

Draft

**Republic of Lithuania**  
**Law on the Amendment of Articles 26, 39 and 40 and on the Invalidation of Article**  
**38 of the Patent Law of the Republic of Lithuania**

Vilnius

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No 8-120, No 89-1713, 1994

**Article 1. Amendment to Article 26**

Paragraphs 1 and 2 of Article 26 shall be amended as follows:

“ A patent shall confer the following exclusive rights on the patent owner:

Where the subject matter of a patent is a product, the patent owner shall have the right to prevent third parties from manufacturing, exploiting, offering for sale, selling or importing for the said purposes the patented product without his authorization.

Where the subject matter of a patent is a process, the patent owner shall have the right to prevent third parties from using that process and performing any of the following acts: exploitation, offering for sale, selling or importation for the said purposes any product directly obtained by the patented process without his authorization.

**Article 2. Amendment to Article 39**

Article 39 shall be amended as follows:

**“ Article 39. Exploitation of an invention with authorization of the Government of the Republic of Lithuania**

The Government of the Republic of Lithuania may adopt a resolution to allow, without the consent of the patent owner, a public authority to exploit a patented invention for the purpose of supplying the market of the Republic of Lithuania provided that:

- 1) the invention protected by patent concerns public interests, national security, protection of public health and the development of economically important sectors, or
- 2) the court has decided that the method of exploiting the invention by the patent owner or the licensee is anti-competitive.

An invention shall only be exploited for the purpose for which it has been authorized or for the purpose of preventing actions which have been recognized as anti-competitive. Having regard to the economic value of the invention, the patent owner shall be paid

equitable remuneration for the said exploitation. The Government of the Republic of Lithuania shall adopt a resolution upon the consideration of the arguments presented by the patent owner and other interested parties.

At the request of the patent owner or the person authorized to exploit a patented invention, the Government of the Republic of Lithuania or the institution authorized by the Government of the Republic of Lithuania may change the terms of exploitation of the patented invention or the term of validity of the authorization.

At the request of the patent owner and having regard to the arguments presented by the patent owner or the interested persons, the Government of the Republic of Lithuania shall recognize the authorization to exploit the patented invention as invalid if the circumstances under which the authorization has been granted are no longer valid and there is little likelihood that they will reoccur, or if a public authority, or a natural or legal person authorized by the Government of the Republic of Lithuania do not observe the terms of the authorization. The Government of the Republic of Lithuania shall not recognize the authorization as invalid if the necessity for the relevant remedies to protect the lawful interests of a public authority or a natural or legal person authorized by the Government of the Republic of Lithuania justify the validity of the authorization.

The authorization to exploit an invention shall be non-exclusive.

Where the authorization to exploit a patented invention is granted to a natural or legal person authorized by the Government of the Republic of Lithuania, it may only be transferred with the transfer of the said person's enterprise or business, or that part of the enterprise or business, in which the patented invention may be exploited.

The granting of the authorization does not preclude the patent owner from concluding licensing agreements concerning the exploitation of his patented invention, as well as from further exploitation thereof or the exercise of the rights of the patent owner.

The request for authorization to exploit a patented invention shall enclose proof evidencing that the person seeking the authorization has requested and has not, however, obtained under reasonable commercial conditions and within a reasonable term the authorization of the patent owner to exploit the patented invention. This does not apply to emergency situations or other events of emergency, or where the patented invention is being exploited for non-commercial purposes in the public interest. The patent owner shall be notified of the resolution to grant the authorization to exploit the patented invention as soon as possible. If, before starting the exploitation of the patented invention for non-commercial purposes in the public interest, the Government of the Republic of Lithuania knew or had reasonable grounds to know that the patented invention was being exploited or is to be exploited by a public authority, or a natural or legal person authorized by the Government of the Republic of Lithuania, the patent owner shall be forthwith informed thereof.

Where the authorized exploitation of a patented invention (“second patent”) is not possible without the infringement of the other patent (“first patent”), the following conditions shall apply:

- 1) an invention patented by the second patent shall involve a significant technical progress and shall have substantial economic significance in relation to the first patented invention;
- 2) the owner of the first patent shall have the right to a cross-licence to be able to exploit the invention patented by the second patent under reasonable conditions;
- 3) the authorization to exploit the invention patented by the first patent shall be non-assignable, except for the cases which shall also involve the assignment of the second patent.

Resolutions of the Government of the Republic of Lithuania concerning the granting of authorizations to exploit a patented invention, exploitation of an invention with authorization of the Government of the Republic of Lithuania and the amount of remuneration may be appealed to the court in accordance with the procedure prescribed by this Law.

Upon the receipt of the resolution of the Government of the Republic of Lithuania concerning the authorized exploitation of an invention, the State Patent Bureau shall publish it in the next issue of its Official Bulletin.”

### **Article 3. Amendment to Article 40**

Point 2 of Article 40 shall be amended as follows:

- “ 2) the Vilnius district court shall deal with the disputes regarding:
- decisions of the Board of Appeals of the State Patent Bureau to refuse a patent;
  - assignment of a patent application or the ownership right to a patent to another person;
  - all matters relating to the invalidation of a granted patent in full or in part;
  - all matters concerning the infringement of a published patent application with regard to which provisional protection has been granted;
  - all matters concerning the infringements of a granted patent;
  - all matters concerning the declaration of non-infringement of a patent;
  - resolutions of the Government of the Republic of Lithuania concerning the granting of the authorization to exploit a patented invention, exploitation of an invention with authorization of the Government of the Republic of Lithuania and the amount of remuneration;
  - revocation of a patent”.

### **Article 4. Invalidation of Article 38.**

Article 38 shall be recognised as invalid.

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

President of the Republic