

LAW OF UKRAINE

On the Protection of Rights in Inventions and Utility Models

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(Has entered into force as from July 1, 1994 by the Decree of the Verkhovna Rada N 3769-XII (3769-12) of December 23, 1993, GVR, 1994, N 7, Art. 33)

(Elucidation: this Law is applied to legal relations arisen subsequently of its entering into force in accordance with the Decree of the Verkhovna Rada of Ukraine N 3769-XII (3769-12) of December 23, 1993)

(Has set out in writing of the Law N 1771-III (1771-14) of June 1, 2000, published in GVR, 2000, N 37, Art. 307)

(Amended in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

Chapter I

GENERAL PROVISIONS

Article 1. Definitions.

In this Law the following terms used in the such meaning as:

“**Institution**” means the central body of executive power that is responsible for the legal protection of intellectual property; (the second paragraph of the Article 1 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

“**Board of Appeal**” means a collective body of the Institution intended for consideration of oppositions on the decisions made by the Institution about acquisition of rights in intellectual property subject matters;

“**Invention**” means the technological (technical) solution that shall satisfy the patentability requirements (that is novelty, inventive step and susceptibility of industrial application).

* **Note:** *individual terms of “a charge” and “an official fee” have been used by the translator to designate payments due for actions connected with obtaining and maintaining of the legal protection of intellectual property rights in order to accentuate certain distinctions in their status and purposeful use.*

“**Utility model**” means a new and susceptible to industrial application technical design of a device;

“**Secret invention (secret utility model)**” means an invention (utility model) that contains information considered to be of a State secrecy;

“**Employee’s invention (utility model)**” means an invention created by an employee:

- in the course of his official duties or of a specific task entrusted to him by his employer, unless otherwise stipulated in the work agreement (contract);
- making use of the experience, knowledge of production process, secrets of manufacturing and equipment of the employer;

“**Official duties**” means functional duties of an employee envisage for the works that may result in creation of an invention (utility model) and has been stipulated in work agreements (contracts) or functionary rules;

“**Specific task entrusted by an employer to his employee**” means a specific task, delivered to an employee in written form, having direct concern to a specialized activity of the enterprise and may result in creation of an invention (utility model);

“**Employer**” means a person who employs an employee on the basis of a work agreement (contract);

“**Inventor**” means the natural person by whose endeavor the invention (utility model) has been created;

“**Patent** (patent for an invention, declarative patent for an invention, declarative patent for a utility model, patent (declarative patent) for a secret invention, declarative patent for a secret utility model)” means a title of protection attesting priority, authorship and property right in an invention (utility model);

“**Patent for an invention**” means a kind of patent granted on the basis of the qualifying examination of the application for a patent for an invention;

“**Declarative patent for an invention**” means a kind of patent granted on the basis of the formal examination and of the examination on the local novelty of the application for a [declarative] patent for invention;

“**Declarative patent for a utility model**” means a kind of patent granted on the basis of the examination on formalities of the application for a [declarative] patent for a utility model;

“**Patent (declarative patent) for a secret invention**” means a kind of patent granted for an invention considered to be of a State secrecy;

“**Declarative patent for a secret utility model**” means a kind of patent granted for a utility model considered to be of a State secrecy;

“**Qualifying examination (substantive examination)**” means the examination in order to determine whether an invention satisfy the patentability requirements (that is novelty, inventive step and susceptibility of industrial application);

“**Examination on local novelty**” means a component of the qualifying examination in order to determine the local novelty of an invention;

“**Local novelty**” means a sort of novelty that has been determined on the basis of any patents granted in Ukraine and patent applications filed with the Institution; (paragraph twenty second of Article 1 amended in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

“**Formal examination (examination of formalities)**” means the examination in the course of which it is determining whether the subject matter of an application is one of the subject matters that may be deemed to be inventions (utility models) and whether the application and its appearance meet the established requirements;

“**License**” means an authorization granted by the owner of a patent (licensor) to another person (licensee) for exploitation of the invention under the certain conditions;

“**Person**” means natural or legal person;

“**Application**” means a set of documents required for granting a patent (declarative patent) for an invention or a declarative patent for a utility model by the Institution;

“**Applicant**” means a person who has filed an application;

“**Priority of application (priority)**” means the precedence of the filing of an application;

“**Priority date**” means the date of filing with the Institution or with a corresponding office of a State party to the Paris Convention for the Protection of Industrial Property of an application for which priority is claimed;

“**International application**” means an application filed under the Patent Cooperation Treaty;

“**Register**” means the State Register of patents and declarative patents of Ukraine for an invention, the State Register of declarative patents of Ukraine for a utility model, the State Register of patents and declarative patents of Ukraine for a secret invention, the State Register of declarative patents of Ukraine for a secret utility model;

“**Examining body**” means the governmental body (enterprise, organization) entrusted by the Institution for processing of applications and their examination; (Article 1 is amended by the paragraph in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

“**State system of the legal protection of intellectual property**” means the Institution and a set of examining, scientific, educational, informational and other governmental bodies of the relevant specialization that are supervised by the Institution. (Article 1 is amended by the paragraph in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

Article 2. Legislation of Ukraine on the Protection of Rights in Inventions (Utility Models)

The legislation of Ukraine on the protection of rights in [inventions](#) ([utility models](#)) is based on the Constitution of Ukraine (254k/96-BP) and includes this Law, Law of Ukraine On Property (697-12), Law of Ukraine On State Secrecy (3855-12) and other normative and legislative acts.

Article 3. Responsibility of the Institution in the Field of the Protection of Rights in Inventions and Utility Models

1. The [Institution](#) shall be responsible for implementing the policies of the State in the field of the protection of rights in [inventions](#) and [utility models](#) and for this purpose it shall:

- organize receiving of applications and carrying out of their examination, make decisions about them;

- grant [patents for inventions](#) and utility models, provide for their official registration;
- guarantee for publishing official notifications about inventions and utility models;
- carry out international cooperation in the field of the legal protection of intellectual property and in accordance with the national legislation currently in force represent the interests of Ukraine concerning rights in inventions and utility models before the international organizations;
- in accordance with the established procedure adopt normative and legislative acts within its competence;
- organize informational and publishing activities in the field of the legal protection of intellectual property;
- organize research and development works for improvement of the legislation and executive management in the field of the legal protection of intellectual property;
- organize activities intended for training of a personnel for the State system of the legal protection of intellectual property;
- entrust bodies that are included into the [State system of the legal protection of intellectual property](#) with fulfillment accordingly to their specialization of individual tasks determined by this Law, Statute of the Institution and other normative and legislative acts in the field of the legal protection of intellectual property;
- carry out other functions accordingly to its Statute approved under the established procedure. (Part one of Article 3 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

(Part two of Article 3 has been withdrawn on the basis of the Law N 2188-III (2188-14) of December 21, 2000)

2. Financial supply of the Institution goes from the means of the State budget.

Article 4. International Treaties.

Where an international treaty to which Ukraine is party contains provisions that differ from those laid down by the legislation of Ukraine on [inventions \(utility models\)](#), the provisions of such international treaty shall be applied to, subject to confirmation of its obligatory by the Verkhovna Rada of Ukraine.

Article 5. Rights of Foreign and Other Persons

1. Under the international treaties to which Ukraine is party and whose obligatory has been confirmed by the Verkhovna Rada of Ukraine, foreigners and stateless persons may enjoy the rights afforded by this Law in the same way as natural and legal persons of Ukraine.

2. Foreign and other persons having their place of residence or their place of business outside Ukraine shall exercise their rights before the [Institution](#) through representatives registered in accordance with the law.

Chapter II

LEGAL PROTECTION OF INVENTIONS (UTILITY MODELS)

Article 6. Requirements for the Grant of Legal Protection

1. The legal protection shall be afforded to any [invention \(utility model\)](#) that is not contrary to the public interest, to human and moral principles, and which satisfies the requirements of patentability.

2. The subject matter of an invention may be constituted by:

- a product (device, substance, strain of microorganism, plant or animal cell culture, etc.)
- a process;
- use of already known product or process for a new purpose.

The subject matter of a utility model may be constituted by the technical design of a device.

3. The following may not enjoy the legal protection under this Law:

- discoveries, scientific theories and mathematical methods;
- methods for the organization and management of the economy;
- plans, conventional signs, timetables and rules;
- methods for performing mental acts;
- programs for computers;
- results of an artistic design;
- topographies of integrated circuits;
- plant and animal varieties and the like.

4. [Priority](#), authorship and property right in an invention shall be attested to by a [patent \(declarative patent\)](#).

Priority, authorship and property right in a utility model shall be attested to by a declarative patent.

The validity term of a patent of Ukraine for an invention shall be 20 years as from the date on which the [application](#) is filed with the [Institution](#).

The validity term of a declarative patent for an invention shall be 6 years as from the date on which the application is filed with the Institution.

The validity term of a [patent](#) which subject matter is a remedy, means for protection of animals or plants and the like, those are needed an authorization of the appropriate competent body, may be extended, at the request of the owner of the patent, for the further period having been the same as a term past between the filing date and the date of getting the authorization but not more than for 5 years.

In such cases the Institution shall determine a procedure of filing the request and of the extension of the validity term of a patent.

The validity term of a [declarative patent of Ukraine for a utility model](#) shall be 10 years as from the date on which the application is filed with the Institution.

The validity term of a [patent \(declarative patent\) for a secret invention](#) or [declarative patent for a secret utility model](#) shall be equal to the term of keeping

them secret but in any case not more than the term of the protection of right in invention (utility model) laid out in this Law.

The validity of a patent may be terminated prematurely in the cases referred to in Article 32 of this Law.

5. The extent of legal protection granted shall be determined by the claims of the invention (utility model). Interpretation of the claims shall be based on the description of the invention (utility model) and the relevant drawings.

6. The validity of a patent granted for an invention which subject matter is a process shall extend to the product obtained directly by the process.

Article 7. Patentability of Invention and Utility Model

1. An [invention](#) shall be patentable if it is new, involves an inventive step and is susceptible of industrial application.

2. A [utility model](#) shall be patentable if it is new and susceptible of industrial application.

3. An invention (utility model) shall be considered to be new if it does not form a part of the state of the art. In determining novelty, the elements of the state of the art should only be taken into consideration individually.

4. The state of the art shall be held to comprise everything discovered anywhere in the world prior to the date on which the [application](#) is filed with the [Institution](#) or, where priority is claimed, before such priority date.

5. The state of the art shall also be held to comprise the content of any [patent](#) application filed in Ukraine (including any [international application](#) that designates Ukraine) as filed, on condition that the filing date (or, where priority is claimed, the [priority date](#)) of such application is earlier than the date referred to in the fourth item of this Article and that such application has been published on the said date or later.

6. The disclosure of information concerning an invention (utility model) shall not prejudice its patentability if it has been disclosed by the [creator](#) or by a [person](#) who has received the information directly or indirectly from the creator and if it has taken place within the 12 months that precede the filing date or, where priority is claimed, the priority date of the application. The onus of proving the circumstances of the disclosure shall rest upon the person who wishes to avail himself of the provisions of this item.

7. An invention shall involve an inventive step if it is not obvious to a person skilled in the art that is not clearly resulting from the state of the art. The content of the applications referred to in item five of this Article shall not be considered in deciding whether there has been an inventive step.

8. An invention (utility model) shall be considered susceptible of industrial application if it can be used in industry or in any other sector of activity.

Chapter III

RIGHT TO A PATENT

Article 8. Right of Inventor

1. The right to a [patent](#) shall belong to the [inventor](#) unless otherwise laid down by this Law.

2. Where an [invention](#) ([utility model](#)) is the joint achievement of more than one person, those persons shall enjoy, unless otherwise agreed, the same rights to a patent.

3. In the event of a review of the list of inventors agreed between those concerned, the Institution shall amend the appropriate documents at the joint request of the persons referred to in the application as inventors and of the inventors that are not referred to as such in that documents, subject to the conditions that the [Institution](#) shall laid down.

4. Natural [persons](#) may not be deemed inventor if having made no personal creative contribution into the development of the invention (utility model) but provided to the creator (creators) some technical and organizational assistance or financial supply for creation of the invention and/or making up and filing of an [application](#) only.

5. The right of authorship shall belong to the inventor; it constitutes an inalienable personal right and enjoys protection without limitation in time.

An inventor shall have a right to name his invention (utility model) by his own personality.

Article 9. Right of Employer

1. The right to a patent for an [employee's invention](#) ([utility model](#)) shall belong to [the employer](#) of the [inventor](#).

2. An inventor shall be required to inform the employer in writing of any employee's invention (utility model) he creates and to attach documents describing the subject matter of the [invention](#) ([utility model](#)) in a sufficiently clear and complete manner.

3. The employer shall be required, within four months as from the date of receipt of such information from the inventor, to file a patent [application](#) with the [Institution](#) or to assign the right to a patent to another [person](#) or to decide on keep the employee's invention (utility model) undisclosed as confidential information. The employer shall be requested, within the same term, to conclude a written agreement with the inventor on amount and conditions of payment to him (his successor in title) remuneration related to the economic value of the invention (utility model) and/or any other benefit the employer obtains from this.

4. If the employer has failed with the requirements referred to in the third paragraph of this Article, the right to a patent for an employee's invention (utility model) shall belong to the inventor or his successor in title. In this case the employer may enjoy the preference in obtaining a [license](#).

5. Where the employee's invention has no exploitation, the employer or his successor in title may keep the employee's invention (utility model) undisclosed as confidential information not more than four years. Otherwise the right to a patent for an employee's invention (utility model) shall belong to the inventor or his successor in title.

6. Disputes concerning the conditions or amount of remuneration to the creator of the employee's invention (utility model) shall heard by the court.

Article 10. Right of Successor in Title

The right to a [patent](#) shall belong, where appropriate, to the [employee's](#) or the [employer's](#) successor in title.

Article 11. Right of First Applicant

Where more than one [inventor](#) has independently created the same [invention \(utility model\)](#), the right to a [patent](#) (declarative patent) for the invention or the right to a [declarative patent for a utility model](#) shall belong to the [applicant](#) whose application enjoys the earliest date of filing with the [Institution](#) or, where [priority](#) is claimed, the earliest priority date, on condition that his application has been neither withdrawn nor has been deemed withdrawn nor had been refused.

Chapter IV

PROCEDURE FOR GRANT OF PATENT

Article 12. Application

1. A [person](#) who wishes to obtain a [patent](#) (declarative patent) and who has a right to a patent may file an [application](#) with the [Institution](#).

2. An [applicant](#) may instruct an intellectual property agent or other representative to file his application.

3. Attribution of information that an application contains to that considered being of a State secrecy shall be made under the Law of Ukraine On State Secrecy (3855-12) along with normative acts based on it.

Where an [invention](#) ([utility model](#)) has been created by use of information entered into the Code of Data Constituting State Secrecy of Ukraine or that invention (utility model) shall be considered being of State secrecy in accordance with the Law of Ukraine On State Secrecy, such application shall be filed with the Institution through the relevant division, responsible for keeping secrecy, of the applicant or through the competent authority of the local state administration of a place of business (for legal persons) or residence (for natural persons) which he belongs to. The applicant shall be requested to attach to the application a suggestion on attribution of his invention (utility model) to that considered being of State secrecy referring to the relevant provisions of the Law of Ukraine On State Secrecy.

4. An application for a patent for an invention shall relate to one invention only or to a group of inventions so linked as to form a single inventive concept (unity of invention rule).

An application for a declarative patent for a utility model shall relate to one utility model only (unity of utility model rule).

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

- a request for grant of a [patent for an invention](#), on condition of taking the [qualifying examination](#), or a [declarative patent for an invention](#) (utility model);
- a description of an invention (utility model);
- claims of an invention (utility model);
- drawings (if referred to in the description);
- an abstract.

6. The request for grant of a patent (declarative patent) shall state the name and address of the applicant or applicants as well as of the [inventor](#) or inventors.

The inventor shall have the right to require the Institution not to mention him as such in any publication, in particular that it should not to do so when publishing the data of the application or the patent.

7. The description of the invention (utility model) shall be drawn up in a prescribed manner and disclose the subject matter of the invention (utility model) in a sufficiently clear and complete manner for it to be carried out by a person skilled in the art.

8. The claims shall define the subject matter of the invention (utility model), be supported by the description and drafted in a prescribed manner with clarity and concision.

9. The abstract shall have an informative value only. It may not be used for other purposes, in particular, not for the purpose of interpreting the claims of the invention (utility model) nor for determining the state of the art.

10. Any other requirements to be satisfied by the documents making up the application shall be laid down by the Institution.

11. Filing of an application shall subject to payment a charge. A document providing payment of the charge shall be submitted to the Institution at the same time as the application or within two months of the filing date of the application.

The said term may be extended for not longer than six months, subject to payment a charge.

Article 13. Filing Date of Application

1. The filing date of an [application](#) shall be the date on which the [Institution](#) has received the following at least:

- a statement drawn up in any form, in Ukrainian language, that the grant of a [patent](#) (declarative patent) is requested;

- particulars identifying the [applicant](#) together with his address, drafted in Ukrainian;

- documents which would appear, *prima facie*, to constitute the description of the [invention](#) ([utility model](#)) and a part of which may be taken for the claims of the invention (utility model), drafted in Ukrainian or in any other language. In the latter case, the filing date shall be maintained only if a translation of those documents of the application into Ukrainian is filed with the Institution within two months of the date of filing the application.

2. If the Institution considers that, at the time of receipt, the contents of the application do not fulfill the conditions set out in item one of this Article, it shall notify the applicant accordingly.

The applicant shall have two months as from the date of receiving the notification from the Institution to make amendments to the application. If the defect is corrected within that time limit, the filing date of the application shall be the date on which the Institution receives the corrected materials. If such is not the case, the application shall be deemed not to have been filed and the applicant shall be notified accordingly.

If the application containing the documents referred to in item one of this Article refers to a drawing, but it has not been received by the Institution on the date of receipt of the application, the Institution shall notify the applicant

accordingly and invite him either to submit the drawing or to delete from the application any reference thereto.

If, within two months following the date on which the applicant has received the notification from the Institution, the drawing is received by the Institution, the filing date of the application shall be the date of receipt of the drawing by the Institution. However, if the applicant does not respond to the notification within that period, the application shall be deemed not to have been filed and the applicant shall be notified accordingly.

The Institution shall notify to the applicant its decision on the filing date of the application after having received, in accordance with the item eleven of Article 12 of this Law, proof of payment of the filing charge for the application. If the conditions set out in item eleven of Article 12 of this Law are not met, there shall be no notification on the decision and the application shall be deemed to have been withdrawn.

Article 14. International Application

1. An [international application](#) shall be taken for examination under the national phase if it has been received by the [Institution](#) not later than 21 months or, where international preliminary examination had been carried out, 31 months as from the [priority date](#).

A translation of the international application in Ukrainian and a document proving the payment of the filing charge for the application shall be submitted to the Institution at the same time as the application or within 2 months after filing date.

The term of submit of the translation of the international application and the proof of payment of the charge may be extended up to 6 months as from the date of receipt of the international application. Extension of the term shall subject to payment a charge.

2. The Institution shall notify the [applicant](#) of taking the international application to examination if the requirements of item one of this Article have been met.

3. Where at least one of the requirements referred to in item one of this Article has not been met in the prescribed term, the application shall be refused and the applicant is notified accordingly.

4. The Institution shall publish in its Official Gazette certain data, determined by itself, of the international application taken for examination.

5. The Institution shall examine an international application under this Law.

Article 15. Priority

1. An [applicant](#) may claim the [priority](#) of an earlier [application](#) relating to the same [invention](#) ([utility model](#)) within the 12 months that follow the filing date of the earlier application with the [Institution](#) or with the competent office of a State party

to the Paris Convention for the Protection of Industrial Property, subject to no other priority being claimed in the earlier application.

2. An applicant who wishes to claim a priority right shall file with the Institution, within three months of the filing date of the application, a statement claiming priority of an earlier application which shall state its filing date and number, as well as a copy of the earlier application if such application have been filed in another country party to the Paris Convention for the Protection of Industrial Property (995_123). During that period, the above-mentioned elements may be amended. If the time limit is not complied with, the right to claim priority shall be deemed to have lapsed and the applicant shall be notified accordingly.

Time limits set up in items one and two of this Article that have been lapsed by the applicant due to unpredictable circumstances and those beyond of his control, may be extended for a two months following the expiry of the time limit concerned, subject to payment a relevant charge. The procedure for extension of such time limits shall be laid down by the Institution.

If necessary, the Institution may invite the applicant to furnish a translation of the previous application into Ukrainian. The translation shall to be furnished to the Institution within a period of two months following the date of receipt the invitation from the Institution by the applicant. Where the translation has not arrived within the prescribed term, the right to claim priority shall be deemed to have lapsed and the applicant shall be notified accordingly.

The time limit afforded to the applicant for furnishing the translation of the previous application may be extended up to six months as from the date of the receipt the invitation from the Institution by the applicant. Extension of the time limit shall subject to payment a charge.

3. An applicant may claim, for the whole application or for one of the claims of the invention (utility model), the priority of several earlier applications. In such case, the time limits that start with the priority date shall be computed as from the earliest priority date.

4. Priority shall apply only to the features of the invention (utility model) that are mentioned in the earlier application for which priority is claimed.

5. If any features of the invention (utility model) are not contained in the claims of invention (utility model) presented in the earlier application, it shell suffice for them to be clearly stated in the description in that application for the priority right to be recognized.

6. In the event of the Institution not having completed its examination of the earlier application at the time the statement referred to in item two of this Article, claiming the priority of that application, is received, the latter application shall be deemed to have been withdrawn to the extent that its priority is claimed.

7. Priority of a divisional application that is an application which has been divided from the previous one on invitation of the Institution or of the applicant's own initiative before the decision of granting a patent (declarative patent) or of refuse to grant it has been made, shall be determined as the date on which the said previous application have been filed with the Institution or, where priority is claimed of that previous application, on condition that the subject matter of the

divisional application shall be not beyond the claims and description of the previous application as filed.

Article 16. Examination of Application

1. Examination of an [application](#) is carrying out by the [examining body](#) in accordance with this Law and the rules established on that basis.

In the course of the examination, the examining body sends notifications, requests and conclusions to the [applicant](#). In any case conclusions made by the examining body get the status of the decision of the [Institution](#) on its approval by the Institution.

2. In matters raised during the examination, the applicant shall have the right, of his own initiative or at the invitation of the examining body, to act personally or through his representative.

3. The applicant shall have the right to correct or amend the application of his own initiative. Such corrections or amendments shall not be taken into account if they reach the examining body after the date of receipt by the applicant of the decision by the Institution to grant him a [patent](#) (declarative patent) or to refuse his application.

The above-mentioned corrections and amendments received by the examination body within six months prior to the date of publication shall be taken into consideration at the time of publishing the data on the patent application.

Filing of a request for correction or amendment of the application of the applicant's own initiative shall subject to payment a charge after his receipt of the decision on determination of the filing date of the application.

4. Where additional elements are submitted by the applicant, the examination shall determine whether they go beyond the subject matter of the invention ([utility model](#)) set out in the application as filed.

The additional elements shall be deemed to go beyond the subject matter of the invention (utility model) set out in the application as filed if they contain features that it is necessary to incorporate in the claims.

The additional elements that go beyond the subject matter of the invention (utility model) set out in the application as filed shall not be taken into consideration in examining of the application and the applicant may submit them in the form of a separate application.

5. A previous consideration of an application shall be done before the filing date is established. In the course of previous consideration of the application that not contains the suggestion of the applicant on attribution of his invention (utility model) to that considered being of State secrecy, the application shall be examined on whether it involves materials which may be considered being of State secrecy, in regard with the Code of Data Constituting State Secrecy of Ukraine.

An Official expert in matters concerning secrecy (hereinafter referred to as the Official expert), which is responsible for consideration of such matters, shall be appointed where the application contains such data or if a suggestion of the applicant on attribution of his invention (utility model) to that considered being of State secrecy has been submitted together with the application. The materials of

the application shall be submitted to him for making decision on attribution of the invention (utility model) to that considered being of State secrecy.

The Official expert shall be requested to send to the Institution, within a month following by the date of receipt of the documents concerned to the application, his decision on the application together with the documents of it.

The Official expert shall be requested to establish a duration term of the decision on attribution of information presented in the application to that considered being of State secrecy taking into account a level of secrecy of the information.

Where the Official expert has decided on attribution of the invention (utility model), with regard to that an application has been filed, to ones considered being of State secrecy, he shall be requested to determine a group of persons authorized to have access to it, and the complete following examination of the application by the Institution must be carried out in a secrecy keeping manner.

The Institution shall notify the applicant on the decision of the Official expert within a period of one month. Where the application has no suggestion of the applicant on attribution of his invention (utility model) to that considered being of State secrecy but the Official expert has attributed the invention (utility model) to those, the applicant, if not consent with such decision, may file with the Institution a reasoned request for take the secrecy off the contents of his application or may appeal the decision of the Official expert with the court.

6. An examination of the application shall begin as from the filing date determined under Article 13 of this Law.

7. After [having determined the] filing [date] of the application, subject to receiving proof of payment of the filing charge for the application, the [examination on formalities](#) of the application shall take effect, in order to:

a) determine whether the subject matter of the application is one of the subject matters referred to in item two of Article 5 of this Law and whether it not belongs to the subject matters referred to in item three of Article 6 of this Law;

b) check that the application meets the requirements of Article 12 of this Law.

With regard to a formal examination the first notification, that may be a notification on the formal examination having been complete or a request to amend the application, shall be directed to the applicant within the six months following by the established filing date of the application.

8. If the application does not meet the requirements of items two and three of Article 6 of this Law, the Institution shall notify to the applicant in writing its decision of refuse to grant a [patent](#) (declarative patent).

If the application does not meet the requirements of Article 12 of this Law or the proof of payment of the filing charge for the application does not meet the prescribed requirements, the applicant shall be notified accordingly.

In the event of failure to comply with the unity of invention (utility model) rule, the applicant shall be invited to advise which invention (utility model) is to be taken into consideration and, if necessary, to amend his application. The other inventions (utility models) may in such case be covered by separate applications.

The applicant shall have a period of two months as from the date of receiving the notification from the examining body to amend the application. If, on expiry of that period, the rule of unity has not been complied with, the examining

body shall proceed with formal examination of the invention (utility model) mentioned first in the claims. If, within the same period, the applicant has not remedied other defects or has not filed a request for extension of the time limit, the applicant shall be notified of the refusal to grant a patent.

9. If the patent application meets the requirements of Article 12 of this Law, subject of receiving proof of payment of the filing charge, the applicant shall be notified of the fact that the formal examination is completed and the application may be subjected to the [qualifying examination](#).

10. If the application for a [declarative patent for an invention](#) meets the requirements of Article 12 of this Law, subject of receiving proof of payment of the filing charge, the examining body shall proceed with the examination of the application on [local novelty](#).

If the examination of the application on local novelty has brought a positive result, the Institution shall notify the applicant in of its decision to grant him a declarative patent for the invention. If it is not the case, the applicant shall be notified of the decision to refuse to grant a declarative patent for the invention.

11. If the application for a [declarative patent for a utility model](#) meets the requirements of Article 12 of this Law, subject of receiving proof of payment of the filing charge, the applicant shall be notified in writing of the decision to grant him a declarative patent for the utility model.

12. On expiry of a period of 18 months as from the filing date of the patent application or, where [priority](#) is claimed, from the priority date, and subject to the application having been neither withdrawn, nor has been deemed withdrawn, nor had been refused, the Institution shall publish in its Official Gazette such data on the application as it shall determine.

At the request of the applicant, the Institution shall publish the data on the application prior to expiry of the above-mentioned term.

Once the data on the application has been published, any [person](#) shall be entitled to inspect the contents of the application under the prescribed conditions.

If the applicant ascertains that the published data contain manifest errors, he may address a request for correction [to the Institution].

There shall be no publication of the data on the application for a declarative patent for an invention (utility model).

There shall be no publication of the data on the applications with respect to which an Official expert has decide to attribute them as those considered being of State secrecy.

13. At the request of any person and on condition of receipt the proof of payment of the charge for a [qualifying examination](#) of the application for a patent for an invention, the examining body shall proceed with the said examination to determine whether the invention that is the subject matter of the application meets the requirements of patentability set out in Article 7 of this Law.

An applicant may submit such request within a period of three years that follow the filing date of the application. In the event of failure to submit the request with the Institution within the prescribed term, the application shall be deemed to have been withdrawn.

Another person may present such request afterwards the publication of the application data, but at the latest three years as from the filing date. However, he may not participate in the examination of matters related to the application. A qualifying examination shall be carried out on condition of payment the relevant charge. A conclusion made on the basis of results of the qualifying examination shall be notified to that person.

14. During the qualifying examination of a patent application the examining body may invite the applicant to furnish additional documents if it cannot carry out the examination without those documents or may propose to him that the claims be amended.

The applicant may request from the examining body within one month of the date on which he received the invitation a copy of the patent documents cited in opposition. Copies of the patent documents requested by the applicant shall be supplied to him within a period of one month.

The applicant shall be required to furnish the additional documents within a period of two months as from the date on which he has received the invitation or a copy of the patent documents cited in opposition.

If the applicant has failed to furnish the documents requested by the examining body within the prescribed term or does not submit a reasoned request for extension of the time limit, the application shall be deemed to have been withdrawn.

The provisions of item four of this Article shall apply to additional documents that go beyond the scope of the subject matter of the invention set out in the application as filed.

15. Where failure to comply with the unity of invention rule is ascertained during the qualifying examination, the examination shall be carried out under the procedure set out in item eight of this Article with regard to the unity of invention.

16. If the results of the qualifying examination of the application show that the invention as defined by the applicant in the claims meets the requirements of patentability, the applicant shall be notified on the decision to grant a patent. If not, the applicant shall be notified on the preliminary decision to refuse the application.

Within the period of two months as from the receipt of the preliminary decision on refuse the application the applicant may amend the application or furnish additional documents that not go beyond the scope of the subject matter of the invention set out in the application as filed.

Taking into consideration amendments to the application and additional documents furnished by the applicant with regard to his receipt of the preliminary decision to refuse the application, the examination body shall compose a final conclusion on whether the object that is the subject matter of the application meets the requirements of patentability, and the Institution shall be requested to make a decision to grant a patent or to refuse an application.

If the applicant has failed to amend his application or furnish the additional documents within a period of two months as from the date of his receipt the preliminary decision to refuse the application, the Institution shall take a decision to refuse the patent application.

The decision [of the Institution] to grant a patent for invention or to refuse a patent application shall be notified to the applicant.

17. The applicant shall be entitled to inspect all documents referred to in the invitation of the examining body or in the decision of the Institution. Copies of the patent documents that he has requested shall be supplied to the applicant within a period of one month.

18. With regard to a qualifying examination, the first notification that may be a decision to grant a patent, preliminary decision to refuse a patent application or invitation to furnish additional documents without those such examination cannot be carried out, shall be directed to the applicant not later than 18 months following the date of the beginning of the qualifying examination. The date of receipt a request for qualifying examination of the patent application by the examining body or, if the formal examination of that patent application is not completed prior to the request has arrived, the date of complete the [formal examination](#) shall be deemed to be the date of the beginning of the qualifying examination.

19. Time limits set out for applicants by items eight, thirteen, and fourteen, sixteen of this Article may be extended under the prescribed procedure but not more than up to 6 months. Submit a request for an extension of time limits shall subject to payment a charge.

20. An applicant who has not complied with the time limits laid down in items eight, thirteen, fourteen, sixteen of this Article may, within a period of 12 months following the expiry of the time limit concerned, submit a request with the examining body for reinstated of a rights relating to those time limits. If the applicant can give the legitimate reasons for his failure to meet the term concerned, such time limit may be restored. The restoration of the time limits lapsed shall subject to payment a charge.

(Article 16 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000).

Article 17. Withdrawal of Application

An [applicant](#) may withdraw his [application](#) at any time prior to receiving notification of the decision to grant a [patent](#).

Article 18. Conversion of Application

An [applicant](#) shall be entitled the right to convert:

- a [patent application](#) into an application for a [declarative patent for an invention](#) and vice versa, at any time prior to receiving notification of the decision to grant a patent (declarative patent) or to refuse the application;
- an application for a patent (declarative patent) into an application for a [declarative patent for a utility model](#) and vice versa, at any time prior to receiving notification of the decision to grant a patent (declarative patent) or to refuse the application.

In such case, the filing date and, where [priority](#) is claimed, the [priority date](#) of the application shall be maintained.

Article 19. Confidentiality of Application

As from the date of receipt an [application](#) by the [Institution](#) and up to the publication of data on the application or data on grant of a [patent](#), documents that constitute the application shall be deemed to be confidential information. An access of the third parties to the documents that constitute an application shall be prohibited unless such access has authorized by the [applicant](#) or under the decision of the competent authority.

Those persons who contravene requirements related to confidentiality are liable under the provisions of the statutory instruments of Ukraine.

Article 20. Substitution of Applicant

Substitution of an [applicant](#) shall be made due to reassignment of right to a [patent](#) either on the basis of an agreement or under the provisions of law or in order to fulfill a decision of the court or due to reorganization or liquidation of a legal entity, etc. An applicant or a [person](#) whom the right has been assumed to shall be requested to submit with the [Institution](#) a declaration which is accompanied by the document proving the basis for the substitution or its certified copy. If there shall be a substitution of not all applicants, such declaration must be signed by all the applicants those have filed the [application](#).

Substitution of the applicant may be possible only prior to the decision of the Institution to grant a patent.

Article 21. Provisional Legal Protection

1. Publication in accordance with paragraph twelve of Article 16 of this Law of the data on the [patent application](#) shall afford the [applicant](#) provisional protection within the limit of the claims as published.

2. Under the provisional protection, an applicant who has suffered a prejudice, after publication of the application data, by reasons of exploitation of the invention without his consent shall be entitled to compensation from the [person](#) who has carried out such exploitation if that person had obvious knowledge of the publication concerned or had received written notification to such effect, containing the number of the application and drafted in Ukrainian.

3. Provisional protection shall cease to have effect on the date of publication in the Official Gazette of the data on the grant of the patent or of the notice that processing of the application has been ceased.

4. Provisional protection based on an [international application](#) shall have effect, under the conditions set out in item two of this Article, as from the date of its publication by the [Institution](#).

Article 22. Registration of Patent

1. On the basis of the decision to grant a [patent](#) the official registration of a patent shall be carried out by entering the relevant particulars in the [Register](#). The form of the Register and the rules for keeping it shall be established under the prescribed procedure.

2. The official registration of a patent (declarative patent) for an invention and a [declarative patent for a utility model](#) shall have effect on condition of receipt of the document proving payment of the official fee for granting patent. The said document shall arrive to the [examining body](#) within 3 months following the date of receiving by the [applicant](#) the decision to grant a patent. The above-mentioned term may be extended but no longer than 6 months. Submit a request for extension of the time limit shall subject to payment a charge.

3. Once the particulars of the patent (declarative patent) for an invention and of the declarative patent for an utility model have been published, any [person](#) shall be entitled to inspect the contents of the titles of protection under the procedure established by the law.

Inspection of the particulars entered to the Register with regard to the data on granting the [patent \(declarative patent\) for a secret invention](#) or the declarative patent for a secret utility model shall be made according to the conditions set out in the Law of Ukraine On State Secrecy (3855-12).

4. The data entered in the Register may be corrected and/or made more accurate of the patentee's own initiative or the initiative of the [Institution](#).

A patentee shall have the right, of his own initiative, to amend the data entered in the Register in accordance with the prescribed list of possible amendments. Entering of the said amendments to the patent (declarative patent) for an invention and declarative patent for a utility model in the Register shall subject to payment a charge.

(Article 22 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

Article 23. Publication of Grant of Patent

1. The [Institution](#) shall publish in its Official Gazette the data, which has been determined under the prescribed procedure, on granting a [patent](#) (declarative patent) at the same time with the official registration of a patent (declarative patent) for an invention and declarative patent for a utility model.

(Item one of this Article sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

2. The Institution shall publish, not later than in a period of three months from the date of publication the data on the grant of the patent, a patent (declarative patent) specification for the [invention](#) containing the claims and description of the invention ([utility model](#)) together with any drawings referred to in the description of the invention (utility model).

3. Once the data on the grant of the patent (declarative patent) for the invention and the [declarative patent for the utility model](#) have been published, any [person](#) shall be entitled to inspect the contents of the [application](#) subject to the conditions set out under the prescribed procedure.

(Item three of this Article sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

4. There shall be no publication of the data on grant of the patent (declarative patent) for a [secret invention](#) and the [declarative patent for a secret utility model](#).

Article 24. Appeal from Decision on Application

1. An [applicant](#) shall be entitled to lodge with the court an appeal from any decision took or not taken by the [Institution](#) concerning his [application](#).

2. An applicant, under the established procedure, may lodge an appeal from any decision of the Institution with the [Board of Appeal](#) within a period of 6 months as from the date of receipt of the decision concerned or of copies of the patent documents he has requested.

3. Lodge an appeal with the Board of Appeal shall subject to payment a charge.

4. The Board of Appeal shall examine an appeal from the decision of the Institution within four months following the date of receipt of the appeal.

The Board of Appeal shall take a decision on the basis of results of its examination; the decision is subject to confirmation by an order of the Institution and shall be notified to the applicant.

Within a period of one month as from the date of making the decision of the Board of Appeal and before it is confirmed, the head of the Institution may oppose the decision concerned by lodging a protest that have to be considered within a month followed by. The decision of the Board of Appeal made on that protest shall be the final one and may be cancelled by the courts only.

5. The applicant may appeal from the decision of the Board of Appeal to the courts within six months as from the date of receiving the decision. (Article 24 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

Article 25. Grant of Patent

1. The [Institution](#) shall grant a [patent](#) within one month following its official registration.

The patent shall be granted to the owner of the right to the patent. If that right belongs to more than one person, a single patent shall be granted to them.

A [declarative patent for an invention](#) (utility model) shall be granted to the patentee on his own responsibility with regard to whether the [invention](#) ([utility model](#)) meets the requirements of patentability.

2. The form of the patent and the particulars it contains shall be determined by the Institution.

3. At the request of the owner, the Institution shall correct any manifest errors in the granted patent and shall subsequently publish a corresponding notice in the Official Gazette.

Article 26. Conversion of Declarative Patent

An owner of the [declarative patent for invention](#) or his successor in title may, in order to convert the declarative patent for an invention into the [patent for an invention](#), submit a request for a [qualifying examination](#) of the [application](#) on the basis of which the declarative patent have been granted. Such request shall be submitted to the [examining body](#) not later than in a three years following the filing date of the application, on the basis of which the declarative patent have been granted. Submit of the request shall subject to payment a charge.

(Paragraph one of Article 26 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

(Paragraph two of Article 26 has been withdrawn on the basis of the Law N 2188-III (2188-14) of December 21, 2000)

Where a decision to grant a patent for an invention has been made on the basis of the results of the qualifying examination, validity of the declarative patent for invention shall be ceased as from the date of publication of the data on grant the patent for an invention. The [Institution](#) shall publish a notice on cease of validity of the declarative patent in its Official Gazette. The term of validity of the patent for the invention, granted on conversion of the declarative patent for invention, shall be 20 years as from the filing date of the application for the declarative patent for the invention concerned.

Where the qualifying examination that is carried out on the request for conversion of the declarative patent for an [invention](#) into the patent for an invention shall not be completed to the expiry of the validity term of such declarative patent and any [person](#) afterwards shall proceed with the exploitation of the said invention or has made effective and serious preparation with a view to such exploitation, that person shall maintain the right to continue, free of charge with regard to any compensation to the patentee, such exploitation or to exploit the invention in the manner envisaged in the preparatory work if the patent for the invention shall be granted on the basis of the application for which the declarative patent for an invention have been granted previously.

Where a decision to refuse an application for the patent for an invention has been made on the basis of the results of the qualifying examination, the declarative patent shall be deemed to have been invalid as from the date of publication of the data on its granting, and the Institution shall publish the corresponding notice in its Official Gazette.

Article 27. Take Secrecy Off the Secret Invention (Utility Model)

1. A [patent of a secret invention](#) (utility model) shall be entitled to suggest the proper Official expert for take the secrecy off his [invention](#) ([utility model](#)) or to revise the determined level of secrecy. In such case the Official expert shall be

requested to consider the suggestion and notify the patentee in writing within one month as from the date of receipt the suggestion concerned.

2. Revision of the level of secrecy of an invention (utility model) or take the secrecy off it shall be carried out upon the decision of the Official expert involved on the request of the patentee with regard to expiration of the validity term of the decision on attribution of information concerning the invention (utility model) to that considered being of State secrecy or on the basis of the court decision.

3. An owner of a patent (declarative patent) for a secret invention or a [declarative patent for a secret utility model](#) shall be entitled, within one year following the date of his receipt the notification of the Official expert of taking the secrecy off his invention (utility model), to file with the [Institution](#) a request for grant a patent (declarative patent) for an invention for the rest of the validity term of the appropriate patent (declarative patent) for the secret invention or the declarative patent for the secret utility model. In such case the Institution shall enter the corresponding amendments to the [Register](#), publish the decision on granting and grant the [patent](#) (declarative patent) in accordance with Articles 22, 23 and 25 of this Law, on condition of payment charges and the official fee, where appropriate.

(Item 3 of Article 27 has been amended according to the Law N 2188-III (2188-14) of December 21, 2000)

Chapter V

RIGHTS AND OBLIGATIONS DERIVING FROM A PATENT

Article 28. Rights Deriving from a Patent

1. The rights deriving from a [patent](#) shall have effect as from the date of publication of the data on the grant of the patent.

The rights deriving from a [patent \(declarative patent\) for a secret invention](#) and a [declarative patent for a secret utility model](#) shall have effect as from the date of entry its particulars to the appropriate [Register](#).

2. A patent shall afford its owner the exclusive right to exploit his [invention \(utility model\)](#) at his own discretion, insofar as such exploitation does not prejudice the rights of other owners of patents.

An owner of a patent for a [secret invention \(utility model\)](#) shall exploit it under the provisions of the Law of Ukraine On State Secrecy (3855-12) and on condition of authorization made by an Official expert.

Where more than one [person](#) is the owner of the same patent, their relationship with regard to the exploitation of the invention (utility model) that is the subject of the patent shall be determined by the common accord. Failing such agreement, each patent owner may exploit the invention (utility model) at his own discretion, but any of them shall be entitled neither to give authorization (or grant a [license](#)) for the exploitation of the invention (utility model) nor to assign property in the invention (utility model) to another person without the consent of the other owners of the patent.

Exploitation of an invention (utility model) shall be constituted by the following:

- manufacturing, offering for sale, using, importing and storing, or other placing on the market for such purposes, a product whose manufacture involves the patented invention (utility model);

- using the process protected by the patent or offering it for use in Ukraine , if the person proposing the process knows or the circumstances make it obvious that use of the process is prohibited without the consent of the owner of the patent;

- offering for sale, placing on the market, using or importing, or storing for such purposes, a product manufactured directly by means of the patented process.

A product shall be deemed to have been manufactured by using of the patented invention (utility model) if it employs all the features of the invention (utility model) comprised in an independent claim or equivalent features have been used.

A patented process shall be deemed to have been used if all the features of the invention comprised in an independent claim or equivalent features have been used.

3. The exclusive right afforded to the owner of the patent (declarative patent) for a secret invention and declarative patent for a secret utility model shall

be restricted by the Law of Ukraine On State Secrecy and corresponding decisions of an Official expert as well.

An owner of the patent (declarative patent) for a secret invention and declarative patent for a secret utility model shall be entitled to receive financial compensation, for covering expenses for payment of charges prescribed by this Law, from a governmental body encharged for this by the Cabinet of Ministers of Ukraine.

Disputes concerning an amount and conditions of the financial compensation to the patentee shall be heard at the court.

4. An owner of a patent may use a forewarn marking indicated the number of his patent on the product manufactured with the use of the patented invention or on its packaging.

5. A patent shall afford its owner the right to prohibit others from exploiting the patented invention (utility model) without his authorization, except where such exploitation is not held under this Law to infringe the rights of the owner of the patent.

6. An owner of a patent may assign by contract property in his invention (utility model) to any person, who shall then be his successor in title, subject to authorization of an Official expert in case of the secret invention (utility model).

7. An owner of a patent shall have the right to give authorization (or grant a license) to any person to exploit the invention (utility model) under a licensing contract, subject to authorization of an Official expert in case of the secret invention (utility model).

Under the license agreement the patent owner (licenser) shall give to another person (licensee) his authorization to exploit the invention (utility model), and licensee shall be requested to make payments, prescribed by the agreement, to the benefit of the licenser and fulfill other obligations imposed on him by the agreement of an exclusive of a non-exclusive [license](#).

Under the exclusive license agreement, the licenser assigns the licensee the right to exploit his invention (utility model) within a certain scope, on a given territory for a limited term, retaining his own right to exploit the invention (utility model) in a part that not has been assigned to the licensee. In such case licenser cannot grant for another person a license for exploitation of his invention (utility model) within the same scope and territory for which licensee had been assigned.

Under the non-exclusive license agreement the licenser assigns the licensee the right to exploit his invention (utility model), retaining his own right to exploit the invention, including the right to grant licenses for other persons.

8. A contract assigning property in an invention (utility model) or a licensing contract shall be deemed valid if concluded in writing and signed by the parties.

Assignment of property in an invention (utility model) or grant a license to exploit the invention (utility model) shall be deemed valid in respect with any other person as from the date of publication of the relevant particulars in the Official Gazette and entering them in the Register as well.

Enter the said particulars and amendments to them in the Register on the initiative of the contracting parties shall subject to payment charges. (Item eight of

Article 28 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

9. The owner of a patent, except that of a patent (declarative patent) for a secret invention and declarative patent for a secret utility model, may file with the [Institution](#), for official publication, a statement in which he undertakes to grant any person authorization to exploit his patented invention (utility model). In such cases, the annual charges for maintaining the patent shall be reduced by 50 percent as from the year following the year of publication of the statement. (The first paragraph of item nine of Article 28 has been amended according to the Law N 2188-III (2188-14) of December 21, 2000)

Any person who wishes to avail himself of such authorization shall be required to conclude with the owner of the patent or the declarative patent a contract concerning payments. Disputes arising from the conclusion or implementation of such contract shall be heard by the courts.

If no one signifies the owner of the patent his intention to exploit the invention (utility model), the owner may request in writing that the Institution withdraw his statement. In such cases, the annual charges for maintaining the patent shall be paid in full as from the year following the year of publication of the request for withdrawal.

10. The rights deriving from a patent shall not prejudice any other economic or moral personal rights of the [inventor](#) governed by other statutory instruments of Ukraine.

Article 29. Obligations Deriving from a Patent

The owner of a [patent](#) shall be required to pay appropriate charges for maintenance of the patent and exercise in good faith the exclusive right afforded to him by the patent.

Article 30. Expropriation of Rights for Invention (Utility Model)

1. Where an [invention \(utility model\)](#), except a [secret invention](#) (utility model), is not exploited in Ukraine or is exploited insufficiently during a period of three years following the date of publication of the data on the grant of the [patent](#) or the date on which the exploitation of the invention (utility model) has ceased, any [person](#) wishing to exploit the invention (utility model) and who shows he is prepared to do so may, if the owner of the patent refuses to conclude a licensing agreement with him, submit to a court a request for issue of an authorization to exploit the invention (utility model) under a non-exclusive [license](#).

If the owner of the patent is unable to give legitimate reasons for his failure to exploit the invention (utility model), the court shall decide to grant to the person concerned an authorization to exploit the invention (utility model) under a non-exclusive license, whereby it shall determine the scope of the exploitation, the term of validity of the authorization as also the amount and conditions for paying the remuneration due to the owner of the patent.

2. The owner of the patent shall be required to give an authorization (or grant a license) to exploit his invention (utility model) to the owner of a patent granted subsequently if the latter's invention (utility model) is intended for other purposes or constitutes notable technical and economic progress, but cannot be exploited without infringing his rights. Authorization shall be granted to the extent necessary to exploit the invention (utility model) by the owner of the latter patent. In such case the owner of the patent granted earlier shall be entitled to obtain a license, under suitable conditions, for exploitation the invention (utility model) that protected by the latter patent.

3. The Cabinet of Ministers of Ukraine may, for reasons of public interests or martial law or state of emergency, authorize the exploitation of an invention (utility model) without the consent of the owner of the patent (declarative patent) under a non-exclusive license, on payment to the latter of fair compensation.

4. The owner of a patent (declarative patent) for a secret invention and a declarative patent for a secret utility model may grant a license for exploit his invention (utility model) to that person only who has an authorization from an Official expert to access this invention (utility model).

If the above-mentioned person cannot reach an agreement on granting a license with the owner of the patent, the Cabinet of Ministers of Ukraine may authorize the person appointed by the Official expert to exploit the secret invention (utility model) without the consent of the owner of the patent under a non-exclusive license, on payment to the latter of fair compensation.

5. Disputes arising from conditions of the grant of licenses, payment of compensation and its amount shall be heard by the courts.

Article 31. Acts Not Constituting an Infringement of Rights

1. Any person who, prior to the filing date with the Institution or, if priority is claimed, prior to the priority date of the application, has exploited in Ukraine in good faith and for the purposes of his activities an invention (utility model) that is the subject matter of the application or who has made effective and serious preparation with a view to such exploitation, shall maintain the right to continue free of charge such exploitation or to exploit the invention (utility model) in the manner envisaged in the preparatory work (right of prior user).

A right of prior user shall be limited, with regard to its scope, by the extent of exploitation the subject mater of the application as it was on the filing date.

A right of prior user may not be assigned or transferred to any other person except with the enterprise or business or that part of the enterprise or business in which the exploitation of the invention (utility model) or the effective and serious preparation with a view of such exploitation has taken place.

2. The use of a patented invention (utility model) shall not be deemed to infringe the rights afforded by a patent:

- in the construction or operation of a means of transport of another country that temporarily or accidentally enters the waters, the air space or the territory of Ukraine, on condition that the invention (utility model) serves exclusively for the purposes of that means of transport;

- for non-commercial purposes;
- for scientific or experimental purposes;
- in exceptional circumstances (natural calamities, catastrophes, epidemics, etc.);
- for the occasional preparation in a pharmacy of medicines on a medical prescription.

3. The placing on the market of a product manufactured by means of the patented invention (utility model) by a person who purchased it without any infringement of the owner's rights shall not be deemed to infringe the rights afforded by a patent.

The product manufactured by means of the patented invention (utility model) shall be deemed to be purchased without any infringement of the right afforded by a patent if such product has been manufactured and/or afterwards has been placed on the market by the owner of the patent or another person with his express authorization ([license](#)).

4. The use of a patented invention for commercial purposes by any person shall not constitute an infringement of the rights afforded by the patent where such person have purchased a product manufactured by means of the patented invention and have not been aware of the fact that the product had been manufactured or placed on the market with infringement of the rights afforded by the patent. However, that person, upon receiving appropriate written notification of the owner of the rights, shall be required to cease use of the product or pay to the rights owner fair compensation, amount of which is determined under the current law or on the consensus. Disputes arising from such payments and those conditions shall be heard by the courts.

Chapter VI

TERMINATION AND CANCELLATION OF PATENT

Article 32. Termination of Patent

1. The owner of a [patent](#) may at any time renounce completely or in part his patent by filing a relevant statement with the [Institution](#). Renunciation shall have effect as from the date of publication of the relevant data in the Official Gazette of the Institution.

Renounce the patent completely or in part shall be prohibited without warning a [person](#) that authorized to exploit the [invention](#) under the license agreement registered with the Institution and where a seizure has been imposed on distrained property, a part of which has constituted by the rights afforded by the patent.

2. The validity of a patent shall terminate in the event of failure to pay, within the prescribed time limit, the annual charge for maintaining the patent.

An annual charge shall be paid for each year of validity of the patent as from the filing date of the [application](#). The document proving payment of the first such charge shall reach the Institution not later than in 4 months following the date of the publication of the data on granting the patent. The document proving payment of the annual charge for each subsequent year must reach the Institution or be sent to it by the end of the current year and payment shall be made during the final 4 months of that year.

The validity of a patent shall terminate on the first day of the term for which no charge has been paid.

The annual charge for maintaining a patent may be paid during the twelve months following the due date. In such cases, the amount of the charge shall be increased by 50 percent. The validity of the patent shall be restored upon payment of the charge.

Where the charge has not been paid within that 12 months, the Institution shall publish a notification of termination of the patent in its Official Gazette.

No charge shall be due for maintenance a patent (declarative patent) for a secret invention and a declarative patent for a secret utility model.

Article 33. Cancellation of Patent

1. A [patent](#) may be cancelled under the court procedure in whole or in part in the following cases:

- the patented [invention](#) ([utility model](#)) does not meet the patentability requirements set out in Article 7 of this Law;
- the claims contain features of the invention (utility model) that were not shown in the application as filed;
- the obligations referred to in item two of Article 37 of this Law have not been complied with.

2. In order to cancel a declarative patent, any person may file a request for qualifying examination of the patented invention (utility model) to determine whether it meets the patentability requirements. Filing the said request shall subject to payment a charge.

3. Once a patent, or a part thereof, has been cancelled the Institution shall publish a corresponding notification in its Official Gazette.

4. A patent, or a part thereof, that has been cancelled shall be deemed to have been invalid as from the date of publication of the data on the grant of the patent. (Article 33 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

Chapter VII

ENFORCEMENT OF RIGHTS

Article 34. Infringement of Rights of Patent Owner

1. Any infringement of the rights of the owner of a [patent](#) referred to in Article 28 of this Law shall be considered a violation of those rights and the infringer shall be liable in accordance with the statutory instruments of Ukraine currently in force.

2. A patent owner shall be entitled to demand:

- cease any actions that infringe or threaten with infringement of his rights and reinstate the situation existing prior to the infringement;
- recover for the prejudice he has suffered, including benefits lost;
- compensate a moral damage;
- undertake any other actions provided by the current legislation to protect rights of the patent owner.

A licensee of the patent for an [invention](#) ([utility model](#)) may also require, unless otherwise provided in the licensing contract, that the owner of the patent be reinstated in his rights.

Article 35. Disputes Heard by the Courts

1. Disputes arising from application of this Law shall be heard by the courts, or arbitration tribunals, or courts of arbitration acting under the procedure established by the statutory instruments of Ukraine currently in force.

2. The courts shall hear, as appropriate, disputes concerning:

- cancellation of a [patent](#);
- authorship of an [invention](#) ([utility model](#));
- determination of the owner of the patent;
- infringement of the economic rights of the owner of the patent;
- conclusion and implementation of licensing contracts;
- grant of a compulsory [license](#);
- right of prior user;
- remuneration of the [creator](#);
- payment of compensation.

The courts shall also hear other disputes related to the protection of the rights afforded by this Law.

Chapter VIII

FINAL PROVISIONS

Article 36. Official Fees and Charges

The schedule and conditions of payment of the official fees for granting [patents for inventions](#) (utility models) shall be determined by the current statutory instruments.

The schedule of the charges provided for this Law together with the corresponding time limits and conditions of payment, shall be determined by the Cabinet of Ministers of Ukraine.

The resources obtained from the official fees for granting [patents](#) goes to the State budget of Ukraine.

Charges prescribed by this Law shall be paid to the banking accounts of the bodies that has been entrusted for it by the [Institution](#) and are included into the [State system of the legal protection of intellectual property](#) and, according to their specialization, carry out individual tasks determined by this Law.

The resources obtained from the charges prescribed by this Law shall be assigned to a given commission and, in conformity with the instructions of the Institution, shall be used to ensure for the development and functioning of the State system of the legal protection of intellectual property only, and to fulfill the tasks determined by this Law and the other normative and legislative acts in the field of intellectual property in particular. (Article 36 sets out in writing of the Law N 2188-III (2188-14) of December 21, 2000)

Article 37. Patenting of Invention (Utility Model) Abroad

1. Any [person](#) shall have the right to patent an [invention](#) ([utility model](#)) abroad.

2. Before filing an [application](#) for a title of protection for an invention (utility model) with a competent office of a foreign country, [international patent applications](#) are included, an [applicant](#) shall be required to file an application with the [Institution](#) and to inform it on his intention to patenting abroad.

If no prohibition is notified to the applicant within 3 months as from the date of receipt by the Institution of the information concerned, he may file the application for a [patent for an invention](#) (utility model) with the competent office of a foreign country.

The Institution may, where necessary, authorize the filing of an application for a patent for an invention (utility model) abroad before expiry of the above-mentioned term.

3. Where protection is sought for an invention under the procedure laid down in the Patent Cooperation Treaty, the international patent application shall be filed with the Institution.

Article 38. State Incentives for Creation and Exploitation of Inventions (Utility Models)

The State shall provide incentives for the creation and exploitation of [inventions](#) and it shall afford to [inventors](#) and to [persons](#) who exploit inventions and utility models preferential conditions with regard to taxation, credits and other privileges in accordance with the statutory instruments of Ukraine currently in force.

Inventors who create highly efficient exploiting inventions ([utility models](#)) may be awarded by the honorary title of Honoured Inventor of Ukraine.

Chapter IX

TRANSITIONAL PROVISIONS

1. Those [applications](#) that have been filed for [patents](#) of Ukraine for [inventions](#) with the validity term of five years without taking the substantive examination (hereinafter referred to as patents valid for five years), filed in accordance with the Decree of the Verkhovna Rada of Ukraine of December 23, 1993 On Entry Into Force the Law of Ukraine On the Protection of Rights in Inventions and [Utility Models](#) (3769-12) and processing of which has not been completed prior to entry into force of the present Law, shall be deemed to be filed for [declarative patents for inventions](#) and are processing with the [Institution](#) without taking [examination for a local novelty](#) (The first item of Chapter IX has been amended in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

2. The Institution shall be required to grant declarative [patents for inventions](#) and publish the data on granting of those ones, on condition of payment an appropriate charge, where, prior to entry this Law into force, the decision to grant a patent has been made on the basis of an application filed for a five-year patent but no official registration and publication of the data on the patent granting made. (The first paragraph of item 2 of Chapter IX has been amended in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

The owners of patents for inventions valid for five years may submit a request for taking qualifying examination and conversion of the patent under the procedure laid down for the declarative patents in Article 26 of this Law.

3. Patents for utility models currently valid shall enjoy conferring of the same status as the declarative patents for utility models, including the term of validity. (Chapter IX has been amended by item 3 in accordance with the Law N 2188-III (2188-14) of December 21, 2000)

Chapter X

FINISHING PROVISIONS

1. The present Law shall enter into force as from the date of its [official] publication.

2. It shall be stated that, until the current legislation is brought into compliance with this Law, other laws and normative and legislative acts shall be applied only in a part that not contradicts to this Law.

3. The Cabinet of Ministers of Ukraine shall be requested, within a period of three months as from the date of entry this Law into force, submit to the Verkhovna Rada of Ukraine some suggestions on making the legislation of Ukraine conformed to this Law.

4. It shall be stated that, afterwards this Law has enter into force, the following shall cease its effect:

- the Decree of the Verkhovna Rada of Ukraine of January 19,1995 On Approval of the Ordinance of Making Up, Filing and Exercising of Rights for [Inventions](#), [Utility Models](#) and Industrial Design that Attributed to Be of State Secrecy (4/95-BP) (Published in the Gazette of the Verkhovna Rada of Ukraine, 1995, N 3, Art. 23);

- paragraphs ten and eleven of item 3 and item 4 of the Decree of the Verkhovna Rada of Ukraine of December 23, 1993 On Entry Into Force the Law of Ukraine On the Protection of Rights in Inventions and Utility Models (3769-12) (Published in the Gazette of the Verkhovna Rada of Ukraine, 1994, N 7, Art. 33; 1997, N 40, Art. 269).

President of Ukraine

L. KRAVCHUK

Kyiv, December 15, 1993
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