

**DRAFT**

## **PATENT LAW OF GEORGIA**

### **CHAPTER I. GENERAL PROVISIONS**

#### **ARTICLE 1**

This Law regulates property and personal non-property relations formed in connection with the creation, legal protection and usage of the industrial property objects - inventions, utility models and industrial designs.

#### **ARTICLE 2**

1. "Sakpatenti" - National Intellectual Property Center of Georgia.
2. International Bureau - International Bureau of World Intellectual Property Organization.
3. Paris Convention - the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended at Stockholm on July 14, 1967 and on September 28, 1979.
4. Patent Cooperation Treaty (PCT) - multilateral international treaty, signed on June 19, 1970 revised on September 28, 1979, amended on February 3, 1984.
5. Object of industrial property - objects referred to in the Article 1 (2) of the Paris Convention.
6. Patent - protective document granted in respect to this Law.
7. Register - Industrial Property State Register, collection of data, which includes contents of all registrations regarding inventions, utility models and industrial designs and all those amendments concerning the legal status of the patent and its owner.
8. Application - collection of documents necessary for granting of a patent, made in respect to the approved requirements.
9. International application - application compiled and filed under the PCT.
10. Filing date of an application - the day of filing with Sakpatenti or with the International Bureau.
11. Convention priority - priority established in regard to the Article 4 of the Paris convention, i.e. priority enjoyed by an applicant in other Convention Countries at filing an application in order to obtain the patent, and which is determined on the basis of the filing date of the first application.
12. Applicant - a natural person or a legal entity claiming for a patent.
13. Patent owner - a natural person or a legal entity registered in the State Register, which enjoys the patent rights.
14. Patent Attorney - in the sphere of industrial property an authorized person acting in the name of another person.
15. License - a right granted by the patent owner to the use of the invention, utility model and industrial design, drawn up by the agreement.

### **ARTICLE 3**

For an invention, utility model and industrial design is granted a patent, which confirms the authorship and grants the patent owner the exclusive right to the invention, utility model, or industrial design.

### **ARTICLE 4**

1. In the name of the foreign patent owner can be granted an importation (confirmation) patent.

2. The importation patent is granted for the invention patented abroad, examination on which was conducted pursuant to all the criteria of patentability.

3. The importation patent gives the patent owner the exclusive right to use, or produce or sell production, but it does not give him the right to prohibit the third party to import the similar product from abroad.

### **ARTICLE 5**

1. Patent validity term on the invention is 20 years as from the day application is filed with Sakpatenti.

2. The validity term of the importation patent is determined by the validity term of foreign basic patent, but no longer than 10 years as from the date of filing with Sakpatenti.

3. The patent validity term on utility model is 8 years as from the day application is filed with Sakpatenti.

4. The patent validity term on industrial design is 10 years as from the day application is filed with Sakpatenti. This term can be extended by 5 years.

### **ARTICLE 6**

1. The legal protection scope of the invention is defined by claims of the invention.

2. The legal protection scope of the utility model is defined by claims of the utility model.

3. The legal protection scope of the industrial design is defined by the unity of characteristic essential properties of the design itself or by the characteristic essential properties represented in its reproduction.

### **ARTICLE 7**

1. A patent for an invention, utility model, which for the purposes of State defense is classified as undisclosed, is granted only after their disclosure on the basis of a decision taken by the competent body.

2. A patent may be undisclosed for 2 years term, which can be extended by every following 2 years without multiple limitation during the period the patent is in effect.

3. The rules of legal protection and use of undisclosed invention, utility model are defined by special normative acts.

## **CHAPTER II. NATIONAL INTELLECTUAL PROPERTY CENTER - “SAKPATENTI’**

### **ARTICLE 8**

National Intellectual Property Center - “Sakpatenti” is a legal entity of public law, which provides for the legal enforcement of the rights of natural persons and legal entities in the sphere of intellectual property protection.

### **ARTICLE 9**

The Chamber of Appeals functions at Sakpatenti, which considers the litigations as regards to the acquiring of the rights for the intellectual property objects.

### **ARTICLE 10**

The functions and powers of National Intellectual Property Center are determined by its regulation approved by the President of Georgia.

### **ARTICLE 11**

Sakpatenti is headed by the Director General appointed by the President of Georgia.

### **ARTICLE 12**

Sakpatenti covers its costs with procedural fees and other incomes connected with its activities.

## **CHAPTER III. PATENTABILITY**

### **ARTICLE 13**

1. By a patent can be protected such invention, which is patentable, i.e. satisfies the criteria of novelty, inventive step and industrial applicability.

2. The invention is novel, if it does not relate to the existing state of the art.

3. The invention involves the inventive step, if it is not obvious from the existing state of the art for the person skilled in the art.

4. Industrial application of the invention implies the capability of its production, or making use of it in the sphere of industry, agriculture, health, etc.

5. The existing state of the art is defined by all those data, that have become commonly known on the basis of written or oral descriptions, public maintenance or other sources before the date of filing the application for a patent, or if the Convention priority is claimed - before the date of this priority.

6. At determination of invention novelty in the state of the art along with the other information sources must also be included: applications for inventions and utility models filed with Sakpatenti provided that they have the earlier priority. The novelty is defined only on basis of considering one information source.

7. At determination of an inventive level in state of the art, the applications for inventions and utility models pending with Sakpatenti shall not be included.

8. The substances and mixtures known from the existing state of the art may be recognized as patentable if they are used by assignment unknown for the state of the art.

#### **ARTICLE 14**

1. A patent is granted for a utility model, which relates to improvement of devices, substances and methods and which is susceptible of novelty and industrial application.

2. The utility model is regarded novel, if unity of its essential features is not known from the existing state of the art.

3. The industrial applicability of the utility model implies the capability of its production, or making use of it in the sphere of industry, agriculture, public health, etc.

4. State of the art is determined by all those data that have become widely known by written, or verbal description, also by applying it in Georgia and which refer to devices, substances or methods having similar application.

5. At determination of novelty of the utility model in the state of the art shall be included apart from the other information sources all the applications for utility models filed earlier with Sakpatenti provided that they have earlier priority.

#### **ARTICLE 15**

1. By a patent can be protected an industrial design which represents a new artistic-constructive exterior of the article and complies the criteria of novelty and industrial applicability.

2. The industrial design is novel, if the unity of its essential features, which define aesthetic peculiarities of the article, is not commonly known before the industrial design priority date in written or verbal description, public usage or in any other way.

3. At determination of industrial design novelty all the applications for the industrial designs filed with Sakpatenti and having earlier priority, shall be taken into account.

5. The industrial design is industrially applicable, if its multiple production is possible.

#### **ARTICLE 16**

Disclosure of the information by the author of the invention, utility model or industrial design (or by the other person, who for the filing date of the application has the right to receive the patent, or by the third party for whom this information became

available directly or indirectly from the author), which in other case would effect the patentability of the object presented in the application, shall not have influence on:

- patentability of the invention, if the information was revealed during 12 months before the date of filing of the application, or if the Convention priority is claimed, before this priority date;

- patentability of the utility model or industrial design, if the information is revealed during 6 months before the filing date of the application, or if the Convention priority is claimed, before this priority date.

### **ARTICLE 17**

The following shall not be regarded as an invention, or utility model:

- a) a discovery, scientific theory, or mathematical method;
- b) a result of artistic design;
- c) algorithms and programs for computers;
- d) education, teaching method and system, grammatical system of language, also methods for performing mental acts, rules for games or doing business.
- e) economical organization and managing method;
- f) plan and scheme of structures, buildings, territories;
- g) a presentation of the information,  
if the mentioned is presented in the application directly.

### **ARTICLE 18**

A patent is not granted:

- a) for the invention, utility model, or industrial design the publication or exploitation of which may cause or encourage inhuman, immoral and/or anti-social actions;

- b) for the invention, or utility model relating to the surgical, therapeutical and diagnostic methods of treatment of people and animals; this rule does not extend on devices, substances, or substance admixtures, which are applied in the mentioned methods;

- c) for the invention relating to the varieties of plants and breeds of animals, as well as for particularly biological methods for raising varieties of plants and breeds of animals. This rule does not extend (apply) on micro-biological methods and products obtained through these methods.

- d) for the utility model relating to the varieties of plants and breeds of animals, as well as for particularly biological methods for raising varieties of plants and breeds of animals. This rule does not extend (apply) on micro-biological methods and products obtained through these methods;

- e) for the industrial design relating to:

- exterior of buildings and other real estate except small architectural forms;
- for articles the exterior of which is conditioned only by technical or functional appointment of their essential features;
- for printed production.

## **CHAPTER IV. INVENTOR AND PATENT OWNER**

### **ARTICLE 19**

1. As an author of an invention, utility model or industrial design shall be considered a natural person, in result of creative work of which was made an invention, utility model or an industrial design.

2. Authorship is a permanently protected unalienable right.

3. At demand of the author Sakpatenti is obliged not to publish his name.

4. If an invention, utility model, or industrial design was created in result of joint activities of several persons, then each of them shall be regarded as co-authors;

4. Relations among co-authors are determined on the basis of their agreement.

### **ARTICLE 20**

1. The right to obtain a patent is entitled only to an author or his successor;

2. The right to obtain a patent for an invention, utility model or industrial design made in result of creative work of several persons is entitled to each of them.

### **ARTICLE 21**

1. For an invention, utility model or a design made by an employee, which is connected with official duties or conducting a special task and implies an inventive activity, the right to obtain patent is entitled to the employer, unless agreed upon otherwise.

2. If creation of an invention, utility model, or industrial design is not related to conduction of the official duties or special tasks of an employer, then the employee is entitled to obtain a patent. In this case, the employer has the exclusive right to a license and to the purchase of a patent from the date of filing the application.

3. If an invention, utility model or industrial design are created under State order, or in the process of fulfillment of the work stipulated by the agreement put among the organizations, then the right to a patent is determined under the conditions referred to in the order or an agreement.

### **ARTICLE 22**

1. An employer is obliged to notify the employer of the invention, utility model or industrial design created by him in a written statement.

2. If an employer, who has been notified about the invention, utility model or industrial design created at the fulfillment of official duties or a special task, within three months period from the date of notification receipt does not file an application for a patent, then the employee is entitled to acquire a patent by himself.

### **ARTICLE 23**

1. If two or more applications for one and the same invention, utility model or industrial design are filed with Sakpatenti at different times, a patent shall be granted to the first applicant.

2. In the case, if the applications referred to in the first part of this Article are filed at one and the same time, a patent is granted to a party indicated in the agreement of applicants. If the parties failed to reach the agreement the question of granting patent is decided by the Court.

## **CHAPTER V. FILING OF APPLICATION**

### **ARTICLE 24**

1. An application is filed with Sakpatenti by an inventor, employer or their successor in title.

2. If an invention, utility model, or industrial design is the result of joint creative work of two or more parties, they file the patent application together on basis of mutual agreement even in the case, when the creative share of them in the invention is different.

3. If any author refuses to file an application, the right to file the application is entitled to the others.

4. The application may be filed by a patent attorney.

5. The application is filed with Sakpatenti by submitting application documents personally or by mail.

### **ARTICLE 25**

1. An application for granting of a patent on an invention, or utility model shall include:

a) a request in prescribed form, in which shall be indicated the author of the invention, or utility model and the person in whose name a patent is claimed.

b) a description of the invention, utility model;

d) drawings, if they are necessary to explain the invention, utility model;

e) the abstract, which is not used to define the state of the art and is only informative;

f) other documents, if they are necessary to explain the invention, utility model.

2. The application for an industrial design for the purposes of granting a patent shall include:

a) the request, in which the author of an industrial design and the person in whose name a patent is claimed shall be indicated;

b) the reproduction of an industrial design;

c) the description of an industrial design, drawings and other documents, if they are necessary for the description of an industrial design.

3. If Sakpatenti reveals that at receiving of the application the requirements of paragraphs 1 and 2 of the Article are not fulfilled, Sakpatenti asks the applicant to fulfill the requirements.

4. If the applicant fulfills the requirements of the paragraph 3 of this Article, the filing date of the application will be the date of fulfillment of all the said requirements. If

the applicant fails to fulfill the conditions of these requirements, the application shall not be considered filed.

5. If in the description of the invention or utility model the drawings are referred to, which are not presented in the application, Sakpatenti requires from the applicant to submit them. If the applicant satisfies the requirements, then the date of filing of the application will be the day of receiving the omitted drawings. If the applicant fails to fulfill the requirement, the date of filing of the application will be the receiving day of the application and any reference to the drawings will be considered withdrawn.

6. In regard with the applicants wish the reproduction, description and drawings of the industrial design can be changed with the article of the design.

#### **ARTICLE 26**

1. Each application, within one month from the filing date, shall be attached by the document confirming the payment of the established fee of the formal requirements examination.

2. If the application is filed by a patent attorney, then the application documents within one month from the date of application filing shall be attached by the power of attorney issued by an applicant in his name.

3. If the application is filed by an assignee of the author, then the application documents within one month from the date of filing the application, shall be attached by a document confirming a power of attorney.

#### **ARTICLE 27**

1. An application for obtaining a patent shall be presented in the state language, other application documents - in any other languages.

2. An applicant in the case of filing an application documents in other languages, within two months from the date of their presentation to Sakpatenti, must provide the Georgian translation.

3. The description of the invention and utility model shall be filed in respect of the established rule and in full form as to enable the skilled person of the corresponding sphere to realize it.

4. Claims of an invention and utility model must be compiled by the established rule; must represent its essence and must be based on the description. The claims of the invention can consist of one or more claims. The claims of an utility model must consist of one claim.

5. The reproduction of an industrial design must include the complete and detailed representation of the exterior.

6. The description of the industrial design must include essential characteristic features.

#### **ARTICLE 28**

1. An application shall be considered filed with Sakpatenti from the day of presenting the following application documents:

a) for the invention and utility model - an application of a prescribed form, description, claims and drawings, if they are necessary for explaining the essence of the invention and utility model;

b) for the industrial design - an application of a prescribed form, a reproduction of an industrial design.

2. In the case of application filing by mail an application shall be considered filed from the day the application documents were handed to the post-office of Georgia.

#### **ARTICLE 29**

1. An application claiming a patent for an invention and utility model must concern to only one invention, or utility model, but may comprise a group of inventions united together under one inventive idea.

2. An application claiming a patent for an industrial design must relate to one industrial design, but may comprise one or several articles (options) a group (a set) of articles, if they are united by one artistic-constructive idea.

#### **ARTICLE 30**

1. An applicant has the right:

a) to divide the pending application into component parts by filing a divisional application;

b) to change the description, claims and drawings of the pending application;

c) to convert the application for an invention to an application for a utility model and vice versa.

2. The subject of divisional application considered in the points “a” and “b” and amendments must be covered by the application filed earlier. Under this condition the date of earlier application is retained.

3. Filing of the divisional application, introduction of amendments and alteration of an application is permitted before taking a decision on granting a patent.

#### **ARTICLE 31**

1. An applicant, who wants to enjoy the priority right of the earlier application filed with the member State of Paris Convention on Protection of Industrial Property, is obliged to present within twelve months from the indicated date an application for an invention and utility model, and for an industrial design - within six months.

2. If the applicant for some reason fails to file the application with Sakpatenti claiming the conventional priority within the indicated term, the term can be extended but no longer than for two months.

3. The applicant, who wants to enjoy the Convention priority right, must indicate about it at filing the application with Sakpatenti or within two months term from filing date, and must attach the copy of first application, confirmed by a Patent Office of a

corresponding country, or present it to Sakpatenti within no later than three months from the filing date.

4. The priority may be established:

a) by the date of presenting the additional documents, if the applicant has drawn them as an independent application and has presented to Sakpatenti during three months from the receipt of the notification saying that additional documents wouldn't be taken into consideration as they change the essence of the claimed object;

b) by the earlier application filing date with Sakpatenti by the same applicant, in which the essence of this invention, utility model, industrial design is disclosed, provided that the application, on the basis of which such priority is claimed, was filed within twelve months from the filing date of the earlier application for an invention, utility model, or industrial design within six months from the filing date of earlier application. Hereto, the earlier application is considered withdrawn;

d) on the basis of several applications filed earlier under the observance of the above mentioned conditions for each of them.

5. The priority shall not be stated by the filing date of the application, on the basis of which the earlier priority has already been claimed.

## **ARTICLE 32**

1. For the invention or utility model made in Georgia an applicant is obliged to file an application with Sakpatenti before presenting it to a Patent Office of a foreign country and inform of his intention to patent it abroad.

2. In the case, if Sakpatenti within six months does not notify an applicant about prohibition of patenting abroad, an applicant can file the application for the invention or utility model with a Patent Office of foreign country.

## **CHAPTER VI. PATENT EXAMINATION AND GRANTING OF PATENT**

### **ARTICLE 33**

1. Sakpatenti conducts patent examination on basis of which takes the decision about granting a patent.

2. At examination Sakpatenti may demand from the applicant to present additional documents or make amendments in the application, without which it is impossible to continue the examination of the pending application.

### **ARTICLE 34**

Sakpatenti confirms the filing date of the application in the case of presenting the document confirming the payment of the fee for the examination as to form.

### **ARTICLE 35**

1. The examination as to form takes place within two months from the confirmation of the application filing date.

2. The record-keeping on the application is terminated if it does not meet the requirements of formal examination.

### **ARTICLE 36**

1. If it is proved that the application for an invention meets the examination as to form, then Sakpatenti conducts the search to determine the state of the art for the invention described in the application, on basis of which conducts the examination on novelty and makes a documentary conclusion.

2. Sakpatenti provides for the search within six month in the case of payment of the established fee.

3. The application for the invention which the applicant has not paid the established fee, shall be regarded as application for the utility model.

### **ARTICLE 37**

1. Sakpatenti sends a documentary conclusion about state of the art. An applicant within two months from the receipt of the conclusion and present a new wording of invention claims, which must not exceed the essential scope of the patent description, or can send a written response.

2. If within two months from the receipt of a documentary conclusion an applicant has not presented amendments or well-grounded response, Sakpatenti takes a preliminary decision about granting the patent for an invention.

### **ARTICLE 38**

1. In the case of payment of the established fee under the rule and on the basis of a preliminary decision for granting a patent for an invention, Sakpatenti publishes the data in the Official Bulletin of the Industrial Property of Georgia and exhibits application documents.

2. Within three months from the date of data publication in the Official Bulletin the interested person in the case of payment of the fixed fee under the set rule can furnish the motivated protest on granting of the patent, which may reject the criteria of patentability.

3. Sakpatenti within this term sends the documents furnished by the third party to the applicant, who can within two months present Sakpatenti a written response or amend the claims.

4. If the applicant does not furnish to Sakpatenti within this term a well-grounded response, or demand on introduction of corrections in the application, Sakpatenti takes a respective decision on granting the patent.

### **ARTICLE 39**

On the basis of the decision of granting a patent for the invention Sakpatenti, in the case of payment of established fee by set rule, shall publish the data in the Official Bulletin.

#### **ARTICLE 40**

If it is proved, that the application for a utility model meets the examination as to form, then the examination as to the novelty is carried out within a month by considering the registered applications and patents granted by Sakpatenti. Whereas, the examination as to the novelty is conducted during one month.

#### **ARTICLE 41**

If it is proved, that an application of utility model satisfies the requirements of the examination as to the novelty, then Sakpatenti takes a decision on granting a patent for utility model.

#### **ARTICLE 42**

On the basis of a decision on granting a patent for utility model, Sakpatenti in the case of payment of established fee by set rule, publishes data and description in the Official Bulletin.

#### **ARTICLE 43**

If it is proved, that an application for an industrial design satisfies the examination as to form, then Sakpatenti takes a decision on granting the patent.

#### **ARTICLE 44**

On the basis of a decision on granting a patent for an industrial design Sakpatenti in the case of payment of the established fee by set rule, shall publish the data in the Official Bulletin.

#### **ARTICLE 45**

1. After publication of the data on granting of a patent Sakpatenti registers an invention, utility model or industrial design in State Register of Industrial Property and issues patent in case of payment of the fixed fee set by the rule.

2. Sakpatenti establishes the form of the patent and the data to be recorded in the State Register.

3. Any person has the right to familiarize himself with the State Register in respect to the established rule.

4. In order to maintain the patent valid annual fees defined by set rule are to be paid.

#### **ARTICLE 46**

1. Sakpatenti takes a negative decision on granting of a patent for the entire invention and utility model, or for its part, if the application:

a) relates to such subjects, which according to Article 17 are not regarded as an invention and utility model;

b) relates to an invention and utility model on which according to Article 18 the patent is not granted;

c) does not satisfy the criteria of patentability requirements as to the novelty;

d) includes claims which does not correspond to the description;

e) by its description and claims does not provide for conducting the search considered by Article 36;

f) includes claims of an invention presented by one independent claim, in which more than one invention is described and has not been divided by the request of Sakpatenti or by the initiative of the applicant;

g) refers to the application separated from the primary description of the invention, the essence of which is out of the scope of such description.

2. If the negative decision refers only to the part of the application, then the corresponding claim of the claims shall be withdrawn.

#### **ARTICLE 47**

Sakpatenti takes a negative decision on granting a patent for an industrial design, if the application concerns such a design for which according to Article 18 the patent is not granted.

#### **ARTICLE 48**

Record-keeping on the application is terminated, if the fees defined by set rule has not been paid.

#### **ARTICLE 49**

The applicant has a right to recall his application before its publication.

#### **ARTICLE 50**

1. The applicant has the right to extend procedure terms under established rule.

2. The applicant has a right in the case of violation of procedure terms by him, to demand the restoration of these terms from Sakpatenti in respect to the established rule.

#### **ARTICLE 51**

1. For examination as to form of the patent application, granting a patent and its maintenance and for other activities having the legal importance, the established fees must be paid. The quantity, term of payment and its return is defined by established rule.

2. The fees are revised periodically by Sakpatenti in respect to the corresponding international norms, inflation and their change is conducted as to the rules laid down by this Law.

## **CHAPTER VII. LIMITS FOR THE USE OF THE PATENT RIGHTS**

### **ARTICLE 52**

1. The patent owner has the exclusive right to the use of an invention, utility model, industrial design at his own disposal, to produce goods protected by patent, put the object into economic circulation, gain profit by its exploitation.

2. The patent owner deals with an invention, utility model, industrial design at his own disposal. He can sell or through other way assign the patent, issue license according to the established rule.

### **ARTICLE 53**

If the exclusive right of the patent owner covers the patent, the subject of which is a method for obtaining a new product, then until proving the contrary similar product made by another party will be deemed as obtained by this method.

### **ARTICLE 54**

If patent owners are several persons then:

- assignment of the patent or granting the license is allowed only at consent of all the patent owners

The patent owner has the right to use the subject protected by patent in his own enterprise without consent of other patent owners.

### **ARTICLE 55**

From the day of publishing of the application for granting of the patent the applicant is entitled conditionally to the rights, which would be granted to him by the patent.

### **ARTICLE 56**

Proceeded from the patent, under the infringement of the exclusive right shall not be considered:

a) putting of the product in the civil circulation by the patent owner or with his consent;

b) the use of an invention, utility model and industrial design under private rule for personal benefit, where such action is not taken for commercial purposes;

c) the use of an invention, utility model and industrial design on vehicle of any country, at their temporary or casual presence within the territory of Georgia, if the similar advantages are guaranteed by the corresponding country for Georgia as well. In this case, an invention, utility model and industrial design shall be applied only to marine, air and land transport facilities of similar type and not for production purposes;

d) the use of an invention, utility model and industrial design at natural calamity, catastrophe, epidemic and other emergency situations.

#### **ARTICLE 57**

If any person before the date of filing the application for an invention, utility model and industrial design or before the filing date of the first application, which is the basis to claim the priority established by the Paris Convention, used an invention, utility model and industrial design in good faith, or carried out preparatory works for its utilization, he has the right to use it individually irrespective of patent validity (the right of prior use).

#### **ARTICLE 58**

Non-payment of the annual fee by the patent owner causes the termination of the patent validity term.

#### **ARTICLE 59**

1. If the patent owner has not paid annual fee for some valid reasons, he has the right to apply to Sakpatenti for reinstatement of the patent validity.

2. The petition is drawn within six months from the date of expiration of the preferential period and the decision of reinstatement shall be recorded in patent register.

#### **ARTICLE 60**

In the case of taking a favorable decision on patent validity reinstatement, the patent shall be considered reinstated within three months from the date the mentioned decision is taken and annual fee and additional fees are paid.

#### **ARTICLE 61**

Any person, who from the date of patent validity termination until its reinstatement within the territory of Georgia has utilized in good faith or conducted preparations for exploitation of an invention, utility model and industrial design, which is the subject of patent, has the right to continue its usage for business. Assignment of the right is possible only together with the enterprise (right to the further exploitation).

#### **ARTICLE 62**

The patent shall be considered invalid in the case of submitting at Sakpatenti by the patent owner a written refusal application on patent.

### **ARTICLE 63**

1. A patent shall be considered invalid if the following is ascertained:

- a) the subject of patent is not patentable;
- b) the patent does not describe an invention, utility model and industrial design completely as to make its utilization possible;
- c) the subject of a patent relates to such objects on which under this Law patent is not granted;
- d) the subject of patent is beyond the scope of the contents, in respect of which the priority was established, or the patent is granted on the basis of a division application and its subject is beyond the scope of the contents of the earlier application;
- e) if the patent owner had no right to the patent in accordance with Articles 21 or 22 of the Law.

2. Non-use of the invention protected by the importation patent by a patent owner within the territory of Georgia during three years from the date of patent issuance causes the cancellation of the importation patent.

### **ARTICLE 64**

Complete or partial nullity of a patent has retroactive force from the date of filing an application for a patent.

## **CHAPTER VIII. LICENSE FOR THE USE OF AN INVENTION, UTILITY MODEL AND INDUSTRIAL DESIGN**

### **ARTICLE 65**

1. The patent owner (licenser) or his assignee has the right to grant a voluntary (contractual), or license to another party (licensee).
2. The voluntary license can be simple, exclusive.
3. The simple license retains all the rights proceeded from the patent to a licenser.
4. The granting of exclusive license deprives a licenser of the right to issue other licenses under similar conditions.

### **ARTICLE 66**

1. The patent owner or his successor in title has the right to announce an open licensing regime and request Sakpatenti to enter the corresponding record in the register, if for the patent on which open licensing is announced has not been issued the exclusive license.

2. Open license can be only simple.

3. In the case of open licensing regime announcement the amount of a patent fee is reduced two times.

4. The patent owner can apply to Sakpatenti for cancellation of an open licensing regime at any time. If the licensing agreement has not been concluded, or it is no longer valid, or each of the license holders give their consent, then Sakpatenti satisfies the mentioned request.

#### **ARTICLE 67**

1. The compulsory or official license can be granted for an invention, utility model and industrial design. The compulsory and official license is granted under the decision of the Compulsory Licensing Committee at the Ministry of Economy.

2. The compulsory license may be only simple. It is granted at the request of any party after four years from the date a patent was granted.

3. The compulsory license can be claimed if within the above mentioned term an invention, utility model has been used within the territory of Georgia, or whether they have been used insufficiently, also if their usage is impossible without infringing the earlier patent.

4. The compulsory license can be issued only in the case, if prior to this the interested party tried to obtain the permission from the patent owner or his assignee on basis of reasonable conditions and term, but his efforts have not been successful.

5. The official license is a kind of compulsory license and is granted only in case of demand from the State Bodies, if it proves the necessity of a patent use for the national defense, humane health protection, or the economic interests of the country. An official license is granted before expiration of the four years period stated in the second paragraph of this Article.

6. The granting of the official license at the request of a patent owner can be postponed, under the condition that the patent owner shall take the responsibility to satisfy government and public requirements by his own production.

7. The use of a patent on the basis of the official license can be conducted both by the State and the private person, which shall be named by the competent body demanding a license or court.

8. The decision on granting of the compulsory or official license sets spheres of its application, validity term, rights and duties of a licensor and licensee and the amount of remuneration.

#### **ARTICLE 68**

1. All types of licenses shall be legalized in a form of written agreement and be registered at Sakpatenti. The agreement shall be registered within no later than two months from the date of its conclusion.

2. The substantial changes in the license, if there is a wish of the parties, can be registered at Sakpatenti regarding the established rule not later than in a month after the amendments are made.

3. The data granted license and amendments are published in the Official Bulletin.

## **CHAPTER IX. ADVANTAGES AND PRIVILEGES OF INVENTORS**

### **ARTICLE 69**

1. The author of an invention, on any stage of the pending application is entitled to give the invention his name or a special title.

2. On the basis of the petition of the Society of Inventors and Rationalizers an applicant may be exempted from payment of the fees, with the exception of annual fees paid for patent maintenance.

### **ARTICLE 70**

Other advantages and privileges for authors of inventions are regulated by legislation of Georgia, which is in force.

## **CHAPTER X. PATENT ATTORNEY**

### **ARTICLE 71**

1. A person, who does not have a permanent residence in the territory of Georgia, or a foreign legal entity, or his representative conducts relations with Sakpatenti through a patent attorney registered at the Office.

2. The competence of the patent attorney is confirmed by power of attorney issued by the applicant.

### **ARTICLE 72**

The requirements to a patent attorney, conditions for his attestation and registration are determined by the Statute on Patent Attorneys.

### **ARTICLE 73**

Data of patent attorneys are recorded in the State Register of Patent Attorneys by Sakpatenti. Any person has the right to familiarize himself with the Register.

## **CHAPTER XI. PATENT LITIGATIONS AND SANCTIONS**

### **ARTICLE 74**

An applicant or an interested party, within the period of three months from the date of taking the decision by Sakpatenti has the right to oppose the patent examination decision at Sakpatenti Chamber of Appeals.

**ARTICLE 75**

1. The appeal about the infringement of the rights proceeded from a patent can be drawn by a patent owner.

2. The holder of the exclusive license has the right to appeal against the infringement of the rights proceeded from the patent, if a patent owner himself, during the reasonable time from receipt of the notification on infringement does not present an appeal to the Court.

**ARTICLE 76**

Production, utilization, or including it in civil circulation or other use of a patented invention, utility model and industrial design without the permission of a patent owner or exposure of its essence on purpose (with the exception of the author) prior to publication of the data of an invention, utility model, industrial design by Sakpatenti, disclosure of secret invention, utility model, or appropriation of an authorship shall result in responsibility in respect to the legislation in force.

**ARTICLE 77**

The party under the jurisdiction of Georgia, who without a permission files an application abroad, shall carry the responsibility in respect to civil or criminal law in force.

**CHAPTER XII. INTERNATIONAL APPLICATION****ARTICLE 78**

1. These rules shall apply to those applications, which are filed with Sakpatenti in accordance to the Patent Cooperation Treaty (PCT) signed at Washington on June 19, 1970.

2. Reference to the PCT in this Law complies with the Regulations, Procedure Regulations and Administrative Regulations under PCT.

3. Sakpatenti deals with the international application in respect with this Law and other legislative acts and regulations.

4. Where PCT Regulations are in breach with the present Law, as well as with other legislative acts and regulations, PCT Regulations shall prevail.

**ARTICLE 79**

1. The international application, on which for obtaining of a national patent for an invention, or utility model is indicated Georgia, is equal to the application filed with Sakpatenti and the international application shall be regarded as a national application.

2. The international application with the indication of Georgia and which has been published in respect with the Article 21 of PCT, has equal rights provided by the Article 38 of this Law.

#### **ARTICLE 80**

1. For the persons, who are not the citizens of Georgia, or have no domicile in Georgia, Sakpatenti acts as a “receiving office” for international applications.

2. With Sakpatenti as a “receiving office” the international application shall be filed in English or Russian language. Whereas, the postage fee for sending it to the authorized international organizations or offices shall be paid to Sakpatenti within a month from the filing date of the international application.

#### **ARTICLE 81**

1. Sakpatenti acts as “designated office” regarding those international applications in which Georgia is indicated for obtaining a national patent for an invention or utility model.

2. Sakpatenti acts as an “elected office” regarding those international applications in which Georgia is indicated for obtaining a national patent for an invention or utility model, if the inventor selects Georgia under the provisions of Chapter II of PCT.

### **CHAPTER XIII. TRANSITIONAL PROVISIONS**

#### **ARTICLE 82**

For the applications, which are pending for the moment of entering in force of this Law, record-keeping as well as granting a patent must be conducted in respect to the Statutes “On Inventions“ and “On Industrial Designs” approved by the decisions of Cabinet of Ministers of Georgia No 302 on March 16, 1992 and No 303 on March 15, 1992.

#### **ARTICLE 83**

Before this Law comes into force for the applications filed with Sakpatenti the amount of fees and rules for their payment for patent examination proceedings, for granting a patent for invention and utility model and during first two years for maintenance, and for granting a patent for an industrial design and during first five years for maintenance are laid down by the Regulations for “Fees on Patenting Inventions”, “Fees on Patenting Utility Models” and “Fees on Patenting Industrial Designs” approved by the decision of Government of Georgia No 664 June 23, 1992.

### **CHAPTER XIV. CONCLUSIVE PROVISIONS**

#### **ARTICLE 84**

1. This law shall enter into force from September 1, 1997.

2. When this Law comes in force the Statutes “On Inventions and Utility Models” approved by the decisions No 302 on March 16, 1992 and No 303 on March 15, 1997 of the Cabinet of Ministers of Georgia and Regulations for “Fees on Patenting Inventions”, “Fees on Patenting Utility Models” and “Fees on Patenting Industrial Designs” approved by the decision No 664 on June 23, 1992 of Government of Georgia.

3. The Commission for Compulsory Licensing shall be established at the Ministry for Economy.

#### **ARTICLE 85**

The patents granted before this Law comes in force by legal status equals to the patents granted under this Law.

Minsiter of Economy

L.Papava

Director General of Sakpatenti

D.Gabunia