

**THE REPUBLIC OF LITHUANIA**  
**PATENT LAW**

18 January 1994 No. I-372

Vilnius

(As last amended on 10 May 2007 – No. X-1119)

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

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

**CHAPTER 1. PROTECTION OF INVENTIONS**

**Article 1. Form of Protection of Inventions**

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

**Article 2. Patentable Inventions**

Patents shall be available for any inventions in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.

The following shall not be regarded as inventions:

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

Patents shall not be granted for:

- 1) methods for treatment of the human or animal body by surgery or therapy, and diagnostic and

prophylactic methods practised on the human or animal body. This provision shall not apply if an object of invention is equipment or materials utilised for such methods;

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

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

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

1) processes for cloning human beings;

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

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

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

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

Where the object of invention is a method, patent protection shall also be granted with respect to a product made by such method.

### **Article 3. Novelty of an Invention**

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

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

An invention shall not be considered new if although unknown from the state of the art it had been described in an application for patent of a different applicant having an earlier filing date and published in the Official Bulletin of the State Patent Bureau later or on the same date, that the state of the art had been established.

**Article 4. Inventive Step**

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

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

**Article 5. Industrial Applicability**

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

**Article 6. Grace Period**

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

- 1) by a person having an interest in making an abuse with respect to inventor or his successor in title to their disadvantage;
- 2) where an inventor or his successor in title displayed his invention at an official or officially recognised exhibition in accordance with the Convention on International Exhibitions signed at Paris on 22 November 1928.

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

**Article 7. Right to a Patent**

The right to a patent shall belong to the inventor or his successor in title, or the employer, in the case of a service invention. If an invention is made at an enterprise, institution or organisation which carries out scientific research, designing, construction works and other works of creative character under contract with a client who finances an appropriate work, the right to a patent for the invention shall be established by such contract. If the employer renounces the right to a patent or, within four months, does not inform the inventor about the intention to make use of this right, the right to a patent shall be passed over to the inventor. Joint inventors shall, unless they agree otherwise, have equal rights to the patent.

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

withdrawn or deemed to be withdrawn.

### **Article 8. Service Inventions**

A service invention shall be an invention made:

- 1) during the execution of an employment contract which provides for inventing activities;
- 2) on a concrete assignment, in the course of designing, constructing, scientific research or creation of technologies;
- 3) when using the experience accumulated by an enterprise, institution or organisation, or its technologies and equipment.

The worker who made a service invention must immediately inform the employer in writing. Until the filing of a patent application, the employer and worker may not disclose the essence of an invention.

A patent application regarding a service invention shall be filed with the State Patent Bureau, on behalf of an enterprise, institution or organisation.

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

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

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

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

### **Article 9. Mention of the Inventor**

A patent application and patent must contain mention of the name of the inventor or inventors.

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

An inventor shall have the right to request that his or her name should not be mentioned. Therefore,

he shall have to file a declaration with the State Patent Bureau. The State Patent Bureau shall have to proceed accordingly.

## **CHAPTER 2. PATENT GRANT**

### **Article 10. Filing a Patent Application**

A person wishing to obtain a patent for an invention must file a patent application with the State Patent Bureau. An application may be filed by several legal or natural persons, or by both natural and legal persons.

A patent application may be filed through a representative whose name must be entered in the Register of Patent Attorneys of the Republic of Lithuania, with the exception of the case specified in paragraph 3 of this Article.

An applicant having his residence or principal place of business, registered branch office or representative office in the Republic of Lithuania, any other state of the European economic area or in one of the Contracting States to the European Patent Convention, may be represented by an employee authorised in accordance with the procedure laid down by the legal acts.

Natural and legal persons of foreign states not having either a residence or their principal place of business, registered branch office or representative office in the Republic of Lithuania, any other state of the European economic area or in of the Contracting States to the European Patent Convention, shall file patent applications to the State Patent Bureau and perform all actions relating to the granting of a patent in the State Patent Bureau, including also representation at the Appeals Division of the State Patent Bureau, through the patent attorney of the Republic of Lithuania whose name appears on the Register of Patent Attorneys of the Republic of Lithuania.

### **Article 11. A Patent Application**

A patent application shall contain:

- 1) a request for the grant of a patent;
- 2) a description of the invention;
- 3) one or more claims;
- 4) drawings if necessary for the understanding of the essence of the invention;
- 5) an abstract;
- 6) a document confirming payment of the fee;
- 7) a document confirming the right to file a patent application (provided it is filed not by inventor himself) and the declaration regarding inventorship of the invention;

8) a document confirming the deposit of a biological material (when necessary).

A request to grant a patent shall be filed in the Lithuanian language. Other documents shall be filed in Lithuanian or any other language designated by the State Patent Bureau. In the event that the documents comprising a patent application are filed in another language, translation thereof into Lithuanian must be supplied. Translation of documents comprising a patent application must be supplied by an applicant to the State Patent Bureau within 3 months after the date of filing a patent application.

Translation of the documents comprising a patent application, referred to in subparagraphs 2-8 of paragraph 1 of this Article, which have been filed in the language other than Lithuanian, shall be considered conforming to the original text, until proved otherwise.

### **Article 12. Date of Filing a Patent Application**

The filing date of a patent application shall be the date of receipt by the State Patent Bureau of the following documents:

a request to grant a patent;

a description of the invention together with claims;

any drawings if necessary for the understanding of the essence of the invention;

a document confirming payment of the fee.

Where an applicant fails to supply all the documents as stated in paragraph 1 of this Article, the patent application shall be treated as if not have been filed.

### **Article 13. Disclosure**

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

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

### **Article 14. The Claims**

The patent application shall contain one or more claims. All claims above 10 shall be subject to payment of an additional fee.

The claims shall define the scope of legal protection.

All claims shall be clear and concise.

The claims shall be presented as prescribed by the State Patent Bureau.

#### **Article 15. Abstract**

The abstract shall merely serve for the purpose of technical information on the invention and shall be presented as prescribed by the State Patent Bureau. The abstract shall not be taken into account when establishing the scope of patent protection.

#### **Article 16. Unity of Invention**

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

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

#### **Article 17. Division of Application**

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

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

The filing date of the initial application shall be established for each separate patent application or, if priority is claimed, the priority date of the initial application.

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

#### **Article 18. Right of Priority**

When filing a patent application the applicant may submit a declaration claiming the priority, pursuant the Paris Convention for the Protection of Industrial Property, on the basis of one or several national or international applications earlier filed in foreign countries, specifying the filing date and the country of the said application or applications.

The State Patent Bureau may request from the applicant claiming priority within 3 months from the filing date of the application to furnish a copy or copies of previously filed applications and a

translation thereof into the Lithuanian language.

Upon establishing that the requirements of paragraph 2 of this Article are not observed, the State Patent Bureau may request the applicant to fulfil the requirements. Upon failure to fulfil the requirements, the declaration claiming the priority shall be regarded as not has been filed.

### **Article 19. Examination**

The State Patent Bureau shall make an examination of a patent application and establish whether the application complies with the requirements provided for in paragraphs 2 and 3 of Article 2, in Article 11, paragraphs 2 and 3 of Article 13, as well as in Articles 14 and 18.

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

After having determined that an invention is unpatentable on the grounds laid down in paragraphs 2, 3 and (or) 4 of Article 2 of this Law, the State Patent Bureau shall make a decision to refuse granting a patent.

### **Article 20. Amendment or Correction of Application. Withdrawal of Application**

The applicant shall have the right to correct or amend the patent application during its pendency in the State Patent Bureau.

No amendment or correction of the patent application may go beyond what has been disclosed in the application as filed.

The applicant shall have the right to withdraw a patent application at any time during its pendency in the State Patent Bureau.

### **Article 21. Publication of Patent Application**

The State Patent Bureau shall publish the patent application as filed by the applicant within 18 months from its filing date, or if priority is claimed, from its priority date. In the event that the applicant files a written request with the State Patent Bureau to have his patent application published earlier, the State Patent Bureau proceeds accordingly, but no earlier than six months after the filing date of the application.

A patent application shall not be published if, within 17 months from its filing or priority date, it has been withdrawn, deemed to be withdrawn or an invention has been made secret in the manner prescribed by legal acts.

Temporary legal protection shall be provided to a published patent application from the date of its publication until the date of patent grant.

If the published patent application is later withdrawn or disputed by another person, it shall be considered that the application has not been provided with the temporary legal protection provided for in paragraph 3 of this Article.

After an invention has been made secret in the manner and on the grounds laid down by legal acts, the inventor shall be paid compensation according to the agreement made between the entity of state secrets and the inventor.

After an invention has been declassified in the manner and on the grounds laid down by legal acts, the data of such invention shall be published in the Official Bulletin of the State Patent Bureau.

### **Article 22. Patent Grant**

If the patent application meets the requirements of this Law, has not been withdrawn or deemed to be withdrawn, the State patent Bureau, on payment of the prescribed fee by the applicant, shall within six months grant a patent.

Upon the decision to grant a patent, the State Patent Bureau shall publish notification of the patent grant in its Official Bulletin.

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

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

### **Article 23. Register of Patents**

The State Patent Bureau shall keep the Register of Patents of the Republic of Lithuania. On the register patents shall be assigned a serial number in the order of their grant.

The data of the patent, as well as the data relating to its corrections and other data pertaining to the patent grant, use and protection shall be entered in the Register of Patents of the Republic of Lithuania.

An extract of any entry in the Register of Patents of the Republic of Lithuania shall be furnished by the State Patent Bureau to any person upon his request and payment of the prescribed fee. The extract from the Register shall be regarded as an official document.

### **Article 24. Inspection of Patent Applications Files**

After a patent application is published, any person interested may inspect it. To inspect a patent application before it is published shall be possible only upon written consent of the applicant.

Where a patent application has been withdrawn in accordance with paragraph 3 of Article 20 before it is published, inspection of the application shall be possible only upon written consent of the person who has withdrawn the application.

Access to an invention which has been made secret shall be provided in the manner prescribed by legal acts.

If a patent application was accompanied by the document confirming the deposit of biological material pursuant to paragraph 2 of Article 13 of this Law, access to a sample of the biological material shall be provided, after the publication of the patent application, to any interested person or, if the applicant so requests, only to an independent expert. After the patent has been granted, and notwithstanding revocation or cancellation of the patent, access to a sample of the biological material shall be provided to any interested person.

At the applicant's request, where a patent application is withdrawn or deemed to be withdrawn, access to a sample of the biological material shall be limited to an independent expert for 20 years from the date on which the patent application was filed.

#### **Article 25. Settlement of Disputes**

Disputes arising before the patent grant between the applicant and the examiner of the State Patent Bureau with respect to the filing or priority date of a patent application, conclusions of examination and refusal to grant a patent shall be settled by the Board of Appeals of the State Patent Bureau. The applicant or his representative shall have the right to participate in the hearings of the Board of Appeals.

### **CHAPTER 3. EFFECTS OF A PATENT**

#### **Article 26. Rights of the Owner of a Patent**

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

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

The owner of the patent shall have no right to prevent third parties from performing acts referred to in paragraphs 1 and 2, provided that:

- 1) the act is done privately and for non-commercial purposes and it does not significantly prejudice the economic interests of the owner of the patent;
- 2) the act is done for experimental purposes or for scientific research, and this does not conflict with a normal exploitation of the patent and does not unreasonably prejudice the legitimate interests of the patent owner;
- 3) the act consists of preparing medicines for individual cases in a pharmacy upon the prescription of a physician or if it is indicated how to use the medicines so prepared.

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

The sale or other form of commercialisation of plant propagating material to a farmer by the patent owner or with his consent for agricultural use shall imply authorisation for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm. The extent and conditions of this derogation shall be laid down by Article 14 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights.

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

The extent and the conditions of the derogation provided for in paragraph 6 of this Article may be determined by legal acts.

Rights to the patent application and the patent itself shall be inheritable. The state shall not inherit these rights.

### **Article 27. Term of Patents and Maintenance Fees**

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

The maintenance of a patent shall be subject to the payment of an annual fee.

The first annual fee shall be due in respect of the third year of the validity of a patent.

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

The annual fee increased by 50% may still be validly paid within 6 months from the due date

prescribed in paragraph 4 of this Article.

### **Article 27<sup>1</sup>. Supplementary Protection Certificate**

A supplementary protection certificate (hereinafter referred to as "certificate") may be granted to a patent owner or his successor in title for a period not exceeding five years, if legal protection is conferred to:

- 1) active ingredients of a medicine;
- 2) active substances of a plant protection product.

The certificate shall be granted, if the patent owner or his successor in title lodges an application for a certificate with the State Patent Bureau. The application shall contain the following documents:

- 1) a request for a certificate;
- 2) a copy of the first authorisation to place a medicine or a plant protection product on the market;
- 3) a document confirming that the set fee has been paid.

An application for a certificate must be lodged with the State Patent Bureau before the patent expires, but not later than within 6 months of the date on which the authorisation to place the medicine or the plant protection product on the market was granted, or within 6 months of the date on which the patent was granted, if the patent was granted later than the authorisation. The State Patent Bureau shall establish requirements applied to the documents, the procedure for examination of an application, granting and validity of the certificate. Information about an application for a certificate, the grant and expiry of a certificate shall be published by the State Patent Bureau in its Official Bulletin. Information regarding the grant and duration of a certificate shall be recorded in the Register of Patents of the Republic of Lithuania.

The granted certificate shall take effect at the end of the lawful term of the patent for a period equal to the period which elapsed between the date on which the patent application was lodged and the date of the authorisation to place a medicine or a plant protection product on the market, reduced by a period of five years, but not exceeding five years from the date on which it takes effect. The duration of the certificate shall depend on the payment of a set annual fee.

The certificate shall confer on its holder or his successor in title all the rights, duties and restrictions established by this Law.

Legal protection conferred by the certificate shall extend only to the medicine or plant protection product covered by the authorisation to place the corresponding medicine or plant protection product on the market, and must not exceed the legal protection conferred by the patent.

### **Article 28. Scope of Legal Protection and Interpretation of Claims**

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

Claims shall be considered to cover not only all the elements as expressed in the claims but also their equivalents.

An element shall be considered as being equivalent to an element as expressed in a claim if:

it performs substantially the same function in substantially the same way and produces substantially the same result as the element expressed in the claim;

it is obvious to a person skilled in the art that the same result as that achieved by means of the element as expressed in the claim, can be achieved by means of the equivalent element.

The State Patent Bureau shall take into consideration any statement of the applicant or the owner of the patent to limit the scope of the claims filed before the patent grant or within the patent validity term.

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

#### **Article 28<sup>1</sup>. Scope of the Legal Protection of Biotechnological Inventions**

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

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

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

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

**Article 29. Right of Prior Use**

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

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

**Article 30. Rights of the Owner of the Patent with respect to Foreign Means of Transport**

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

- 1) the use of the means, which are the subjects of the patent, on any foreign vessel, temporarily or accidentally entering the waters of the Republic of Lithuania provided that such means shall be used exclusively for the needs of the vessel;
- 2) the use of the means which are the subjects of the patent in the construction of foreign air or land carriers or the exploitation of these means, as well as their use in supplementary constructions thereof, when such means of transport temporarily or accidentally enter the Republic of Lithuania.

**CHAPTER 4. CHANGE IN OWNERSHIP****Article 31. Change in Ownership of Patent Application or Patent**

Any contract assigning a patent application or a patent shall be made in writing.

Any change in the ownership of a patent application or a patent shall be recorded on payment of the fee with the State Patent Bureau. The right to a patent or a patent application shall be obtained as of from the date of the registration with the State Patent Bureau. The State Patent Bureau shall publish in its Official Bulletin information on the change of the ownership.

**Article 32. Judicial Assignment of a Patent Application or a Patent**

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

**Article 33. Change of Joint Ownership of a Patent Application or a Patent**

A patent application or a patent may jointly belong to several applicants or several joint owners of the patent.

Each of the joint applicants may independently without the consent of the others assign by succession his share in the application, but the joint applicants may only jointly withdraw the patent application or conclude licence agreements with third parties.

Each of joint owners of the patent may independently without the consent of the others assign or transfer by succession his share in the patent or institute court proceedings for infringement of the patent.

The joint owners may only jointly surrender the patent or conclude licence agreements with third parties.

The regulations provided for in paragraphs 2 and 3 of this Article shall be applicable only in the absence of an agreement to the contrary between the joint applicants or owners of the patent.

## **CHAPTER 5. LICENCE AGREEMENT. LICENCE OF RIGHT**

### **Article 34. Licence Agreement**

Licence agreement means any agreement by which a party (the licensor) allows the other party (the licensee) to perform any of the acts referred to in Article 26.

A licence agreement must be made in writing. Oral licence agreement shall not be valid.

On payment of the prescribed fee the licence agreement shall be recorded in the Register of Patents of the Republic of Lithuania and shall be enforced as of from the date of such recording.

### **Article 35. Rights of Licensee**

The rights given by the licensor to the licensee shall extend to the performance of all the acts referred to in Article 26, unless otherwise provided in the licence agreement, without limitations throughout the entire territory of the Republic of Lithuania and through any application of the said invention.

In the absence of any provisions to the contrary in the licence agreement, the licensee may not allow a third person to perform any of the acts referred to in Article 26.

### **Article 36. Rights of Licensor**

In the absence of any provisions to the contrary in the licence agreement, the licensor may allow a third person to perform any of the acts referred to in Article 26 and may perform them himself.

If the licence agreement provides that the licence is exclusive the licensor may neither allow any third party to perform, nor perform himself the acts referred to in Article 26.

**Article 37. Licence of Right**

The owner of a patent may file a statement with the State Patent Bureau that he is prepared to allow any person to use the invention as a licensee in return for appropriate compensation. In this case the annual fees shall be reduced by 50%.

The State Patent Bureau shall refuse to accept such statement as long as an exclusive licence granted by the owner of the patent for the same invention is recorded in the Register of Patents of the Republic of Lithuania.

The owner of the patent may withdraw such statement at any time upon written notification to this effect to the State Patent Bureau, provided that no one has previously informed the State Patent Bureau in writing of his intention to use the invention.

Any person willing to make use of the licence of right may file a statement with the State Patent Bureau and shall be entitled to use the invention as a licensee. Any licence so obtained shall be treated as non-exclusive.

Upon the receipt of a statement of any person to make use of the licence of right, the State Patent Bureau shall have no right to record an exclusive licence granted for the same invention in the Register of Patents of the Republic of Lithuania, unless the said statement is withdrawn.

**CHAPTER 6. COMPULSORY LICENCE****Article 38. Compulsory Cross-licensing when an Invention is Related to the Protected Plant Variety**

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

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

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

- 1) they have applied unsuccessfully to the owner of the patent of a biological invention or the holder of the plant variety right to obtain a contractual licence;
- 2) the plant variety or the biological invention constitutes significant technical progress of considerable economic interest compared with the invention claimed in the patent or the protected plant variety.

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

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

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

#### **Article 38<sup>1</sup>. Compulsory Licence for Pharmaceutical Products**

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

#### **Article 39. Exploitation of an Invention with the Authorisation of the Government of the Republic of Lithuania**

The Government of the Republic of Lithuania may adopt a resolution to permit a State or municipal institution, natural or legal persons to market, without the consent of the owner of a patent, a patented invention within the territory of the Republic of Lithuania, if:

- 1) an invention protected by a patent is related to public needs, national security and public health protection, development of economically important sectors;
- 2) the court determines that a method of the exploitation of an invention employed by the owner of a patent or licensee is anti-competitive.

An invention may be exploited only for the purpose in respect of which the resolution has been adopted. The owner of a patent must, for the exploitation of the invention, be remunerated fairly,

taking into consideration economic value of the invention.

If the owner of a patent or a person who has authorisation to use an invention, requests, the Government of the Republic of Lithuania may, taking into consideration their reasons, change the conditions of the use of a patented invention, and time limits of the validity of permission.

When authorisation to use a patented invention is issued to the owner of a patent which improves a previously patented invention (second invention) and that may infringe the exclusive rights of the owner of the first patent, the Government of the Republic of Lithuania shall, before the adoption of this resolution, take into consideration the following additional conditions:

- 1) the claimed in the second patent shall involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent;
- 2) the owner of the first patent shall be entitled to a cross-licence (authorisation to each owner to use the patented inventions) to use the invention claimed in the second patent;
- 3) the use authorised in respect of the first patent shall be non-assignable except with the assignment of the second patent.

The Government of the Republic of Lithuania may declare the resolution null and void, if the circumstances which led to the authorisation to use a patented invention cease to exist, or if a State or municipal institution, natural or legal persons use a patented invention for the purpose other than that in respect of which the resolution has been adopted.

Authorisation to exploit an invention must be non-exclusive, i.e. the owner of a patent shall not lose the right to use a patented invention himself, and it shall not prohibit the owner of a patent to conclude license agreements related to the use of a patented invention as well as to further exploit a patented invention or to implement his rights in other ways.

Authorisation to use a patented invention may not be transferred, except when the enterprise (or a part thereof) in which a patented invention is used, is transferred in a manner prescribed by law.

Attached to a request to permit the exploitation of a patented invention must be evidences confirming that the person seeking authorisation has requested, but has not received authorisation of the owner of a patent to use the patented invention. This provision shall not apply in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use of a patented invention. The owner of a patent must be informed in writing about a resolution, which is being drawn up, concerning the authorisation to use a patented invention, and about an intention to use a patented invention for the purposes provided for in subparagraph 1 of paragraph 1 of this Article.

Resolutions of the Government of the Republic of Lithuania concerning the authorisation to use a patented invention without the consent of the owner of a patent may be appealed against in court in a

manner prescribed by law.

Upon the receipt of the resolution of the Government of the Republic of Lithuania concerning the authorisation to exploit an invention, the State Patent Bureau shall publish information on the authorisation in the next issue of its Official Bulletin.

## **CHAPTER 7. DISPUTE SETTLEMENT. ENFORCEMENT OF RIGHTS**

### **Article 40. Institutions having Jurisdiction in Disputes relating to the Legal Protection of Inventions**

Disputes regarding the patenting and the use of inventions shall be settled by the following institutions:

- 1) the Board of Appeals of the State Patent Bureau, in respect of all disputes relating to the patenting of an invention prior to the patent grant;
- 2) the Vilnius County Court, in respect of disputes regarding:
  - decisions of the Appeals Division of the State Patent Bureau;
  - assignment of a patent application or the patent ownership to a different person;
  - invalidation of a granted patent in full or in part;
  - infringement of a patent application for which temporary protection is granted;
  - infringement of a granted patent;
  - declaration of non-infringement of a patent;
  - granting, revocation and change of conditions of the licences referred to in Article 38 of this Law;
  - revocation of a patent.

Disputes relating to the resolution of the Government of the Republic of Lithuania concerning the granting of authorisation to use a patented invention, changing of the conditions related to the use of a patented invention with authorisation of the Government, establishment of the amount of remuneration to the owner of a patented invention for the use of such patent, and revocation of authorisation shall be settled in a manner prescribed by law.

### **Article 41. Enforcement of Rights**

The applicant, the patent owner or their successors in title, when enforcing their rights, and the licensees of exclusive licences, when protecting the rights granted to them, shall be entitled to apply to the court in accordance with the procedure laid down by the law and to seek:

- 1) recognition of the rights;
- 2) an injunction intended to terminate the continuation of infringing activities;

- 3) prohibition to carry out activities by reason of which the rights may be actually infringed or the prejudice suffered;
- 4) compensation for the material damage, including lost income and other incurred expenses;
- 5) application of other remedies set out by this Law and other laws.

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

Where there is no fault in the activities, in connection with the infringement of the rights established by this Law, of a person in respect of whom an injunction intended to terminate the continuation of infringing activities or the corrective measures specified in Article 41<sup>4</sup> are applied, the court may, at the request of this person, order him to pay pecuniary compensation to the injured party, if execution of the measures referred to in this paragraph of the Article would cause him disproportionate harm and if pecuniary compensation to the injured party appears reasonable and satisfactory.

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

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

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

#### **Article 41<sup>1</sup>. Right of information**

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

- 1) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods infringing the rights established by this Law, as well as the wholesalers and retailers for whom the indicated goods have been intended;
- 2) information on the quantities of the produced, manufactured, delivered, received or ordered goods which infringe the rights established by this Law, as well as the price which has been obtained or ought to have been obtained for those goods or services.

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

#### **Article 42<sup>2</sup>. Evidence**

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

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

### **Article 41<sup>3</sup>. Provisional measures and measures for preserving evidence**

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

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

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

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

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

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

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

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

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

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

#### **Article 41<sup>4</sup>. Corrective measures**

The persons specified in paragraph 1 of Article 50 of this Law shall be entitled to apply to the court and request that products (goods) be recalled, removed from the channels of commerce in such a manner as to avoid any harm being caused to the said persons and to ensure the protection of their rights (e.g. to remake the infringing goods into other goods or to apply similar measures), or to request that the products (goods), which the court has found to be infringing the rights established by this Law and, in appropriate cases, the materials and implements principally used in the creation or manufacture of the specified objects be destroyed.

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

#### **Article 41<sup>5</sup>. Recovery of material damage**

The procedure for recovery of material damage shall be regulated by the Civil Code and this Law. When assessing the amount of the actual damage (losses) suffered as a result of the infringement of the rights established by this Law, the court shall take into account the substance of the infringement, the amount of the inflicted damage, lost income, incurred expenses, and other important circumstances. Profit made by the infringer may, at the request of the persons specified in paragraph 1 of Article 41 of this Law, be recognized as losses. Goods infringing the rights established by this Law may be transferred to the holders of those rights upon their request.

The amount of income lost by the persons specified in paragraph 1 of Article 41 of this Law shall be set by taking into account the amount of income which would have been made if the invention had been used legally (i.e. taking account of the royalties which are usually paid for the legal use of the invention), as well as the concrete circumstances which might have created conditions for making income (works performed by the subjects of the rights, implements used, negotiations for conclusion of contracts concerning the use of the invention, etc.).

Instead of the recovery of the damage (losses) actually suffered by reason of the infringement of the rights established by this Law, the persons specified in paragraph 1 of Article 41 of this Law may claim the payment which would have been due if the infringer had used the invention legally (i.e. had acquired permission), and where the infringement has been committed intentionally or through gross negligence – the said persons may claim up to twice the amount of such payment.

Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing the rights established by this Law (i.e. there is no fault in his actions), the court may, upon request of the persons specified in paragraph 1 of Article 41 of this Law, order the recovery of profit made by the infringer. A total that the infringer has saved and/or made by infringing the rights established by this Law shall be regarded as the profit made by the infringer. The profit made by the infringer shall be ascertained and recovered regardless of whether or not the subject of the rights would have made the same profit as the infringer. When ascertaining the profit made by the infringer, the subject of the rights must provide only the evidence that would confirm the gross income received by the infringer; the amount of net profit of the infringer (after deducting the expenses) must be proved by the infringer.

#### **Article 41<sup>6</sup>. Publication of judicial decision**

The court which takes a decision on the infringement of the rights established by this Law may, at the request of the persons specified in paragraph 1 of Article 41 of this Law, order the infringer to disseminate at his own expense the information concerning the adopted decision, including disseminating the decision in full or in part in the mass media or by any other means. A judicial decision or information concerning an adopted decision may be announced after the coming into effect of the decision, unless otherwise

established by the court. The manner and extent of dissemination of a judicial decision shall be laid down in this judicial decision. The persons specified in paragraph 1 of Article 50 of this Law may request that the infringer pay in advance into the bank account, indicated by the court, a sum of money necessary to disseminate the information concerning an adopted judicial decision or an adopted judicial decision itself.

#### **Article 41<sup>7</sup>. Declaration of Non-Infringement**

Any person concerned shall have the right to institute court proceedings requesting the court to establish that his activity does not constitute infringement of the patent granted to the owner.

If the person concerned proves that his activity does not constitute infringement of the granted patent, the court shall pass the decision of non-infringement.

The owner of the patent shall notify any licensees of the proceedings. In the absence of any provision to the contrary in the licence agreement, the licensees shall have the right to join the proceedings.

#### **Article 42. Application of customs supervision measures**

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

### **CHAPTER 8. CHANGES IN PATENTS. SURRENDER. INVALIDATION**

#### **Article 43. Changes in Patents**

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

The owner of the patent shall have the right to request the State Patent Bureau to make changes in the patent in order to correct mistakes and clerical errors.

The State Patent Bureau must comply with lawful requirements of the owner of the patent.

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

The State Patent Bureau shall publish the changes of the patent in its Official Bulletin.

#### **Article 44. Surrender**

The owner of the patent may surrender the patent by written declaration to the State Patent Bureau. The surrender may be limited to one or more claims of the patent.

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

The surrender of the patent shall take effect as of from the date of the receipt of the declaration of the owner of the patent by the State Patent Bureau.

#### **Article 45. Invalidation**

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

- 1) the invention is not patentable within the meaning of Articles 2-5 of this Law;
- 2) the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;
- 3) the disclosure contained in the patent goes beyond what has been disclosed in the application as filed, or if the patent was granted on a divisional application, which goes beyond what has been disclosed in the initial application as filed;
- 4) the owner of the patent has no right to it within the meaning of paragraph 1 of Article 8 of this Law.

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

#### **Article 46. Effects of Invalidation**

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

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

### **CHAPTER 9. INTERNATIONAL PATENT APPLICATION**

#### **Article 47. General Provisions**

An international patent application shall mean a patent application filed under the Patent Co-operation Treaty done at Washington on 19 June 1970.

In this Chapter of the Law when speaking about an international patent application references are made to articles of the Patent Co-operation Treaty and the Regulations under the Patent Co-

operation Treaty.

The provisions of the Patent Co-operation Treaty, of this Law and executive acts shall apply in respect of an international patent application for which the State Patent Bureau acts as a receiving, designated or elected patent office.

**Article 48. International Patent Application for which the State Patent Bureau Acts as a Designated or Elected Patent Office**

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

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

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

From the day of entry into force of the European Patent Convention in the Republic of Lithuania, an international patent application designating or electing the Republic of Lithuania pursuant to paragraph 1 of Article 45 of the Patent Cooperation Treaty shall be deemed to be a European patent application.

**Article 49. International Patent Application Filed with the State Patent Bureau as a Receiving Patent Office**

An international patent application may be filed with the State Patent Bureau if the applicant is a resident or a citizen of the Republic of Lithuania.

A fee for transmitting an international patent application to the International Bureau of the World Intellectual Property Organisation and to the International Searching Authority shall be paid as provided for in item 14 of the Regulations under the Patent Co-operation Treaty.

An international patent application must be filed in the language established by the State Patent Bureau.

**CHAPTER 10. EXTENSION OF EUROPEAN PATENTS**

**Article 50. General provisions**

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

A European patent application means an application for a European patent filed under the European Patent Convention, done at Munich on 5 October 1973, as well as an international application filed under the Patent Co-operation Treaty, done at Washington on 19 June 1970 for which the European Patent Office (hereinafter referred to as the EPO) acts as designated or elected office and in which the Republic of Lithuania is a designated country.

An extended European patent means a patent granted by the EPO on a European patent application in respect of which extension to the Republic of Lithuania has been requested.

A national patent application means a patent application filed under this Law with the State Patent Bureau of the Republic of Lithuania.

A national patent means a patent granted on a national patent application.

The requirements of the European Patent Convention shall not apply to a European patent application and a European patent, extending to the Republic of Lithuania pursuant to the provisions of this Chapter, unless otherwise provided for in this Law.

**Article 51. Request for Extension**

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

The request for extension may be withdrawn at any time. It shall be deemed withdrawn where the prescribed extension fee has not been paid in due time or where the European patent application has been finally refused, withdrawn or deemed withdrawn. The State Patent Bureau shall publish this as soon as possible if the request for extension has already been published.

**Article 52. Extension Fee**

The extension fee under paragraph 2 of Article 51 shall be paid to the EPO within the applicable time-limits provided under the European Patent Convention for the payment of the designation fee.

The extension fee may still be validly paid within the period of grace specified in Rule 85a(2) of the European Patent Convention, provided that a surcharge of 50% is paid within this period.

For the payment of extension fees the Rules of the European Patent Convention relating to the payment of fees shall apply *mutatis mutandis*. Extension fees validly paid shall not be refunded.

**Article 53. Effects of European Patent Applications**

A European patent application which has been accorded a filing date shall in any case be equivalent to a national patent application filed according to all the requirements, where the priority of the European patent application is being recognised, whatever its outcome may be.

A published European patent application shall be provided with the same temporary protection as a national patent application according to paragraph 3 of Article 21 of this Law. The temporary protection shall be provided from the date on which a translation of the claims of the published European patent application into the Lithuanian language has been communicated by the applicant to the person using the invention in the Republic of Lithuania.

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

**Article 54. Effects of European Patents**

An extended European patent shall, subject to paragraphs 2-6 of this Article, confer from the date of publication of the mention of its grant by the EPO the same rights as would be conferred by a national patent under Article 26 of this Law.

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

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

The State Patent Bureau shall publish as soon as possible any exact translations filed according to paragraphs 2 and 3 of this Article.

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

An extended European patent and the European patent application on which it is based shall be deemed not to have had *ab initio* the effects specified in paragraph 1 of this Article and paragraph 2 of Article 53 to the extent that the patent has been revoked in opposition proceedings before the EPO.

#### **Article 55. Authenticity of Texts of European Patent Applications or European Patents**

The text of a European patent application or a European patent in the language of the proceedings before the EPO shall be considered the authentic text in the Republic of Lithuania as well.

The translations specified in Articles 53 and 54 of this Law shall be regarded as authentic, except in revocation proceedings, where they confer protection which is narrower than that conferred by it in the language of the proceedings before the European Patent Office.

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

#### **Article 56. Right of Earlier Date**

A European patent application for which the extension fee has been paid and an extended European patent shall have with regard to a national patent application and a national patent the same prior art effect as a national patent application and a national patent under paragraph 2 of Article 3 of this Law.

A national patent application and a national patent shall have with regard to an extended European patent the same prior art effect as they have under paragraph 2 of Article 3 of this Law.

#### **Article 57. Simultaneous Protection**

Where an extended European patent and a national patent having the same filing date or, where priority has been claimed, the same priority date have been granted to the same person or his successor in title, the national patent shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed or as from the

date on which the opposition procedure has resulted in a final decision maintaining the European patent.

#### **Article 58. Renewal Fees for Extended European Patents**

Renewal fees for an extended European patent shall be paid to the State Patent Bureau. It shall be paid starting the following year after the mention of the grant of the European patent was published.

### **CHAPTER 10<sup>1</sup>. IMPLEMENTATION OF THE EUROPEAN PATENT CONVENTION**

#### **Article 59. Application of the European Patent Convention**

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

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

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

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

#### **Article 59<sup>1</sup>. Filing of a European Patent Application**

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

The State Patent Bureau shall forward to the European Patent Office, in the time fixed in Article 77 of the European Patent Convention, any European patent applications which have been filed with that office, with the exception of the applications related to State or official secrets.

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

Any European patent application containing the information constituting State and official secrets shall be filed only at the State Patent Bureau.

#### **Article 59<sup>2</sup>. Validity of a European Patent Application**

A European patent application which has been accorded a date of filing and which designates the

Republic of Lithuania, shall be of the same legal power as a national patent application filed in a regular manner, recognizing the date of priority of the European patent application, regardless of the course of its examination.

A published European patent application shall be accorded the same temporary legal protection as a national patent application under paragraph 3 of Article 21 of this Law. Temporary legal protection shall be accorded from the day on which a translation of the claims of the published European patent application is published in the Official Bulletin of the State Patent Bureau. A fixed fee shall be paid for publication of the translation of the claims of the European patent application.

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

### **Article 59<sup>3</sup>. Validity of a European Patent**

A European patent designating the Republic of Lithuania shall, pursuant to paragraphs 2 and 3 of this Article, confer after the date on which the mention of its grant is published in the European Patent Office the same rights as a national patent under Article 26 of this Law.

A owner of a European patent shall, within 3 months after the date on which the mention of the grant of the patent is published, supply to the State Patent Bureau a translation of the claim of the European patent into the Lithuanian language and pay a fixed fee for publication of such translation.

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

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

In the event of failure to supply a translation of the claim of the European patent within the time limit referred to in paragraphs 2 and 3 of this Article, the European patent shall be deemed to be void *ab initio* in the Republic of Lithuania.

### **Article 59<sup>4</sup>. Authenticity of the Text of a European Patent Application and a European Patent**

The text of a European patent application or a European patent in the language of the proceedings of the European Patent Office shall be the authentic text in the Republic of Lithuania.

Translations referred to in Articles 59<sup>3</sup> and 59<sup>4</sup> of this Law shall be regarded as authentic, except for patent revocation proceedings, when legal protection conferred on the patents is narrower than that conferred on the texts in the language of the proceedings of the European Patent Office.

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

#### **Article 59<sup>5</sup>. Annual Fees of European Patents**

An annual fee of a European patent shall be paid in accordance with the procedure laid down by the Law on Fees for the Registration of Industrial Property Objects. It shall be started to be paid from the next year after the year of publication of the mention of the grant of the European patent.

#### **Article 59<sup>6</sup>. Replacement of a European Patent Application with a National Application**

A European patent application designating the Republic of Lithuania may be replaced with a national patent application, if the European patent application is deemed to be withdrawn under paragraph 5 of Article 77, paragraph 3 of Article 90 of the European Patent Convention or the translation of the application has not been filed at the European Patent Office in due time under paragraph 2 of Article 14 of the European Patent Convention.

An applicant shall pay a fixed fee within the set time limit and file at the State Patent Bureau the translation of the European patent application into the Lithuanian language.

#### **Article 59<sup>7</sup>. Double Protection**

If a European patent and a national patent, having the same date of filing or priority, have been granted to the same person or his successor to the title for the same invention, the national patent shall become null and void from the date on which the time limit for opposing the European patent expires and an opposition has not been filed, or from the date when, having taken account of the opposition, a decision to leave the European patent valid has been adopted.

## **CHAPTER 11. INTERNATIONAL AGREEMENTS**

**Article 60. International Agreements; Rights of Foreign Legal and Natural Persons**

Where international agreements to which the Republic of Lithuania is a party establish rights which, for the applicant or the owner of the patent, are more advantageous than those provided for in this Law and other standard acts, the provisions of such international agreements shall apply.

Protection of inventions in the Republic of Lithuania shall be granted on a patent application filed abroad if it is so provided for in an agreement or treaty to which the Republic of Lithuania is a party. Such patent application and a patent granted on it shall have in the Republic of Lithuania the same effects as a national patent application filed with the State Patent Bureau and a patent granted on it, as prescribed by this Law.

Foreign legal and natural persons shall enjoy all rights provided for in this Law and other standard acts regulating the protection of the rights of the patent owner.

**CHAPTER 12. FINAL PROVISIONS****Article 61. Amendments of the Civil Code of the Republic of Lithuania**

To declare Chapter 5 (Articles 557-559) and Chapter 6 (Articles 560-566) of the Civil Code of the Republic of Lithuania null and void.

**Article 62. Entry into Force of this Law**

The Patent Law of the Republic of Lithuania, except Chapter 9 "International Patent Application" and Chapter 10 "Extension of European Patents", shall become effective as of 1 February 1994.

Chapter 9 shall become effective upon the date when the accession of the Republic of Lithuania to the Patent Co-operation Treaty, done at Washington on 19 June 1970 takes effect.

Chapter 10 shall become effective on the date when the bilateral agreement between the Government of the Republic of Lithuania and the European Patent Organisation on Cupertino in the field of patents becomes effective.

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

PRESIDENT OF THE REPUBLIC

ALGIRDAS BRAZAUSKAS

**EU LEGAL ACTS IMPLEMENTED BY THE PATENT LAW**

1. Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products.
2. Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products.
3. Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions.
4. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.
5. Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems (OJ 2006 L 157, p. 1).