

The Law of Ukraine
On Protection of Rights for Industrial Design
Resume

The Law of Ukraine “On Protection of Rights for Industrial Design” (hereinafter - “Law”) No 3688-XII dated December 15, 1993 and introduced since June 1, 1994 by the Decree of the Verchovna Rada of Ukraine “On Introduction of the Law of Ukraine “On Protection of Rights for Industrial Design” No3770-XII dated December 23, 1993.

This Law regulates relations in connection with obtaining and execution of the property right on industrial design in Ukraine. The Law was created on the basis of the standard law on protection of rights for industrial design, worked out by the World Intellectual Property Organisation (WIPO), has passed the WIPO expertise and generally **corresponds to the provisions of the Articles 25 - 26 of the Part 4 “Industrial Design” TRIPS Agreement.**

The Law includes 30 Articles, divided into 8 Parts.

Part I “General Provisions” includes the Articles 1 - 4 in which:

- determined the terms that are being used in the Law;
- determined the main functions of the Authority (Derzhpatent of Ukraine);
- declared priority of the provisions of international agreements, party to which is Ukraine, if such provisions establish another rules than ones of the Ukrainian legislation;
- determined that foreign persons and persons without citizenship shall have equal with Ukrainian citizens rights, provided for by this Law in accordance with international agreements of Ukraine;
- determined that foreign and other persons that live or have permanent accommodation out of Ukraine, shall execute their rights in relations with the Authority through patent agents.

Part II “Legal Protection of the Industrial Design” includes the Articles 5, 6 in which determined:

- conditions of providing with legal protection of industrial design;
- objects of industrial design;
- objects that shall not be provided with legal protection;
- term of the patent for industrial design validity;
- amount of legal protection that shall be granted;
- conditions of the patentability of the industrial design.

Part III “Right to Patent” includes the Articles 7 - 10 in which determined the agents that shall have the right to patent.

Part IV “Procedure of Obtaining of Patent” includes the Articles 11 - 19 in which determined:

- requirements for application for the industrial design;
- procedure of establishing of the date of application and the priority date;
- basic provisions on the application expertise;
- procedure of registration, publishing and granting the patent;
- rights of the applicant for appealing against the decision of the Authority regarding application and the procedure of appealing.

Part V “Rights and Obligations in Connection with Patent” includes the Articles 20 - 23 in which determined:

- rights in connection with patent;

- conditions of compulsory transfer of rights;
- actions that shall not be recognised as violation of rights;
- obligations in connection with patent.

Part VI “Suspending of the Patent Validity and Recognition of its Invalidity” includes the Articles 24, 25 in which determined the conditions of suspending of the patent on industrial design validity and recognition of the patent on industrial design invalidity.

Part VII “Protection of Rights” includes the Articles 26, 27 in which determined the actions that shall be considered as violation of rights of the patent owner and the list of disputes that shall be settled by court.

Part VIII “Final Provisions” includes the Articles 28 - 30 which determine:

- basic provisions on charges (duties) payment;
- procedure of patenting of the industrial design, created in Ukraine, in foreign countries;
- provisions on state encouragement of creation and utilisation of industrial design in Ukraine.

The above Decree of the Verchovna Rada of Ukraine “On Introduction of the Law of Ukraine “On Protection of Rights for Industrial Design”:

- establish the procedure of validity in Ukraine of author_s certificates on industrial design of the USSR and legal relations in this connection;
- establish other transition provisions, connected with introduction of the Law.