Bureau's confirmation and notification regarding these actions may be also be received by the person specified in this paragraph himself.

Amendments to the Article:

No [XIII-548](#), 29-06-2017, published in RLA, 11-07-2017, ID code 2017-11945

Article 15. Patent application. Payment of fee

1. A patent application shall contain:

- 1) a request for the grant of a patent conforming to requirements for the content of the request indicated in the Regulations;
- 2) a description of the invention;
- 3) a set of claims of the invention consisting of one or more points of the claim;
- 4) drawings if necessary for the understanding of the essence of the invention and are indicated in the invention description;
- 5) an abstract;
- 6) a document confirming the right to file a patent application (provided it is filed not by inventor himself) and the declaration regarding inventorship of the invention;
- 7) a document confirming the deposit of a biological material (where necessary);
- 8) a power of attorney of a simple written form (where necessary).

2. The fee for the filing of a patent application must be paid by the applicant within 1 (one)

month of the filing date of the patent application.

Article 16. Disclosure of the essence of invention

1. An invention description must be provided in compliance with requirements for the content of invention description established by the Regulations.

2. An invention description must disclose the invention in such full and clear terms as to enable any person skilled in the art to which it pertains to use the invention.

3. Where a patent application is filed for an invention involving the use of or concerning biological material which is not available to the public and which cannot be described in such a manner as to enable the invention to be reproduced by a person skilled in the art, the description of the invention shall be considered inadequate. This provision shall not apply, if the biological material has been deposited no later than the date on which the patent application was filed with a depository institution in accordance with the procedure established by legal acts and the documentary evidence of the depositing was furnished to the State Patent Bureau.

Article 17. Set of claims of the invention

1. A set of claims of an invention may contain one or more claims. Each claim above the fifteenth claim shall be subject to payment of an additional fee.

2. A set of claims shall define the scope of legal protection conferred by the patent.

3. A set of claims shall be precise, concrete and based on the invention description.

4. A set of claims shall be submitted in accordance with requirements established by the Regulations.

Article 18. Abstract

An abstract shall contain technical information on the invention accordance with the procedure established by the Regulations. The abstract shall not be taken into account when establishing the scope of legal protection of the patent.

Article 19. Unity of invention

1. A patent application shall be filed for one invention or for a group of inventions so linked as to form a single general inventive concept.

2. Failure to comply with the requirements for unity of invention shall not be a ground for invalidation of a patent.

Article 20. Division of application

1. An applicant who does not observe the requirements of the unity of invention shall be obligated to divide his patent application into two or more applications (divisional applications). An applicant may divide his patent application into two or more applications on his own initiative.

2. In each separate patent application the essence of the invention must not be disclosed wider than it was disclosed in the initial patent application.

3. The filing date of the initial application shall be accorded for each separate patent application or where priority is claimed – the priority date of the initial application.

4. Priority documents and any required translations thereof that are submitted to the State Patent Bureau in respect of the initial patent application shall be considered as having been submitted in respect of all divisional applications.

Article 21. Right of priority

1. When filing a patent application the applicant may submit a claim for priority, pursuant the Paris Convention, on the basis of one or several applications filed earlier in foreign countries members of the Paris Convention or World Trade organisation, specifying the filing date, the number and the country of the said patent application or applications.

2. An applicant a declaration claiming the priority shall, within 16 months of the filing date of

the patent application or patent applications filed earlier, submit to the State Patent Bureau the copies of the patent application or patent applications filed earlier certified according to requirements of the Regulations. In the cases provided for in the Regulations, the State Patent Bureau may request their translation into the Lithuanian language.

3. An applicant filing a patent application with a claiming for priority may submit a declaration that the invention description, the set of claims or drawings or their parts missing in the patent application, but are provided in the prior patent application should be considered as existing in the filed patent application.

4. Where the applicant fails to fulfil the requirements specified in paragraph 2 of this Article, it shall be considered that the claim for priority referred to in paragraph 1 of this Article has not been submitted.

Article 22. Correction or supplement of a claim for priority

1. A claim for priority submitted before expiry of the term of priority may be corrected or supplemented after payment of the prescribed fee provided that a request to correct or supplement the claim for priority is submitted within the time limit specified in the Regulations.

2. Paragraph 1 of this Article shall not apply where a request to publish a patent application earlier under Article 26(1) if this Law is submitted, except in the cases of withdrawal of such request at least 2 months before the date of publication of the patent application.

Article 23. Re-establishment of the right of priority

1. Where the date of filing of a patent application is accorded no later than within 2 months of expiry of the priority term and upon payment of the prescribed fee a motivated request for re-establishment of the right of priority is submitted, the right of priority may be re-established where the priority term has expired irrespective of all necessity effort made under certain circumstances.

2. In the event of the failure to submit the copies of the previously filed patent application or of the previously filed patent applications certified in accordance with requirements of the Regulations within the time limit set in Article 21(2) of this Law, upon payment of the prescribed fee, the right of priority shall be re-established within the time limit set in Article 21(2) of this Law, if the State Patent Bureau is furnished with a request for re-establishment of the right of priority and with the certified copies of the previously filed patent application or of the previously filed patent applications within 1 month of the date of submission of such application or such applications to the applicant, provided that the respective patent bureau has been approached for obtaining them within 14 months of the priority date.

Article 24. Examination

1. The State Patent Bureau shall make an examination of a patent application and establish whether the application complies with the requirements provided for in paragraphs 2 and 3 of Article 4(2), Article 5(1), and Articles 15, 16, 17, 21 and 31 of this Law.

2. After having found that the patent application does not meet the requirements of the Articles set out in paragraph 1 of this Article, the State Patent Bureau order the applicant to fulfil such requirements within a period prescribed by the State Patent Bureau. If the applicant fails to do so, the application shall be deemed to be withdrawn.

3. After having found that a part of the invention description or of drawings is missing in the patent application, the State Patent Bureau shall order the applicant to eliminate such weaknesses. The Applicant shall within the time limit set in the Regulations either submit the missing part of the invention description or of drawings or shall submit the declaration referred to in Article 21(3) of this Law.

4. After having determined that an invention is unpatentable on the grounds laid down in Article 4(2), Article 5(1) and (2) of this Law, the State Patent Bureau shall make a decision to refuse granting a patent.

Article 25. Amending and withdrawing of a patent application

1. The applicant shall have the right to amend the patent application during its pendency in the State Patent Bureau.
2. The amendment of a patent application should not result in the change of the essence of the invention and extend its limits.
3. The applicant shall have the right to withdraw a patent application at any time during its pendency in the State Patent Bureau.

Article 26. Publication of a patent application

1. Where a patent application meets requirements of this Law, the State Patent Bureau shall publish in its Official Bulletin the patent application as filed by the applicant within 18 months from its filing date, or if priority is claimed – within 18 months from its filing date. In the event that the applicant files a written request with the State Patent Bureau to have his patent application published earlier, the State Patent Bureau proceeds accordingly, but no earlier than six months after the filing date of the application.
2. A patent application shall not be published if, within 17 months from its filing or priority date, it has been withdrawn or is deemed to be withdrawn.
3. A published patent application from the date of its publication until the grant of the patent shall be provided with the temporary legal protection under Article 35 of this Law.
4. If the published patent application is later withdrawn or disputed by another person, it shall be considered that the application has not been provided with the temporary legal protection provided for in paragraph 3 of this Article.
5. After an invention has been made secret in the manner and on the grounds laid down by legal acts, the inventor shall be paid compensation according to the agreement made between the entity of state secrets and the inventor.
6. After an invention has been declassified in the manner and on the grounds laid down by legal acts, the data of such invention shall be published in the Official Bulletin of the State Patent Bureau.

Article 27. Access to patent application documents, made secret inventions and biological material sample

1. After publishing of a patent application, any interested person may have access to it. Access to a patent application before it is published shall be possible only upon written consent of the applicant.
2. Where a patent application has been withdrawn in accordance with Article 25(3) before it is published, access to the application shall be possible only upon written consent of the person who has withdrawn the application.
3. Access to an invention which has been made secret shall be provided in the manner prescribed by legal acts.
4. If a patent application was accompanied by the document confirming the deposit of biological material pursuant to Article 16(3) of this Law, access to a sample of the biological material shall be provided, after the publication of the patent application, to any interested person or, if the applicant so requests, only to an independent expert. After the patent has been granted, and notwithstanding revocation or cancellation of the patent, access to a sample of the biological material shall be provided to any interested person.
5. At the applicant's request, where a patent application is withdrawn or deemed to be withdrawn, access to a sample of the biological material shall be limited to an independent expert for 20 years from the date on which the patent application was filed. In such case, provisions of paragraph 7 of this Article shall apply.
6. The applicant's requests referred to in paragraphs 4 and 5 of this Article shall be submitted no later than 1 month before the date of publication of the patent application.
7. The sample of biological material shall be supplied to an interested person or independent expert referred to in paragraph 4 of this Article only if the interested person or independent expert

undertakes, for the term during which the patent is in force:

- 1) not to make it or any material derived from it available to third parties;
- 2) not to use it or any material derived from it except for experimental purposes, unless the applicant for or proprietor of the patent, as applicable, expressly waives such an undertaking.

Article 28. Grant of a patent

1. If the published patent application has not been withdrawn or is not deemed to be withdrawn, the State Patent Bureau, on payment of the prescribed fee by the applicant, shall, within three months of the publication date of the patent application, take a decision to grant the patent.

2. The State Patent Bureau, having taken a decision to grant the patent, shall public bibliographic particulars and a set of claims of the invention in the official Bulletin and shall grant the patent within three months of the date of taking the decision.

3. The form of a patent document and the quantity of data entered shall be established by the State Patent Bureau.

4. A patent shall be granted in one copy. In the event that there are several applicants, unless otherwise agreed, the patent shall be granted in the name of the applicant who is stated first in the request.

5. The State Patent Bureau, having published the data referred to in paragraph 2 of this Article, shall publish the patent description, the set of claims of the invention and drawings.

Article 29. Register of Patents of the Republic of Lithuania

1. The Register of Patents of the Republic of Lithuania shall be a public register. The manager of the register is the Ministry of Justice of the Republic of Lithuania, and the registrar – the State Patent Bureau. The Government of the Republic of Lithuania may appoint an additional registrar.

2. The object of the Register of Patents of the Republic of Lithuania shall be the patent issued under this Law.

3. The procedure of registration of objects of the Register of Patents of the Republic of Lithuania, the management of data of the Register shall be governed by the Regulations of the Register of Patents of the Republic of Lithuania.

Amendments to the Article:

No [XIII-263](#), 30-03-2017, published in RLA, 12-04-2017, ID code 2017-06263

Article 30. Amendments to a patent application, patent and Register of Patents of the Republic of Lithuania

1. An applicant, a proprietor of the patent or their representatives must notify the State Patent Bureau about:

- 1) any change of the applicant's or proprietor of the patent's name, or forename and surname, or address of establishment or residence;
- 2) any change of a representative of the applicant or proprietor of the patent or of the representative's address of establishment or residence, including correspondence address;
- 3) full or partial change of the applicant or proprietor of the patent;
- 4) the need to correct technical mistakes.

2. An applicant, a proprietor of the patent or their representatives when asking to enter an amendment to the patent application or to Register of Patents of the Republic of Lithuania in the cases referred to in paragraph 1 of this Article shall pay the prescribed fee and submit the following documents:

- 1) a request for entering an amendment to the patent application or to Register of Patents of the Republic of Lithuania;
- 2) documents supporting the request referred to in point 1 of this paragraph.
3. Upon receipt of the documents referred to in paragraph 2 of this Article, the State Patent Bureau shall examine the documents within 1 (one) month of the day of receiving them and if the documents meet requirements of this Law and of the Regulations, enter the amendment to the patent application or to Register of Patents of the Republic of Lithuania.

4. An amendment shall enter into force from the day of its entry. The notice of the amendment to Register of Patents of the Republic of Lithuania shall be published in the Official Bulletin of the State Patent Bureau.

5. A proprietor of the patent shall have the right to require the State Patent Bureau to make amendments to the patent – correct technical mistakes or irregularities. The State Patent Bureau must fulfil the lawful requirements of the proprietor of the patent

6. Technical mistakes made by the State Patent Bureau shall be corrected free of charge.

Article 31. Requirements for documents submitted to the State Patent Bureau

1. Documents to the State Patent Bureau shall be submitted in the official language. For the purposes of filing of a patent application the invention description or drawing (drawings) under Article 13(2)(3) of this Law may be submitted in any language.

2. An applicant, a proprietor of the patent or their representatives who submit the documents not in the official language, on request of the State Patent Bureau, must submit their translations into the official language within 3 months of the day of submission of the documents.

3. The documents issued abroad which are submitted the State Patent Bureau shall not be legalised or certified by *Apostille* under this Law.

4. The particular requirements applicable to the patent application or other documents shall be set forth in the Regulations.

5. The translation of documents comprising the application specified in Article 15(1)(2)–(8) of this Law submitted not in the official language shall be considered to correspond to the original text until proven otherwise.

6. A document shall be considered not submitted, where an applicant, a proprietor of the patent or their representatives fail to submit the required documents within the time limits set in this Law or where they do not meet the established requirements.

7. In the event of declaration of a state of emergency or a state-level situation of emergency or quarantine throughout the territory of the Republic of Lithuania and the resulting restrictions on free movement of persons or freedom of economic activities, the time limits for fulfillment of actions established by this law except for the deadlines for fulfillment of actions of the State Patent Bureau shall be suspended. When the restrictions are revoked, the time limits shall be resumed. Information on suspension and resumption of the time limits shall be published on the website of the State Patent Bureau.

RLA note. The suspension of the time limits referred to in paragraph 7 herein above shall be applicable to the time limits which have not expired before adoption of Resolution No 207 of the Government of the Republic of Lithuania of 14 March 2020 “On Declaring Quarantine on the Territory of the Republic of Lithuania” and the time limits which started after entry into force of the afore-mentioned resolution.

Supplemented with the paragraph of this Article

No [XIII-2859](#), 21 April 2020, published in the Register of Legal Acts (RLA), 24 April 2020, ID code 2020-08723

Article 32. Continuing to examine a patent application

1. In the event of delay of the term set in Article 24(2) or (3) of this Law, an applicant or a representative thereof, upon payment of the prescribed fee, may, within 2 months of the day of sending the State Patent Bureau’s notification of the delayed term, submit a request to the State Patent Bureau to extend the examination of the application. This request shall be accompanied by documents demonstrating that the action regarding which the examination of the patent application is requested was performed.

2. A decision to continue examining a patent application shall be taken by the State Patent Bureau in accordance with the procedure set forth in the Regulations.

Article 33. Re-establishment of rights

1. Where an applicant or a proprietor of the patent loses the rights pertaining to a patent application or to a patent only because of the failure to respect the time limits specified in Article 21(2), Article 28(1), Article 31(2), Article 36(5), Article 71(2) and (3), and Article 79(2) and (3) of

this Law, such rights shall be re-established upon payment of the prescribed fee, provided that a request for re-establishment of the lost rights has been submitted and the time limit has been delayed irrespective of all necessary efforts taken under certain circumstances.

2. A request for re-establishment of rights must be substantiated and accompanied by data concerning the reasons for the delay of the time limit. When submitting a request for re-establishment of rights, the action because of which the time limit has been delayed must be performed.

3. A request for re-establishment of rights shall be submitted within 2 months of the elimination of the reasons for the delay of the time limit or within 12 months of the last day of the delayed time limit, and where the delayed time limit is related to non-payment of the annual fee – within 12 months after expiry of the time limit indicated in Article 5bis of the Paris Convention, whichever of these time limits expires the earliest.

4. A person who all time from the loss of rights referred to in paragraph 1 of this Article until the re-establishment of rights has used the patent in fair manner or has been actually and seriously preparing for the use of the invention which is the object of the published patent application or of the issued patent, may continue using it in such manner free of charge in his business or for his business needs.

Article 34. Fees

The amount and procedure of payment of fees are set out in the Law of the Republic of Lithuania on Fees for the Registration of Industrial Property Objects.

CHAPTER FOUR PATENT EFFECT

Article 35. Patent proprietor's rights

1. Where the subject matter of a patent is a product, the proprietor of the patent shall have the exclusive right to prevent third parties not having the proprietor's consent from the acts of making, using, offering for sale, selling, importing or exporting that product.

2. Where the subject matter of a patent is a process, the proprietor of the patent shall have the exclusive right to prevent third parties not having the proprietor's consent from the act of using the process, and from the acts of using, offering for sale, selling, importing or exporting a product obtained directly by that process.

3. The proprietor of the patent shall have no right to prevent third parties from performing acts referred to in paragraphs 1 and 2 of this Article, provided that such acts:

1) are done privately and for non-commercial purposes and it does not significantly prejudice the economic interests of the proprietor of the patent;

2) are done for experimental purposes or for scientific research, and this does not conflict with a normal exploitation of the patent and does not unreasonably prejudice the legitimate interests of the proprietor of the patent;

3) consist of preparing medicines for individual cases in a pharmacy upon the prescription of a physician or if it is indicated how to use the medicines so prepared;

Amendments to the paragraph of the Article:

No [XII-1975](#), 20-10-2015, published in RLA, 27-10-2015, ID code 2015-16929

4) are related to products which on or with consent of the proprietor of a patent are placed on the market in the countries of the European Economic Area.

4. The proprietor of the patent shall have the right to prevent all third parties from supplying or offering to supply essential elements of the patented invention with the exception of those which are widely known in the economic activities, if the supply and offering to supply them is necessary for performing the acts provided for in paragraphs 1 and 2 of this Article.

5. The sale or other form of commercialisation of plant propagating material to a farmer by the patent proprietor or with his consent for agricultural use shall imply authorisation for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm. The extent

and conditions of this derogation shall be laid down by Article 14 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights.

6. The sale or any other form of commercialisation of breeding stock or other animal reproductive material to a farmer by the patent proprietor or with his consent shall imply authorisation for the farmer to use the protected livestock for an agricultural purpose. This shall include making the animal or other animal reproductive material available for the purposes of pursuing his agricultural activity but not sale within the framework or for the purpose of a commercial reproduction activity.

7. The extent and the conditions of application of the derogation provided for in paragraph 6 of this Article may be determined by law.

8. Rights to the patent application and the patent itself shall be inheritable.

Article 36. Patent validity term and annual fee

1. The term of validity of a patent shall be 20 years as from the date of filing the application.

2. The term of validity of a patent shall depend on payment of an annual fee.

3. The first annual fee shall be paid for the third year of validity of a patent.

4. The annual fee shall be paid within 2 last months of the current year of validity of a patent.

5. The annual fee may be paid within 6 months after expiry of the term specified in paragraph 4 of this Article; however, in such case, it shall be larger by 50%. The State Patent Bureau shall notify the proprietor of the patent about the failure to pay the annual fee within the time limit specified in paragraph 4 of this Article.

6. In the event of the failure to pay the annual fee within the time limit specified in paragraph 5 of this Article the patent shall be revoked. The patent revocation date shall be the date of the patent validity term for which the last annual fee was paid.

7. Revoked patents shall be published in the Official Bulletin of the State Patent Bureau indicating the number and the revocation date of the patent.

Article 37. Supplementary protection certificate

1. Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products and Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products shall apply to supplementary protection certificates.

2. The term of validity of a supplementary protection certificate shall depend upon payment of the annual fee.

3. The first annual fee for validity of a supplementary protection certificate shall be paid within 2 last months of the last year of the patent validity. Provisions of Article 36(4) of this Law *mutatis mutandis* shall apply to the payment of the next year's fees for validity of the supplementary protection certificate. Provisions of Article 36(5) and (6) of this Law *mutatis mutandis* shall apply to the payment of fees for validity of the supplementary protection certificate.

Article 38. Scope of legal protection and interpretation of a set of claims of an invention

1. The scope of legal protection conferred by a patent shall be determined by a set of claims. The invention description and drawings may be used to interpret the set of claims of the invention.

2. The set of claims of the invention shall cover not only all the elements as expressed in the set of claims but also their equivalents.

3. An element shall be considered as being equivalent to an element as expressed in the set of claims of the invention, if:

1) it performs substantially the same function in substantially the same way and produces substantially the same result as the element expressed in the set of claims of the invention;

2) it is obvious to a person skilled in the art that the same result as that achieved by means of the element as expressed in the set of claims of the invention, can be achieved by means of the

equivalent element.

4. The State Patent Bureau shall take into consideration any written statement of the applicant or the proprietor of the patent to limit the scope of the set of claims of the invention submitted before the grant of the patent or during its validity.

5. If the patent description contains examples of the embodiment of the invention or examples of the functions or results of the invention, the set of claims of the invention shall not be interpreted as limited to such examples.

Article 39. Scope of legal protection of biotechnological inventions

1. The legal protection conferred by a patent on a biological material possessing specific characteristics shall extend to any biological material derived from that biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

2. The legal protection conferred by a patent on a process that enables a biological material to be produced possessing specific characteristics shall extend to biological material directly obtained through that process and to any other biological material derived from the directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

3. The legal protection conferred by a patent on a product containing or consisting of genetic information shall extend to all material in which the product is incorporated and in which the genetic information is contained and performs its function, except the human body or its elements, including the sequence or partial sequence of a gene in the natural environment at the various stages of their formation and development.

4. The legal protection referred to in paragraphs 1, 2 and 3 of this Article shall not extend to biological material obtained from the propagation or multiplication of biological material placed on the market of the European Economic Area by or with consent the proprietor of the patent, where the multiplication or propagation necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.

Article 40. Right of prior use

1. Persons who in good faith were using or were making effective or serious preparations for such use before the filing date or, where priority is claimed, the priority date of a patent application, shall have the right to continue such use or to use the invention as envisaged in such preparations without taking into consideration the will of the proprietor of the patent.

2. The right of the prior use may only be transferred together with the enterprise or its activities or with that part of the enterprise or its activities in which the use of an invention or preparations for such use have been made.

Article 41. Patent proprietor's rights with respect to foreign means of transport

The following shall not be considered the violation of the rights of the proprietor of the patent:

1) the use of the means, which are the subjects of the patent, on any foreign vessel, temporarily or accidentally entering the waters of the Republic of Lithuania provided that such means shall be used exclusively for the needs of the vessel;

2) the use of the means which are the subjects of the patent in the construction of foreign air or land carriers or the exploitation of these means, as well as their use in supplementary constructions thereof, when such means of transport temporarily or accidentally enter the Republic of Lithuania.

CHAPTER FIVE TRANSFER, LICENSING, PLEDGE AND ATTACHMENT OF RIGHTS

Article 42. Transfer of right to a patent application or patent

1. Any contract on the transfer of a patent application or to a patent shall be made in writing.
 2. The transfer of the right to a patent application or to a patent, upon payment of the fee, shall be entered in the Register of Patents of the Republic of Lithuania on a written request of one of the parties to the contract on the transfer of the right, subject to the submission of the following documents to the State Patent Bureau:

1) a request to enter into the Register of Patents of the Republic of Lithuania the transfer of the right;

2) a document confirming the transfer of the right;

3) a power of attorney issued to a representative in a simple written form (where necessary).

3. Within 1 month of the day of receiving the documents referred to in paragraph 2 of this Article, the State Patent Bureau shall examine the received documents and if they meet requirements of this Article and of the Regulations shall enter the details of the transfer of the right to the patent application or to the patent into the Register of Patents of the Republic of Lithuania.

4. The transfer of the right to the patent application or to the patent shall enter into force from the day of its entry into the Register of Patents of the Republic of Lithuania. Data about the transfer of the right to the patent application or to the patent shall be published in the Official Bulletin of the State Patent Bureau.

Article 43. Recognition of right to a patent application or patent for another person

A person concerned may request the court to order the assignment of the patent application or the patent to him if the essential elements of the invention claimed in a patent application or patent are created by him, but not by the applicant of a patent application or by the patent proprietor.

Article 44. Enforcement of joint proprietorship right to a patent application or patent

1. The right to a patent application or to a patent may jointly belong to several applicants or several joint proprietors of the patent.

2. Each of the joint applicants for a patent shall have the right to independently without consent of others to assign his share of the right to the application; however the patent application may be withdrawn or a licensing agreement regarding the published patent application may be concluded with third parties only by all applicants jointly.

3. Each of joint proprietors of the patent may independently without consent of others assign his share in the patent or bring an action to court for infringement of the patent.

4. The joint proprietors may only jointly surrender the legal protection conferred by a patent or conclude a licensing agreement with third parties.

Article 45. Licensing agreement

1. An applicant or a proprietor of a patent shall have the right to issue to another person an exclusive or non-exclusive patent licence for exploiting an invention in all territory of the Republic of Lithuania or in its certain part.

2. Data of a licensing agreement, upon payment of the fee, shall be entered into the Register of Patents of the Republic of Lithuania on request of one of the parties to the licensing agreement. The request to enter the licensing agreement data into the Register of Patents of the Republic of Lithuania shall be submitted to the State Patent Bureau together with the following documents or data:

1) a document signed by both parties to the agreement demonstrating the conclusion of the licensing agreement or a notarised extract from the licensing agreement;

2) a power of attorney issued to a representative in a simple written form (where necessary).

3. A document demonstrating the conclusion of the licensing agreement or an extract from the licensing agreement shall specify:

1) the name or forename and surname and registered office or residence address of the proprietor of the published patent application or of the patent;

2) the licensor's name or forename and surname and registered office or residence address;

3) the number of the published patent application or patent for the use of which the patent

licence is issued;

- 4) the licensing agreement type;
- 5) the licensing agreement conclusion date and term of validity;
- 6) the licensing agreement validity territory.

4. Within 1 month of the day of receiving the documents referred to in paragraph 2 of this Article, the State Patent Bureau shall examine the received documents and if they meet requirements of this Article and of the Regulations shall enter the licensing agreement particulars into the Register of Patents of the Republic of Lithuania.

5. A licensing agreement for third parties shall enter into force from the day of entry of its particulars into Register of Patents of the Republic of Lithuania. Information about the entry of the licensing agreement shall be published in the Register of Patents of the Republic of Lithuania.

6. The proprietor of the published patent application or of the patent of the patent may exercise the rights referred to in Article 35 of this Law against the licensee if the latter fails to fulfil any of the condition provided for in the licensing agreement.

7. Provisions of paragraphs 1–6 of this Article *mutatis mutandis* shall apply to the patent sub-licensing agreement.

Article 46. Licence of right

1. The proprietor of a patent may submit a request to the State Patent Bureau that he is prepared to allow any person to exploit the invention with a licensee's rights in return for a certain consideration. In such case, the annual fee for the patent validity shall be reduced by 50%.

2. The State Patent Bureau shall refuse to accept the request referred to in paragraph 1 of this Article where an exclusive patent licence granted by the proprietor of the patent for the same invention is already entered in the Register of Patents of the Republic of Lithuania.

3. The proprietor of the patent may withdraw the request referred to in paragraph 1 of this Article at any time upon written notification to the State Patent Bureau, provided that no one has previously informed the State Patent Bureau in writing of the intention to exploit such invention.

4. A person who wishes to exploit the licence of right of right may submit a request to the State Patent Bureau for the use of the license of right. Any licence so obtained shall be treated as non-exclusive.

5. Upon the receipt of a person's request for use of the licence of right, the State Patent Bureau shall have no right to enter into the Register of Patents of the Republic of Lithuania an exclusive patent licence issued for the same invention, except where request referred to in paragraph 1 of this Article later is withdrawn.

6. The request of the proprietor of the patent referred to in paragraph 1 of this Article and information about revocation of the request shall be published in the Official Bulletin of the State Patent Bureau.

Article 47. Pledge or attachment of right to a patent application

1. The right to a patent application or to a patent may be pledged or attached (the right to use, manage the right to the application or to the patent may be temporarily restricted) in accordance with the procedure set forth by laws of the Republic of Lithuania.

2. Upon receipt of the notification from the keeper of the Register of contracts and restrictions of rights or Property Seizure Acts about the pledged or attached right to the patent application or to the patent, the State Patent Bureau shall enter the details of the pledge or attachment of the right to the patent application or to the patent into the Register of Patents of the Republic of Lithuania and publish information about that in the Official Bulletin of the State Patent Bureau.

Supplemented by the paragraph of the Article:

No [XIII-2734](#), 19-12-2019, published in RLA, 06-01-2020, ID code 2020-00109

SECTION SIX COMPULSORY LICENCE

Article 48. Compulsory cross-licence when an invention is related to the protected plant variety

1. Where a breeder cannot acquire or exploit a plant variety right without infringing the exclusive rights protected by a prior patent, he may apply for a compulsory licence for non-exclusive use of the invention protected by the patent inasmuch as the licence is necessary for the exploitation of the plant variety to be protected, subject to payment of an appropriate royalty. Where such a licence is granted, the patent proprietor will be entitled to a cross-licence on reasonable terms to use the protected variety.

2. Where the proprietor of a patent concerning a biotechnological invention cannot exploit it without infringing a prior plant variety right, he may apply for a compulsory licence for non-exclusive use of the plant variety protected by that right, subject to payment of an appropriate royalty. Where such a licence is granted, the holder of the variety right will be entitled to a cross-licence on reasonable terms to exploit the protected invention.

3. Applicants for the licences referred to in paragraphs 1 and 2 of this Article must demonstrate that:

1) they have applied unsuccessfully to the proprietor of the patent of a biological invention or the holder of the plant variety right to obtain a contractual licence;

2) the plant variety or the biological invention constitutes significant technical progress of considerable economic interest compared with the invention claimed in the patent or the protected plant variety.

4. The court shall make a decision regarding the granting of licences referred to in paragraphs 1 and 2 of this Article, the amount of royalty and other conditions and extent of a compulsory licence. If the conditions of granting of a compulsory licence change or disappear, at the request of the proprietor of the patent of a biological invention or the holder of the plant variety right, the court may revoke a compulsory licence or change its conditions.

5. Offices keeping a list of protectable plant varieties and the Patent Register of the Republic of Lithuania shall be responsible for the registration, in the manner prescribed by legal acts, of the licences referred to paragraphs 1 and 2 of this Article.

6. Where a licence for a plant variety can be granted only by the Community Plant Variety Office, Article 29 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights shall apply.

Article 49. Compulsory licence for pharmaceutical products

A competent authority authorised by the Government of the Republic of Lithuania shall grant mandatory licences in compliance with Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems.

Article 50. Invention exploitation with the authorisation of the Government of the Republic of Lithuania

1. The Government of the Republic of Lithuania may adopt a resolution to permit a person to market, without the consent of the proprietor of a patent, a patented invention within the territory of the Republic of Lithuania, if:

1) an invention protected by a patent is related to public needs, national security and public health protection, development of economically important sectors;

2) the court determines that a method of the exploitation of an invention employed by the proprietor of a patent or licensee is anti-competitive.

2. An invention may be exploited only for the purpose in respect of which the resolution has been adopted. The proprietor of a patent must, for the exploitation of the invention, be remunerated fairly, taking into consideration economic value of the invention.

3. If the proprietor of a patent or a person who has authorisation to use an invention, requests,

the Government of the Republic of Lithuania may, taking into consideration their reasons, change the conditions of the use of a patented invention, and time limits of the validity of permission.

4. When the authorisation to exploit a patented invention without the patent proprietor's consent is issued to the proprietor of the patent which improves a previously patented invention (second patent) and this may infringe the exclusive rights of the proprietor of the first patent, the Government of the Republic of Lithuania shall, before the adoption of the resolution to authorise the exploitation of this patented invention without the patent proprietor's consent shall take into consideration the following additional conditions, i.e. whether:

1) the claimed in the second patent involves an important technical advancement of considerable economic significance in relation to the invention claimed in the first patent;

2) the proprietor of the first patent is entitled to a cross-licence (authorisation to each proprietor to use the patented inventions) to exploit the invention claimed in the second patent;

3) the use authorised in respect of the first patent shall be non-assignable except with the assignment of the second patent.

5. The Government of the Republic of Lithuania may declare the resolution to authorise the exploitation of this patented invention without the patent proprietor's consent to be null and void, if the circumstances which led to the authorisation to use a patented invention cease to exist, or if a State or municipal institution, natural or legal persons use a patented invention for the purpose other than that in respect of which the resolution has been adopted.

6. The authorisation to exploit a patented invention without the patent proprietor's consent must be non-exclusive, i.e. the proprietor of a patent shall not lose the right to use a patented invention himself, and it shall not prohibit the proprietor of a patent to conclude license agreements related to the use of a patented invention as well as to further exploit a patented invention or to implement his rights in other ways.

7. The authorisation to exploit a patented invention without the patent proprietor's consent may not be transferred, except when the legal person (or a part thereof) in which the patented invention is exploited is transferred in a manner prescribed by law.

8. The request for authorisation to exploit a patented invention without the patent proprietor's consent shall be accompanied by evidence confirming that the person seeking authorisation has requested, but has not received the patent proprietor's authorisation to exploit the patented invention. This provision shall not apply in the case of emergency or other circumstances of extreme urgency or in cases of public non-commercial use of a patented invention. The proprietor of the patent must be informed in writing about a resolution, which is being drawn up, concerning the authorisation to exploit the patented invention without the patent proprietor's consent and about an intention to exploit the patented invention for the purposes provided for in subparagraph 1 of paragraph 1 of this Article.

9. Resolutions of the Government of the Republic of Lithuania concerning the authorisation to use a patented invention without the patent proprietor's consent may be appealed against before the court in a manner prescribed by laws.

10. Upon the receipt of the resolution of the Government of the Republic of Lithuania concerning the authorisation to exploit an invention without the patent proprietor's consent, the State Patent Bureau shall publish information about the authorisation in the next issue of its Official Bulletin.

SECTION SEVEN SETTLEMENT OF DISPUTES. ENFORCEMENT OF RIGHTS

Article 51. Institutions for settlement of disputes on legal protection of inventions

Disputes on patenting and exploitation of inventions shall be settled by the following authorities:

1) the Appeals Division of the State Patent Bureau, in respect of all disputes arising prior to the patent grant between the applicant and an expert of the State Patent Bureau regarding the accord of the date of filing of a patent application and of the date of priority, examination conclusions and

refusal to grant a patent in accordance with the procedure set forth by the State Patent Bureau n;

2) Vilnius Regional Court – disputes regarding decisions of the Appeals Division of the State Patent Bureau, assignment of a patent application or the patent proprietorship to a different person, invalidation of a granted patent in full or in part, infringement of a patent application for which temporary legal protection is granted, infringement of a granted patent, declaration of the fact of the absence of infringement of a patent, granting, revocation and change of conditions of the licences referred to in Articles 38 and 49 of this Law;

3) The Unified Patent Court – the court hearing the disputes regarding the European patents and European patents with unitary effect according to the Agreement on a Unified Patent Court signed in Brussels on 19 February 2013 (hereinafter – the Agreement on a Unified Patent Court).

Supplemented by the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

Article 52. Remedies

1. The applicant, the patent proprietor or their successors in title, when enforcing their rights, and the licensees of exclusive licences, when protecting the rights granted to them, shall be entitled to apply to the court in accordance with the procedure laid down by laws and to seek the application of remedies established by laws.

2. In order to ensure enforcement of an injunction intended to forbid the continuation of infringing activities, as well as an injunction intended to prevent activities by reason of which the rights may be actually infringed or the prejudice suffered, the court may, upon request of the persons referred to in paragraph 1 of this Article, order an infringer to lodge adequate assurance intended to ensure compensation for any possible prejudice.

3. Where there is no fault in the activities, in connection with the infringement of the rights established by this Law, of a person in respect of whom an injunction intended to terminate the continuation of infringing activities or the corrective measures specified in Article 58 are applied, the court may, at the request of this person, order him to pay pecuniary compensation to the injured party, if execution of the measures referred to in this paragraph of the Article would cause him disproportionate harm and if pecuniary compensation to the injured party appears reasonable and satisfactory.

4. The persons referred to in paragraph 1 of this Article, when enforcing their rights, shall be entitled to apply to the court for an injunction against intermediaries whose services are used by a third party to infringe the rights established by this Law. Such an injunction shall include the suspension of communication of information related to the infringement of the rights established by this Law or, if an intermediary is capable of performing this technically, the elimination of information infringing the said rights, or prohibition to obtain information infringing these rights. Such compliance with the judicial decision shall not exempt an intermediary from the responsibility for any act or omission related to keeping or communication of such information, which was the case before coming into effect of this decision.

5. Where the subject matter of a patent is a process for obtaining a product and a product obtained by the defendant is identical to a product obtained by the patented process, or where there are grounds to believe that the identical product was made by infringing the patent, and the applicant has been unable to determine the process actually used, the defendant must prove that the process for obtaining the identical product is different from the patented process.

6. When the proof that the process for obtaining an identical product is different from the patented process is provided, the protection of manufacturing and business secrets of the defendant must be ensured.

Article 53. Right of information

1. When hearing a dispute concerning an infringement of the rights established by this Law, the court, in response to a justified request of the claimant, may, in the context of proceedings, order the persons to immediately provide information on the origin and distribution networks of the goods and services which infringe the rights established by this Law, particularly:

1) the forenames, surnames (names) and addresses of the producers, manufacturers, distributors,

suppliers and other previous holders of the goods infringing the rights established by this Law, as well as the wholesalers and retailers for whom the indicated goods have been intended;

2) information on the quantities of the produced, manufactured, delivered, received or ordered goods which infringe the rights established by this Law, as well as the price which has been obtained or ought to have been obtained for those goods or services.

2. The infringers of the rights established by this Law, other persons who were in possession on a commercial scale of the goods infringing the rights established by this Law, who were using on a commercial scale the services infringing the rights established by this Law or who were providing on a commercial scale the services which a third party used to infringe the rights established by this Law, as well as those who were indicated by the said persons as being involved in the production, manufacture or distribution of the goods infringing the rights established by this Law or the provision of the services infringing the rights established by this Law may be ordered to provide information referred to in paragraph 1 of this Article.

Article 54. Evidence

1. On application by a party which has presented reasonably available evidence sufficient to support its claims, and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the court may, in accordance with the procedure laid down by the Code of Civil Procedure, order that such evidence be presented by the opposing party, subject to the protection of confidential information. The court shall consider a reasonable sample of a substantial number of goods to constitute reasonable evidence of the infringement of the rights established by this Law.

2. In the case of an infringement of the rights established by this Law, which has been committed on a commercial scale and under the conditions specified in paragraph 1 of this Article, the court may, in accordance with the procedure laid down by the Code of Civil Procedure, order that banking, financial or commercial documents be communicated by the opposing party, subject to the protection of confidential information. In the event of failure to present such evidence without strong reasons within the time limit set by the court or where the use of the evidence is denied, the court shall have the right to take a decision on the grounds of the presented evidence.

Article 55. Provisional measures and measures for preserving evidence

1. Application of provisional measures and measures for preserving evidence shall be regulated by the Code of Civil Procedure and this Law.

2. If there are sufficient grounds to suspect that the rights established by this Law have been infringed, the court may, in accordance with the procedure laid down by the Code of Civil Procedure, apply provisional measures necessary to prevent imminent infringing activities, to promptly terminate infringing activities and to enforce a final decision of the court, i.e.:

- 1) to prohibit persons to commit an imminent infringement of the rights established by this Law;
- 2) to order persons to temporarily terminate an infringement of the rights established by this Law;
- 3) to prohibit an intermediary to provide services to a third party who uses such services by infringing the rights established by this Law;
- 4) to seize copies of the subjects of the rights established by this Law as well as goods, prevent their entry into or remove them from the channels of commerce, if it is suspected that they are infringing the rights established by this Law;
- 5) to seize the property of the persons suspected of infringing the rights established by this Law, which is possessed by the said persons or a third party, including the accounts of banks and other credit institutions; also to order the communication of bank, financial or commercial documents, or appropriate access to these documents in the case of an infringement committed for commercial purposes;
- 6) to apply other measures laid down by the Code of Civil Procedure.

3. If the provisional measures which are referred to in subparagraphs 1 and 2 of paragraph 2 of this Article and which have been applied are being infringed and the infringement continues, the court may order the persons suspected of committing an infringement to lodge adequate assurance intended to ensure that a person who has applied for provisional measures will be compensated for possible damages.

4. The court shall have the right to require the person who applies for provisional measures to provide any reasonably available evidence in order to satisfy the court with a sufficient degree of certainty that the said person or the person in whose interest provisional measures are applied for is the holder or user of the rights established by this Law and that the applicant's right is being infringed, or that there is a threat of such infringement.

5. The court may, on application by a person who has presented reasonably available evidence to support his claims that the rights established by this Law have been infringed or are about to be infringed, may apply provisional measures or measures for preserving evidence, subject to the protection of confidential information, thus preserve relevant evidence in respect of the alleged infringement, i.e.:

1) to describe in detail the goods infringing the rights established by this Law and to seize them, or only to describe them;

2) to seize the products infringing the rights established by this Law and, in appropriate cases, the materials and implements used in the production and/or distribution of these products as well as the documents relating thereto and to collect them;

3) to apply other prompt and effective provisional measures provided for in the Code of Civil Procedure.

6. Provisional measures and measures for preserving evidence may be applied without the defendant having been notified or heard, in particular where any delay would cause irreparable harm to the applicant or where there is a demonstrable risk of evidence being destroyed. Where provisional measures are applied without the defendant having been notified and heard, the defendant must be given notice without delay, i.e. after the execution of such measures at the latest. At the request of the parties, including a right to be heard, the provisional measures may be reviewed with a view to deciding, within a reasonable period after the notification of application of the measures, whether such measures must be modified, revoked or confirmed.

7. Where the applied provisional measures or measures for preserving evidence are revoked by the court or where they lapse due to any act or omission by the person who applied for them, or where a decision of the court establishing that there has been no infringement or threat of infringement of the rights established by this Law comes into effect, or where the person, who has applied for provisional measures or measures preserving evidence, does not institute proceedings within a period determined by the court, the defendant shall be entitled to request compensation for any injury caused by application of those measures.

Article 56. Corrective measures

1. The persons specified in Article 52(1) of this Law shall be entitled to apply to the court and request that products (goods) be recalled, removed from the channels of commerce in such a manner as to avoid any harm being caused to the said persons and to ensure the protection of their rights (e.g. to remake the infringing goods into other goods or to apply similar measures), or to request that the products (goods), which the court has found to be infringing the rights established by this Law and, in appropriate cases, the materials and implements principally used in the creation or manufacture of the specified objects be destroyed.

2. The measures referred to in paragraph 1 of this Article shall be applied regardless of other requirements of a person, applying for these measures, for compensation of the prejudice suffered as a result of the infringement of his rights. Such measures shall be carried out at the expense of the infringer, without compensating and taking into account proportionality between the seriousness of the infringement and the measure applied as well as the legitimate interests of third parties.

Article 57. Recovery of material damage

1. The procedure for recovery of material damage shall be regulated by the Civil Code and this Law.

2. When assessing the amount of the actual damage (losses) suffered as a result of the infringement of the rights established by this Law, the court shall take into account the substance of the infringement, the amount of the inflicted damage, lost income, incurred expenses, and other

important circumstances. Profit made by the infringer may, at the request of the persons specified in Article 52(1) of this Law, be recognized as losses. Goods infringing the rights established by this Law may be transferred to the holders of those rights upon their request.

3. The amount of income lost by the persons specified in Article 52(1) of this Law shall be set by taking into account the amount of income which would have been made if the invention had been used legally (i.e. taking account of the royalties which are usually paid for the legal use of the invention), as well as the concrete circumstances which might have created conditions for making income (works performed by the subjects of the rights, implements used, negotiations for conclusion of contracts concerning the use of the invention, etc.).

4. Instead of the recovery of the damage (losses) actually suffered by reason of the infringement of the rights established by this Law, the persons specified in Article 52(1) of this Law may claim the payment which would have been due if the infringer had used the invention legally (i.e. had acquired permission), and where the infringement has been committed intentionally or through gross negligence – the said persons may claim up to twice the amount of such payment.

5. Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing the rights established by this Law (i.e. there is no fault in his actions), the court may, upon request of the persons specified in Article 52(1) of this Law, order the recovery of profit made by the infringer. A total that the infringer has saved and/or made by infringing the rights established by this Law shall be regarded as the profit made by the infringer. The profit made by the infringer shall be ascertained and recovered regardless of whether or not the subject of the rights would have made the same profit as the infringer. When ascertaining the profit made by the infringer, the subject of the rights must provide only the evidence that would confirm the gross income received by the infringer; the amount of net profit of the infringer (after deducting the expenses) must be proved by the infringer.

Article 58. Publication of a judicial decision

The court which takes a decision on the infringement of the rights established by this Law may, at the request of the persons specified in Article 52(1) of this Law, order the infringer to disseminate at his own expense the information concerning the adopted decision, including disseminating the decision in full or in part in the mass media or by any other means. A judicial decision or information concerning an adopted decision may be announced after the coming into effect of the decision, unless otherwise established by the court. The manner and extent of dissemination of a judicial decision shall be laid down in this judicial decision. The persons specified in Article 52(1) of this Law may request that the infringer pay in advance into the bank account, indicated by the court, a sum of money necessary to disseminate the information concerning an adopted judicial decision or an adopted judicial decision itself.

Article 59. Declaration of the fact of non-infringement of a patent

1. Any person concerned shall have the right to bring an action requesting the court to establish that his activity does not constitute infringement of the patent granted to the proprietor.

2. The proprietor of the patent must notify any licensees of the proceedings initiated regarding the fact of non-infringement of a patent. The licensees shall have the right to participate in hearing of such case, unless the licensing agreement provides otherwise.

Article 60. Application of customs supervision measures

Customs supervision measures determined by legal acts of the European Union and the Republic of Lithuania must be applied to the products (goods) which infringe the rights established by this Law and which are imported from third countries to the Republic of Lithuania or exported from the Republic of Lithuania to third countries.

CHAPTER EIGHT CHANGES, SURRENDER AND INVALIDATION OF PATENTS

Article 61. Changes in patents

1. The proprietor of the patent shall have the right to request the State Patent Bureau to make changes in the patent in order to limit the extent of the protection conferred by it.

2. No changes in the patent shall be permitted which would result in the extension of the scope of the invention set forth in the patent application.

3. The State Patent Bureau shall enter the changes made in the patent into the Register of Patents of the Republic of Lithuania and shall publish the information about that in its Official Bulletin. Changes in a patent shall enter into force from the day of their entry into Register of Patents of the Republic of Lithuania.

Article 62. Surrender of a patent

1. The proprietor of the patent may surrender the patent notifying in writing the State Patent Bureau. The surrender may be partial when one or more claims of the set of claims of the patent is surrendered.

2. The State Patent Bureau shall record surrender in the Register of Patents and publish it in the Official Bulletin.

3. The surrender of the patent shall take effect as of from the date on which the State Patent Bureau receives the request of the proprietor of the patent.

Article 63. Invalidation of a patent

1. On the request of any persons concerned the court may invalidate a patent, in whole or in part, on one of the following grounds:

1) the invention is not patentable within the meaning of Articles 4-8 of this Law;

2) the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;

3) the disclosure contained in the patent goes beyond what has been disclosed in the application as filed, or if the patent was granted on a divisional application, which goes beyond what has been disclosed in the initial patent application filed;

4) the proprietor of the patent has no right to the patent within the meaning of Article 11(1) of this Law.

2. If the patent is recognised invalid in part, the corresponding limitation of the rights conferred by the patent, the reduction of the number of claims, and corresponding amendments to description and drawings shall be made.

Article 64. Effects of invalidation of a patent

1. To the extent that a patent is invalidated by the court in whole or in part it shall be considered null and void as from the filing date of the patent application.

2. When a decision of the court to invalidate a patent, in whole or in part, becomes final, the court shall send it to the State Patent Bureau, which shall record data on the invalidation in the Register of Patents of the Republic of Lithuania and publish it in its Official Bulletin.

SECTION NINE INTERNATIONAL PATENT APPLICATION

Article 65. International patent application when the State Patent Bureau is a receiving patent office

1. Provisions of the Patent Cooperation Treaty, this Law and legal acts implementing this Law shall apply to the international patent application when the State Patent Bureau is a receiving parent office.

2. An international patent application may be filed with the State Patent Bureau when the applicant is a citizen of the Republic of Lithuania or a resident of the Republic of Lithuania or has a registered office in the Republic of Lithuania.

3. A fee for transmitting an international patent application to the International Bureau of the

World Intellectual Property Organisation and to the International Searching Authority shall be paid within 1 (one) month from the day of receipt of the application in accordance with paragraph 14 of the Regulations under the Patent Cooperation Treaty.

4. An international patent application must be filed in the language specified in the Regulations.

5. An international patent application in which the Republic of Lithuania is designated or elected shall be considered to be the European patent application within the meaning of Article 45(1) of the Patent Cooperation Treaty.

Article 66. International patent application when the State Patent Bureau is a designated or elected patent office

1. Provisions of the Patent Cooperation Treaty, this Law and legal acts implementing this Law shall apply to the international patent application when the State Patent Bureau is a designated or elected patent office.

2. Any international patent application for which the State Patent Bureau is a designated or elected patent office and which has been published under Article 21 of the Patent Co-operation Treaty shall enjoy temporary protection under paragraph 3 of Article 21 of this Law.

3. The temporary legal protection shall become effective from the date on which a translation into the official language of the set of claims of the invention described in the international patent application is published by the State Patent Bureau in the Official Bulletin.

4. Where the State Patent Bureau is a designated or elected patent office, an applicant of an international patent application for which the wishes to obtain a patent of the Republic of Lithuania under this Law, must, within the time limit applicable under Articles 22 or 39 of the Patent Cooperation Treaty, furnish a translation of the international patent application into Lithuanian and pay the fee.

Note of RLA. Article 66 shall be repealed within 31 months after the date of entry into force of this Law (No XI-1261) (03-02-201).

**SECTION TEN
EXTENSION OF THE EFFECT OF EUROPEAN PATENTS**

Article 67. General provisions

1. A European patent application and a European patent extending to the Republic of Lithuania shall, according to the provisions of this Chapter, have the same effect and shall be subject to the same conditions as a patent application filed and a patent granted under this Law.

2. Requirements of the European Patent Convention shall not apply to a European patent application and a European patent extending to the Republic of Lithuania pursuant to provisions of this Chapter, unless this Law establishes otherwise.

Article 68. Request to extend a European patent application and a European patent

1. A European patent application and a European patent granted according to such application shall be extended to the Republic of Lithuania at the request of the applicant. The request for extension shall be deemed to be filed with any European patent application filed on or after the date on which the Agreement implementing Article 3(3) of the Cooperation Agreement between the Government of the Republic of Lithuania and the European Patent Organisation enters into force. Any request for extension of a European patent application and a European patent to the Republic of Lithuania received by the State Patent Bureau from the European Patent Office shall be published by the State Patent Bureau as soon as possible, but not before the expiry of 18 months from the European patent application filing date or, if priority has been claimed – not before the expiry of 18 months of the earliest priority date.

2. The request for extension of a European patent application and a European patent to the Republic of Lithuania may be withdrawn at any time. The request for extension of a European patent application and a European patent to the Republic of Lithuania shall be deemed to be withdrawn where the extension fee has not been paid in due time or where the European patent application has been finally refused, withdrawn or is deemed revoked. The State Patent Bureau shall publish this as

soon as possible if the request for extension of a European patent application and a European patent to the Republic of Lithuania has already been published.

Article 69. Extension fee

1. The extension fee under Article 68(2) of this Law shall be paid to the European Patent Office within the period of payment of the fee provided under the European Patent Convention for the payment of the fee of designation of the country.

2. The extension fee may still be validly paid within the period of grace specified according to the European Patent Convention Rules, provided that a surcharge of 50% is paid within this period.

3. Extension fees shall be paid according to the Rules of the European Patent Convention relating to the payment of fees. The validly paid extension fee shall not be refunded.

Article 70. Effects of European patent applications

1. A European patent application which has been accorded a filing date shall in any case be equivalent to the patent application filed according to this Law in observance of all requirements, where the priority of the European patent application is being recognised, whatever is the process of its examination.

2. A published European patent application shall be provided with the same temporary legal protection as the patent application according to Article 26(3) of this Law. The temporary legal protection shall be provided from the date on which a translation of the set of claims of the published European patent application into the Lithuanian language has been communicated by the applicant to the person exploiting the invention in the Republic of Lithuania.

3. A European patent application shall be deemed not to have been provided with the temporary legal protection *ab initio*, referred to in paragraph 2 of this Article where the request for extension of the European patent application to the republic of Lithuania has been later withdrawn or is deemed withdrawn.

Article 71. Effects of European patents

1. An extended European patent shall, subject to paragraphs 2-6 of this Article, confer from the date of publication of the mention of its grant by the European Patent Office the same rights as would be conferred by the patent granted under this Law in accordance with Article 35 of this Law.

2. Within 3 months from the date on which the mention of the grant of the European patent has been published, the proprietor of the European patent shall furnish to the State Patent Bureau a translation of the set of claims of the invention of the European patent into the Lithuanian language and shall pay the fee for its publication.

3. If, as a result of an opposition filed with the European Patent Office, the set of claims of the invention of the patent have been amended, the proprietor of the patent shall, within three months from the date on which the amended set of claims of the patent were published, furnish to the State Patent Bureau a translation of the amended set of claims of the invention into the Lithuanian language and pay the fee for its publication.

4. The State Patent Bureau shall publish as soon as possible any exact translations of the set of claims of the invention of the European patent or of the amended set of claims filed according to paragraphs 2 and 3 of this Article.

5. If the translation specified in paragraphs 2 and 3 of this Article is not submitted in due time or the fee is not paid in due time, the European patent shall be deemed to be void *ab initio*.

6. An extended European patent and a European patent application on the basis of which the patent was granted shall be deemed not to have had *ab initio* the effects specified in paragraph 1 of this Article and Article 70(2) of this Law to the extent that the patent has been revoked in opposition proceedings before the EPO.

Article 72. Authenticity of texts of a European patent applications or European patent

1. The text of a European patent application or a European patent in the language of proceedings

of the European Patent Office shall also be considered to be authentic in the Republic of Lithuania.

2. The translations referred to in Articles 70 and 71 of this Law shall be regarded as authentic, except in patent revocation proceedings, where they confer legal protection which is narrower than that conferred to the texts in the language of proceedings of the European Patent Office.

3. The applicant or the proprietor of the patent may file a corrected translation of the set of claims of the invention of the European patent application or of the European patent. The corrected translation shall become effective when it is published by the State Patent Bureau. Any person who, in good faith, uses or has made effective and serious preparations for using an invention, without infringing the previous translation of the patent application or patent may, after the corrected translation of the claims takes effect, continue exploiting the invention in his business or for own needs free of charge.

Article 73. Right of Earlier Date

1. A European patent application for which the extension fee has been paid and an extended European patent with regard to a patent application and patent shall have the same prior art effect under Article 6(2) of this Law as the patent application filed and the patent issued according to this Law.

2. A patent application filed and a patent issued according to this Law with regard to an extended European patent shall have the same prior art effect as they have under Article 6(2) of this Law.

Article 74. Duplication of protection

Where an extended European patent and a patent issued under this Law and having the same filing or priority date have been granted to the same person or his successor in title, the patent issued under this Law shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed or as from the date on which the opposition procedure has resulted in a final decision maintaining the European patent.

Article 75. Annual fee for renewal of an extended European patent

The term of validity of an extended European patent and its annual fee shall be subject to the provisions of Article 36(1), (2), (4), (5), (6) and (7) of this Law. The annual fee for the extended European patent shall be paid from the next year following the publication about the grant of the European patent.

SECTION ELEVEN IMPLEMENTATION OF THE EUROPEAN PATENT CONVENTION

Article 76. Application of the European Patent Convention

1. The European Patent Convention shall apply to European patent applications designating the Republic of Lithuania, which are filed on the day of entry into force of the European Patent Convention in the Republic of Lithuania or later, as well as to the European patents.

2. A European patent published and valid in the Republic of Lithuania may be revoked or declared invalid on the basis of this Law and/or Article 138 of the European Patent Convention.

3. The State Patent Bureau shall be a central industrial property office under the European Patent Convention.

4. The State Patent Bureau shall approve the description of the procedure for implementing the European Patent Convention in the Republic of Lithuania.

Article 77. Filing of a European Patent Application

1. A European patent application shall be filed directly with the European Patent Office or with the State Patent Bureau in the languages specified in paragraphs 1 and 2 of Article 14 of the European

Patent Convention.

2. The State Patent Bureau shall forward to the European Patent Office the received European patent applications, with the exception of the applications related to State or official secrets, in due time specified in Article 77 of the European Patent Convention.

3. A divisional European patent application shall be filed directly with the European Patent Office.

4. A European patent application containing the information constituting State and official secrets shall be filed only with the State Patent Bureau.

Article 78. Validity of a European patent application

1. A European patent application which has been accorded a date of filing and which designates the Republic of Lithuania, shall be of the same legal power as a patent application filed under this Law, recognizing the date of priority of the European patent application, regardless of the course of its examination.

2. A published European patent application shall be accorded the same temporary legal protection as a patent application under Article 26(3) of this Law. Temporary legal protection shall be accorded from the day on which a translation of the claims of the published European patent application is published in the Official Bulletin of the State Patent Bureau. A prescribed fee shall be paid for publication of the translation of the claims of the European patent application.

3. A European patent application shall be deemed not to have been accorded temporary legal protection under paragraph 2 of this Article, if the designation of the Republic of Lithuania was later revoked or is deemed to have been revoked.

Article 79. Validity of a European patent

1. A European patent designating the Republic of Lithuania shall, pursuant to paragraphs 2 and 3 of this Article, confer after the date on which the mention of its grant is published in the European Patent Office the same rights as a patent under Article 35 of this Law.

2. A proprietor of a European patent shall, within 3 months after the date on which the mention of the grant of the patent is published, supply to the State Patent Bureau a translation of the set of claims of the European patent into the Lithuanian language and pay the prescribed fee for publication of such translation. If, within one month from the date of publication of the mention of the grant of the European patent in the European Patent Bulletin, a proprietor of a European patent submitted the request for unitary effect to the European Patent Office and the latter rejected such request, the term of 3 months shall be calculated from the date of entry into force of the decision of the European Patent Office regarding the rejection of the request for unitary effect.

Amendments to the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

3. If a set of claims of a European patent is amended because of an opposition filed with the European Patent Office, the patent proprietor must, within 3 months after the publication of an amended set of claims of the European patent, supply to the State Patent Bureau the translation of the amended set of claims of the European patent into the Lithuanian language and pay a fee for its publication.

4. The State Patent Bureau shall immediately, not later than within 3 months, publish the translations supplied pursuant to paragraphs 2 and 3 of this Article.

5. Where a translation of the set of claims of the European patent is not supplied within the time limit referred to in paragraphs 2 and 3 of this Article, the European patent shall be deemed to be void *ab initio* in the Republic of Lithuania.

Article 80. Authenticity of texts of a European patent application and of a European patent

1. The text of a European patent application or a European patent in the language of the proceedings of the European Patent Office shall also be considered to be authentic in the Republic of

Lithuania.

2. Translations referred to in Articles 78 and 79 of this Law shall be considered to be authentic, except for patent revocation proceedings, when legal protection conferred on the patents is narrower than that conferred on the texts in the language of the proceedings of the European Patent Office.

3. An applicant or a patent proprietor may at any time file a corrected translation of the European patent application or of the set of claims of the European patent. Such corrected translation shall become effective after it is published by the State Patent Bureau. Any person who in good faith is using or has made preparations for using an invention the use of which would not constitute infringement of the patent application or the set of claims of the patent in the original translation may, after the corrected translation of the set of claims takes effect, continue such use in the course of his business or for his needs without payment.

Article 81. Annual fees of European patents

The term of validity of a European patent and its annual fee shall be subject to the provisions of Article 36(1), (2), (4), (5), (6) and (7) of this Law. The annual fee for the extended European patent shall be paid from the next year following the publication about the grant of the European patent.

Article 82. Replacement of a European patent application

1. A European patent application designating the Republic of Lithuania may be replaced with the patent application filed under this Law, if the European patent application is deemed to be withdrawn under Article 77(3) and Article 78(2) of the European Patent Convention or the translation of the application has not been supplied to the European Patent Office in due time in accordance with Article 14(2) of the European Patent Convention.

2. An applicant shall pay a prescribed fee within the set time limit and supply to the State Patent Bureau the translation of the European patent application into the Lithuanian language.

Article 83. Duplication of protection

Where a European patent and a patent issued under this Law and having the same filing or priority date have been granted to the same person or his successor in title, the patent issued under this Law shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed or as from the date on which the opposition procedure has resulted in a final decision maintaining the European patent.

SECTION TWELVE EUROPEAN PATENT WITH UNITARY EFFECT

Article 84. Prohibition of duplication of protection

1. If a European patent with unitary effect and a patent issued under this Law and having the same filing or priority date have been granted to the same person or his successor in title, the patent issued under this Law shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent with unitary effect has expired without an opposition having been filed or as from the date on which the opposition procedure has resulted in a final decision maintaining the European patent with unitary effect.

2. A European patent the translation of the set of claims of which was published in accordance with Article 79 of this Law shall be considered to be invalid *ab initio* in the Republic of Lithuania, provided that the unitary effect has been registered for such European patent in accordance with Regulation (EU) No 1257/2012.

Article 85. Enforcement of rulings and orders of the Unified Patent Court

1. Decisions and orders of the Unified Patent Court shall be the enforcement documents.

2. Decisions and orders, writs of execution of decisions of the Unified Patent Court submitted for enforcement in the Republic of Lithuania shall be translated into the official language.

Article 86. Liability for damage caused by infringements of the European Union law

An action for damage caused by infringements of Union law by the Unified Patent Court according to Article 22(2) of the Agreement on a Unified Patent Court shall be brought before Vilnius Regional Court.

Supplemented by the Chapter:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC

ALGIRDAS BRAZAUSKAS

Annex to the Patent Law
of the Republic of Lithuania

LEGAL ACTS OF THE EUROPEAN UNION IMPLEMENTED BY THE PATENT LAW

1. Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products (OJ 2004, SE, Chapter 13, Vol. 11, p. 200).

2. Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ 2004, SE, Chapter 3, Vol. 19, p. 335).

3. Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions (OJ 2004, SE, Chapter 13, Vol. 20, p. 395).

4. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004, SE, Chapter 17, Vol. 2, p. 32).

5. Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems (OJ 2006 L 157, p. 1).

6. Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection (OJ 2012 L 361, p. 1).

Supplemented by the paragraph of the Article:

No [XIII-344](#), 04-05-2017, published in RLA, 11-05-2017, ID code 2017-08029

Amendments:

1.

Seimas of the Republic of Lithuania, Law

No [I-638](#), 08-11-1994, Official Gazette, 1994, No 89-1713 (18-11-1994), ID code 0941010ISTA000I-638

Law amending the Patent Law of the Republic of Lithuania

2.

Seimas of the Republic of Lithuania, Law

No [VIII-565](#), 09-12-1997, Official Gazette, 1997, No 117-3005 (24-12-1997), ID code 0971010ISTAVIII-565

Law amending Article 34 of the Patent Law of the Republic of Lithuania

3.

Seimas of the Republic of Lithuania, Law

No [VIII-590](#), 23-12-1997, Official Gazette, 1997, No 119-3078 (31-12-1997), ID code 0971010ISTAVIII-590

Law amending and supplementing Articles 7, 8, 22 of the Patent Law of the Republic of Lithuania

4.

Seimas of the Republic of Lithuania, Law

No [VIII-1738](#), 15-06-2000, Official Gazette, 2000, No 54-1560 (05-07-2000), ID code 1001010ISTAVIII-1738

Law amending and supplementing Articles 26, 39, 40 and repealing Article 38 of the Patent Law of the Republic of Lithuania

5.

Seimas of the Republic of Lithuania, Law

No [IX-118](#), 21-12-2000, Official Gazette, 2000, No 113-3612 (30-12-2000), ID code 1001010ISTA00IX-118

Law supplementing the Patent Law of the Republic of Lithuania by Article 41(1)

6.

Seimas of the Republic of Lithuania, Law

No [IX-568](#), 30-10-2001, Official Gazette, 2001, No 94-3308 (09-11-2001), ID code 1011010ISTA00IX-568

Law amending Articles 2, 6, 26, 31, 41 of the Patent Law of the Republic of Lithuania and supplementing the Law by Article 27(1)

7.

Seimas of the Republic of Lithuania, Law

No [X-287](#), 30-06-2005, Official Gazette, 2005, No 85-3135 (14-07-2005), ID code 1051010ISTA000X-287

Law amending and supplementing the Preamble and Articles 2, 4, 10, 11, 13, 19, 21, 22, 24, 26, 39, 40, 48, 50 of the Patent Law of the Republic of Lithuania and supplementing the Law by Articles 28-1, 38, Chapter X-1 and Annex

8.

Seimas of the Republic of Lithuania, Law

No [X-649](#), 08-06-2006, Official Gazette, 2006, No 72-2668 (28-06-2006), ID code 1061010ISTA000X-649

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