

LAW NO. 08/L-055**ON INDUSTRIAL DESIGN**

The Assembly of the Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

LAW ON INDUSTRIAL DESIGN**CHAPTER I
GENERAL PROVISIONS****Article 1
Purpose**

1. This Law defines the conditions and procedures for the registration of industrial design, and the rights arising from the registration, measures, procedures and means for the implementation of the rights and Community Design.

2. This Law is in accordance with Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs, Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

**Article 2
Scope**

This Law shall apply to all industrial designs, subject to the procedure of registration at the respective Industrial Property Agency, including the community designs and international registrations of the design, which are valid in the Republic of Kosovo.

**Article 3
Definitions**

1. The terms used in this Law shall have the following meanings:

- 1.1. Ministry - Relevant Ministry for Industry, Entrepreneurship and Trade;
- 1.2. Minister - Minister of the relevant ministry for Industry, Entrepreneurship and Trade;
- 1.3. AIP – AIP is respective agency for industrial property established within the respective Ministry of Industry, Entrepreneurship and Trade;
- 1.4. License contract - the license contract according to the relevant law on relations of obligations;
- 1.5. Design - the outer appearance of the whole or of a part of product resulting from features of, shape, form, colour, lines, contours, texture or materials of the product itself or its ornamentations;
- 1.6. Product - any industrial or handicraft item, including the parts intended to be assembled into a complex product, packaging, graphic symbols and typographic typefaces, but excluding the computer programs;
- 1.7. Complex product - a product which is composed of multiple components which can be replaced

permitting disassembly and reassembly of the product;

1.8. Paris Convention - Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Brussels on 14 December 1900, at Washington on June 2 1911, at Hague on 6 November 1925, at London on 2 June 1934, at Lisbon on 31 October 1958, and at Stockholm on 14 July 1967, and as amended on 28 September 1979;

1.9. Locarno Agreement - Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on 8 October 1968 as amended on 28 September 1979 in Locarno, known as the Locarno Classification;

1.10. Locarno Classification - the international classification for industrial designs, established through the Locarno Agreement.

Article 4 **Agency for Industrial Property**

AIP is the respective agency for industrial property, established within the respective Ministry for Industry, Entrepreneurship and Trade, which shall be responsible for the registration procedure and protection of industrial design under this Law.

CHAPTER II **REQUIREMENTS FOR PROTECTION OF INDUSTRIAL DESIGN**

Article 5 **Protection of industrial design**

1. The right of industrial design shall be protected to the extent that the design is considered new and has an individual character.

2. A design which is applied or incorporated in a product which constitutes a component part of complex product shall only be considered to be new and to have individual character:

2.1. if the component part, once it has been incorporated into the complex product, remains visible during normal use of product;

2.2. when to the extent of visible features of the characteristics component part, fulfils in themselves the requirements as to novelty and individual character.

3. According to paragraph 2. sub-paragraph 2.1. of this Article "Common Use" shall mean use by the final user, excluding maintenance, servicing or repair of the product.

Article 6 **Design novelty**

1. A design shall be considered new if no identical design has been made available to the public before the date of filing of the application for registration or, if priority right is claimed, prior recognition of priority right.

2. Designs shall be considered to be identical if their features, differ only in non-substantial details.

Article 7 **Individual character of the design**

1. It is considered that the design has individual character if the common impression created to the informed consumer differs from the impression that was left to the consumer by any other design, that has been available to the public before the date of the submission of application for the design, or if the right of priority was

required before the date of recognition of the priority right.

2. In assessing individual character of the design, the degree of the freedom of designer in developing the design shall be taken into consideration.

Article 8

Design disclosure

1. For the purpose of applying Articles 6 and 7 of this Law, a design shall be deemed to have been made available to the public if it has been published following registration or exhibited, used in trade or otherwise disclosed, except where these events could not reasonably have become known in the normal course of business to the circles specialized in the sector concerned, operating within the territory of the Republic of Kosovo, before the date of filing of the application for registration or, if priority right is claimed, prior to recognition of priority right.

2. The design shall not, however, be considered to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

3. A disclosure of the design shall not be taken into consideration according to paragraphs 1. and 2. of this Article if a design, for which protection is claimed according to this Law, has been made available to public and if:

3.1. by the designer, his/her successor in title, or a third person as a result of information provided or action taken by the designer, or his/her successor in title; and

3.2. during the twelve (12) month period preceding the date of filing of the application for industrial design or, if priority right is claimed, from the date of priority.

4. The provisions of paragraph 3. of this Article shall also apply in cases when the design has been available to the public as a consequence of abuse in relation to the designer or his/her successor in title.

Article 9

Design conditioned by technical function and interconnected design

1. The right of the design shall not exist on the following product features:

1.1. which are especially dictated by their technical functions;

1.2. which must necessarily be reproduced in their exact form and dimension, in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to another product or placed in, around or against another product so that either product may perform its function.

2. Notwithstanding the provisions of paragraph 1. sub-paragraph 1.2. of this Article, pursuant to the conditions set out in Articles 6 and 7 of this Law, the design right shall exist in the designing dedication which serves the purpose of allowing multiple assembly or connection of mutually interchangeable products within a modular system.

Article 10

Design contrary to public interest and moral principles

The design which is contrary to public interest and moral principles shall not be protected.

CHAPTER III THE RIGHT ON INDUSTRIAL DESIGN

Article 11 Designer

1. A designer is the natural person who created the industrial design.
2. A person who has only provided technical assistance in the creation of the design shall not be considered a designer.

Article 12 Right to the industrial design and the right of the assumed owner

1. The right of industrial design belongs to the designer or his/her successor in title.
2. If the designer is not the applicant, the applicant shall be deemed to have the right to initiate acquiring procedure of the industrial design in accordance with this Law, until proven the contrary.
3. If the design was created on the basis of a commission contract, the right to the design shall vest in the commissioner of the design, unless otherwise specified by the contract.
4. If the design was created by the designer while execution of his/her duties as employee or following instructions given by his/her employer, the employer has the right on the industrial design, unless otherwise specified by the contract.
5. Person on whose name the industrial design is registered or the person on whose name the application is submitted before registration is considered to be the person who is entitled for all the proceedings developed at the IPA in regard to the design and also in all other procedures related.

Article 13 Joint creation of an industrial design

1. If the design was created by the joint efforts of several designers, the right to that industrial design shall vest in them, their successors in title, and they shall all be deemed entitled to the industrial design in accordance with this Law.
2. The share of the designer in a jointly created design shall be determined in proportion to each of the designers' actual contribution in creating the design, unless otherwise specified by contract.
3. If the contribution of the designers is not specified in the contract and cannot be determined in proportion to each of the designers' actual contribution in creating the design, they shall be deemed equal.

Article 14 Moral rights of the designer

1. The designer has the moral right to be mentioned as a designer in all documents during the public exhibition of his/her design, regardless of whether he/she is the submitter of the application or the holder of the registered industrial design right.
2. The moral right of the designer can not be transferred.
3. If several designers participated in the creation of the design, the right under paragraph 1. of this Article belongs to all designers notwithstanding contribution in the design creation.

Article 15
Rights for industrial design

Legal and natural persons, local or foreigners, shall have equal rights for acquiring and protection of the design pursuant to this Law.

CHAPTER IV
EFFECTS OF A REGISTERED INDUSTRIAL DESIGN

Article 16
Acquisition of an industrial design

1. The industrial design shall be acquired by decision of the registration and the registering of the design in the register.
2. The date of entry in the register shall be the same as the date of the decision on granting the registration of an industrial design.

Article 17
The exclusive rights granted by the industrial design

1. The owner of the industrial design shall have the exclusive right to use the registered design and prevent third parties from using the design without his/her permission.
2. The use, pursuant to paragraph 1. of this Article, shall include especially the processing, offer, placement on the market, import, export or the use of the product in composition of which the design is applied or the storage of the product for these purposes is included.
3. If the publication of a registered industrial design is deferred in accordance of Article 45 of this Law, for the duration of the deferment, the owner of the industrial design shall have the right to prevent third parties from taking the actions referred to in paragraph 2. of this Article, only if such use results from copying of the registered design.

Article 18
Limitation of exclusive rights deriving from the right of design

1. The exclusive right shall not be exercised in respect of:
 - 1.1. actions taken for private and non-commercial purposes;
 - 1.2. actions taken for experimental purposes;
 - 1.3. acts of reproduction for the purposes of making citations or of teaching, provided that such acts are compatible with fair trade practice and do not unduly prejudice the normal exploitation of the design, and that mention is made of the source;
2. Except the acts mentioned in paragraph 1. of this Article, the exclusive rights conferred by an industrial design upon registration shall not be exercised in respect of:
 - 2.1. the equipment on aircraft registered in another country when these temporarily enter the territory of the Republic of Kosovo;
 - 2.2. the import in the Republic of Kosovo of spare and additional parts for the purpose of repairing such equipment;
 - 2.3. the execution of repairs on such equipment.

Article 19

The right of prior use of design

1. A right of prior use shall exist for any third person who can establish that before the date of filing of the application, or, if a priority is claimed, before the date of priority, he/she has in good faith commenced use within the territory of the Republic of Kosovo, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered design, which has not been copied from the latter.
2. The right of prior use, shall entitle the third person to use the design for the purposes for which its use is intended, or for which preparations are made before the date of submission of application for industrial design or before the date of priority received, if the priority has been claimed.
3. The right of prior use, cannot give a right to third parties for the use of the design.
4. The right of prior use cannot be transferred except, where the third person is a business and design is transferred along the part of the business in the course of which acts are undertaken and the preparations are made.

Article 20

Exhaustion of the right

Upon entry into the market by the owner of the industrial design in the Republic of Kosovo, of the product which includes industrial design, he shall exhaust exclusive rights in relation to that product on the territory of the Republic of Kosovo.

CHAPTER V

INDUSTRIAL DESIGN AS THE OBJECT OF PROPERTY

Article 21

Transfer of right

1. The holder of Industrial Design right may transfer his/her rights related to industrial design to other persons. The transfer may be complete or partial.
2. The transfer shall be recorded in the register and published in the bulletin of AIP at the request of any of the parties under the previous agreement between them. The registration of transfer of rights must be evidenced by a contract for the transfer of rights or a certified statement to the competent authority on the transfer of rights and signed by both parties.
3. The transfer shall only have effect to third parties after entry in the register.
4. The request for registration of the transfer of rights, fees, and data as part of the request, should be regulated by a sub-legal act, issued by the Minister.

Article 22

Licence contract

1. The owner of industrial design may issue exclusive and non-exclusive license for using the right of the industrial design fully or partially, for the whole territory of the Republic of Kosovo or a part of it.
2. The right for usage of the industrial design is acquired based on the licensing contract and has effect on third parties after the registration of the license in the Register.
3. The licensing contract shall be in written form and signed by the contracting parties.
4. The owner of industrial design can realize the design rights to the licensee who violates any provision of the

license contract, particularly in relation to the duration of the license, the form in which design can be used, the quantity of products for which was issued, the quality of products manufactured by licensee and territory of design use.

5. The licensee may initiate court proceeding regarding to the infringement of the rights derived from industrial design, only if the owner of the industrial design agrees with this.

6. The licensee may issue sub-license only if it is defined by the contract.

7. The license shall be registered after the request for that is made by the owner of the design or of the person who acquired the license, provided that AIP will be provided with the copy of contract for the license.

8. The registration of the license contract is published in the AIP bulletin.

9. The form and content of the request for the registration of the license contract shall be defined by sub-legal act issued by the Minister.

Article 23

The right of pledge in industrial design

1. An industrial design may be subject of pledge.

2. Upon request of the pledgee or pledgor, the pledge shall be recorded in the register and published in the bulletin of the AIP.

3. The court which applies pledge as ex officio shall inform the AIP on implementation of the pledge towards design with the purpose of entry in the register and publication in the bulletin of the AIP.

4. The pledge shall affect the third parties only after entry in the registry. Registration of pledge shall be published in the bulletin of AIP

5. The form and the content of the request for the registration of the pledge shall be defined by sub-legal act issued by the Minister.

Article 24

The execution procedure

1. An industrial design may be subject of execution procedure.

2. The competent authority which decides on execution must immediately notify the API regarding the design execution for the purpose of registration in the register and publication in the bulletin of the AIP.

Article 25

Bankruptcy procedures

When the industrial design is involved in bankruptcy proceedings, the competent body should immediately notify the AIP regarding proceedings on insolvency and with the purpose of entering these data in the register and publishing them in the bulletin of the AIP.

Article 26

Application for the registration of the industrial design as an object of proprietary

Provisions of Articles 21, 22, 23, 24 and 25 of this law shall be implemented in accordance with the applications of registration of the industrial designs.

CHAPTER VI

APPLICATION FOR REGISTRATION OF AN INDUSTRIAL DESIGN

Article 27

Initiation of the industrial design registration procedure

The procedure for registration of an industrial design shall be initiated by filing the application at the AIP.

Article 28

Content of the application

1. Application for the industrial design shall contain:

- 1.1. a request for registration of the industrial design;
- 1.2. information identifying the applicant;
- 1.3. a representation of the design suitable for reproduction. However, if the object of the application is a two-dimensional design and the application contains a request for deferment of publication in accordance with Article 45 of this law, the design may be represented at the AIP by a specimen.

2. The application of industrial design shall further contain:

- 2.1. naming of products in which the design will be incorporated or in which is intended to be applied;
- 2.2. information identifying the duly authorized representative if the applicant has appointed one;
- 2.3. information on the joint representative, if there is one.

3. The application for industrial design may also contain:

- 3.1. description explaining the representation or the sample of the design;
- 3.2. request for deferment of publication of the registered design in accordance with Article 45 of this Law;
- 3.3. classification of the product, according to the class in which the design is incorporated or in which is intended to be applied, in accordance with the Locarno Agreement, based on the Locarno Classification;
- 3.4. information for the designer(s), or the statement that the designer(s) has waived the right to be cited;
- 3.5. information and evidence of the priority referred to in Articles 33 and 34 of this Law.

4. The form and content of the application for industrial design and all the other constitutive parts of the application shall be defined by sub-legal act issued by the Minister.

5. Data contained in the elements mentioned in paragraph 2. and paragraph 3., sub-paragraph 3.1. and 3.3. of this Article shall have no impact on the capacity of industrial design protection.

6. The application shall be subject to the payment of registration and publication fee, whereas if deferment has been required according to paragraph 3. sub-paragraph 3.2. of this Article, the publication fee should be replaced with the fee for the deferment.

7. The evidence for payment of the appropriate fee must be attached to the application.

Article 29

Multiple application for industrial designs

1. If the application contains several designs, except in cases of ornamentation, all products that will be incorporated into the design or those intended to be applied must be at the same class of the Locarno Classification.
2. In the multiple applications, the number of the designs being requested for protection shall be noted.
3. Each design that is included in the registration application or multiple registration, can be considered separately from the others for the purpose of implementing the provisions of this Law. The design specifically, as independent from the others may be applied, licensed, be subject to the pledge, of execution or bankruptcy proceedings, subject to waiver, extension or transfer of defence, be subject to deferment of publication or announcement as void.
4. The multiple applications shall be subject to additional payment fee for registration and publication.

Article 30

Division of the multiple application

1. The applicant may divide the multiple applications into two or more applications that each refers to one or more product designs.
2. Each application separated from a multiple application shall retain the priority right of the multiple application.
3. The conditions for division of the multiple applications shall be defined by sub-legal act issued by the Minister.
4. The division of application referred to in paragraph 1. of this Article shall be subject to payment of the application and publication fee for the division.

Article 31

Application date

The application date for the industrial design shall be the date when the applicant has submitted at the AIP the documents containing the information as defined by Article 28 paragraph 1. and 2. of this Law.

Article 32

The priority right

1. If the application for registration of the industrial design has been submitted according to Articles 28 and 29 of this Law, the applicant from the date of submitting application shall have the right of priority towards any other applicant, who may submit later the application for registration of the same industrial design or identical.
2. The application filed under an International Agreement to which the Republic of Kosovo is a party, shall also give rise to the priority of such an application according to the provisions of the relevant international agreement.
3. The right of priority invoked according to Articles 33 and 34 of this Law shall have the effect that the date of priority shall be deemed as the date of filing of the industrial design application for the purposes of establishing which rights take precedence in accordance with paragraph 1. of this Article.

Article 33

Priority right according to Paris Convention

1. If the applicant for industrial design has filed an application for the first time in any Member State to the Paris

Convention or the Agreement Establishing the World Trade Organization, he/she or his/her legal successor, with the aim of submitting the application for industrial design under this Law for the same industrial design, can be invoked on the first application, under condition that according to this Law, to submit the application at the AIP within six (6) months from the date of the first application submission.

2. The applicant invoking the right of priority referred to in paragraph 1. of this Article, at the AIP he/she shall indicate basic information pertaining to the application invoked as state, application date and number of application, within the period of three (3) months from the date of application at the AIP, must submit a copy of the first application certified by the competent body of the Member State of the Paris Convention or the World Trade Organization and translation of the certified copy on the official languages of the Republic of Kosovo.

3. If the applicant does not fulfil the requirements stated in paragraph 1. and 2. of this Article, it shall be considered that the right of priority has not been claimed.

Article 34

Priority right from exhibition

1. If an applicant has exhibited products in which the industrial design is incorporated, or to which it is applied, at an officially recognized international exhibition in Kosovo or in the member state of the Paris Convention or the World Trade Organization, he/she may pretend priority right, if he/she files the application within a period of six (6) months from the date of the first exhibition of that product.

2. An applicant invoking the priority right based on the date of exhibition of a product shall, alongside the application filed to the AIP within three (3) months, file a certificate issued by the competent authority of the member state of the Paris Convention or the World Trade Organization, containing information concerning the type of the exhibition, venue, dates of opening and closing of the exhibition and the first day of exhibiting the product cited in the application, and evidence that the product design is identical to the one cited in the application.

3. If the applicant does not meet the requirements set out in paragraph 1. and 2. of this Article, priority shall be deemed not to have been claimed.

Article 35

Certificate of priority

At the request of the industrial design applicant or the industrial design owner and upon payment of the required fee, the AIP shall issue a certificate of priority right.

CHAPTER VII

REGISTRATION OF THE DESIGN

Article 36

Register

1. The AIP shall maintain a register in which applications for the registration of the industrial designs comply with formal requirements from Article 28 of this Law and which have been accorded a filing date pursuant to Article 31 of this Law will be entered, as well as industrial designs for which registration was not refused pursuant to Article 42 of this Law.

2. The content of the register shall be regulated by sub-legal act issued by the Minister.

3. The register shall be public.

4. If the application contains the request for deferment of publication of the registration in accordance with Article 45 of this Law, the information on this application registration shall not be public before the publication of the registration pursuant to the Article 44 of this Law.

5. At the request of the interested party and after the payment of the relevant fee, the AIP shall issue an extract from the register.

Article 37 **AIP bulletin**

The AIP shall publish the bulletin with the information defined by this law and sub-legal acts.

Article 38 **Fees**

1. For all the procedures regulated by this Law, the respective fees shall be paid.
2. The fee shall be determined at the level necessary to cover the costs for reviewing the application and administering the procedure.
3. Amount of fees shall be defined by sub-legal act issued by the Minister.
4. If the fees have not been paid, the application or the request shall be rejected, while in the case of non-payment of the fees for extending the protection of the industrial design, the industrial design shall lapse, losses the rights.

Article 39 **Search on novelty of the design**

At the request of an interested party and after the payment of the required fee, the AIP shall provide the services comprising novelty search of the registered industrial designs, having effect in the Republic of Kosovo.

Article 40 **Determination of the application date for industrial design**

1. Upon receiving the industrial design application, the AIP shall examine whether the application meets the requirements referred to in Article 28 of this Law.
2. If the application does not meet the requirements on application date acceptance, the AIP shall invite the applicant that within sixty (60) days from the date of receipt of the invitation to correct the identified deficiencies.
3. If the deficiencies are corrected within the set time limit, in accordance with the invitation referred to in paragraph 2. of this Article, the AIP shall accord, as the filing date, the date on which the deficiencies were corrected.
4. After defining the application date, the AIP shall invite the applicant, who has not submitted evidence of having paid the prescribed fee, to, within thirty (30) days from the day of receipt of the invitation, provide the AIP with evidence on payment.
5. If the applicant, within the determined timeline, fails to comply with the invitation of the AIP, the application shall be rejected with a decision.
6. The application, the date of application of which has been accepted, may not be changed by extending the scope of protection of the design.
7. On the request of the applicant or the registered design order, amendments shall be permitted on the name or the address of the applicant, design owner or correction of any other technical error, provided that the object of protection is not extended, and after the additional fee have been paid.
8. The content of the request for amendments in accordance to paragraph 7. of this Article shall be regulated by the sub-legal act issued by the Minister.

Article 41

Formal examination of the application

1. By a formal examination of an industrial design application, the AIP shall establish whether the application complies with the requirements set out in Article 28 paragraph 1. and 2. of this Law, respectively requirements set out in Article 29 of this Law for the multiple application.
2. If the industrial design application does not comply with the requirements set out in paragraph 1. of this Article, the AIP shall invite the applicant to complete the application within sixty (60) days.
3. Upon request of the applicant, the timeline referred to in paragraph 2. of this Article may be extended for a maximum of sixty (60) days under the condition of payment of additional fee.
4. If the applicant fails to comply with the invitation, the application shall be rejected upon a decision.

Article 42

Rejection of the registration of an industrial design

1. The AIP shall issue a decision to reject the registration of the industrial design, if:
 - 1.1. the design does not meet the requirements in accordance to Article 3 paragraph 1. sub-paragraph 1.5. of this Law;
 - 1.2. the design does not meet the requirements set out in Article 10 of this Law; or
 - 1.3. the design constitutes an unauthorized use of any of the items of the products as foreseen in Article 6 of the Paris Convention, or of badges, emblems and different escutcheons as foreseen in Article 6 of the Paris Convention and which will be determined by a sub-legal act issued by the Minister.
2. The AIP may partly reject the registration of an industrial design according to paragraph 1. sub-paragraphs 1.2. and 1.3. of this Article if the design meets the requirements for registration retaining the form and the identity of the design.
3. The decision refusing the registration of the design may not be issued if the applicant has not been previously informed in writing about the causes of refusal and has not been invited to withdraw the application or declare his/her remarks on rejection of registration.
4. The applicant has the right to submit his/her remarks in writing regarding the reasons of registration rejection within sixty (60) days from the day of receiving written notification referred to in paragraph 3. of this Article, and submit the evidence of possible new facts that could affect the final decision of the AIP.
5. Upon request of the applicant, the timeline referred to in paragraph 4. of this Article may be extended for a maximum of sixty (60) days, upon the payment of the relevant fee.

Article 43

Registration

If the application meets the requirements for registration of the design according to Article 41 of this Law, and the application is not rejected or partially rejected according to Article 42 of this Law, the AIP shall register the design, provided that the fee for registration of industrial design has been paid.

Article 44

Publication of the industrial design

1. The registered design shall be published in the AIP bulletin. The registered design shall produce legal effects against the third parties from the date of publication in the official Bulletin of the AIP.

2. The information of publication shall be defined by sub-legal act issued by the Minister.

Article 45

Deferment of publication

1. The applicant may request, while filing the application, that the publication of the registered industrial design be deferred for a period up to twelve (12) months from the date of filing the application or, if a priority is claimed, from the date of receipt.

2. Upon such request, and when the conditions set out in paragraph 1. of this Article have been met, the industrial design shall be registered, neither the design presentation nor any data relating to the application shall be open to public.

3. The AIP shall publish in its bulletin the request on the deferment of the publication of the registered industrial design, which shall be accompanied by information on the registered design owner, the date of filing the application and other information defined by sub-legal act, issued by the Minister.

4. In the case referred to in paragraph 1. of this Article, the AIP at the expiry of the period of deferment, shall invite the applicant or design owner, within thirty (30) days from the day of receiving invitation, to provide a graphic or photographic reproduction of the design as prescribed by Article 28, paragraph 1. sub-paragraph 1.3. of this Law.

5. If the design owner fails to comply with the invitation referred to in paragraph 4. of this Article or if the maintenance fee for the first five (5) year period of industrial design protection has not been paid, it shall be considered that the industrial design has no legal effects.

6. In the case of the multiple applications as to Article 29 of this Law, provisions referred to paragraph 1. and 3. of this Article may also apply only to some of the designs included in that application.

Article 46

Certificate of the industrial design

1. At the request of an industrial design owner and after the payment of the required fee, the AIP shall issue a certificate on industrial design.

2. The content of the certificate shall be defined by sub-legal act issued by the Minister.

CHAPTER VIII

SCOPE AND TERM OF DESIGN PROTECTION

Article 47

Scope of protection

1. The protection which derives by an industrial design shall include any design which does not produce a different overall impression of another design.

2. When determining the scope of the protection, the degree of freedom of the designer in developing his/her design shall be taken into consideration.

Article 48

Term of protection

1. After registration from the AIP, the design shall be protected for five (5) years, starting from the date of submission of the application.

2. Protection of the industrial design may be extended for one or more additional period of five (5) years, on a total period of twenty-five (25) years, starting from the date of submitting of the application.

Article 49

Extension of registration

1. The registration of industrial design shall be extended at the request of the owner of the right or the person authorized, if the appropriate fee is paid. The request for extension must be submitted and paid within a period of twelve (12) months which ends on the last date of the month in which protection ends. If within this term the request for the extension of the design fails to be submitted, the term may be extended for another six (6) months, in this case an additional fee should be paid.

2. The extension of the registration shall start running in the next day of the date of expiration of the previous period of protection.

3. The extension shall be registered and published in the AIP bulletin.

4. The relevant fees according to paragraph 1. and 2. of this Article, and the information on the application for continuation of industrial design registration, shall be defined by sub-legal act issued by the Minister.

Article 50

Complaints against decisions of the AIP

1. The AIP decision may be appealed within the time limit of thirty days (30) days from the day of receipt of the decision.

2. The complaint shall be reviewed by the Commission of Complaints within thirty days (30) from the day of receipt of the decision.

3. The Commission of Complaints shall be established upon the decision of the Minister.

4. A claim may be submitted against decisions of the Commission of Complaints with the competent court within the time limit of thirty days (30) from the day of receipt of the decision.

5. The Committee is responsible for reviewing and deciding on all appeals made by the parties against AIP's decisions. The Committee is obliged to perform its work independently with honesty, thoroughness and impartiality.

6. Process and the work of the Complaints Commission regulated by sub-legal act issued by the Minister.

CHAPTER IX

CESSATION OF THE INDUSTRIAL DESIGN EFFECT

Article 51

Cessation of the industrial design effect

1. Industrial design shall cease to have effect in the following cases:

1.1. on expiry of the protection period of the industrial design as referred to in Article 48 and Article 49 of this Law;

1.2. on the basis of the abdication;

1.3. based on the declaration of invalidity.

2. The cessation of the industrial design effect shall be entered in the register and published in the AIP bulletin.

Article 52

Industrial design abdication

1. The industrial design abdication shall be done through a written declaration by the owner at the AIP. The declaration shall have legal effects after being entered in the register.
2. In case of abdication of an industrial design which is subject to deferment of publication, it shall be assessed that the design did not have the effects specified in this Law.
3. The owner may partially abdicate from the design under the condition that its amended form complies with the requirements for protection and the identity of the design is retained.
4. If the license has been registered, the abdication shall be entered in the register only if the design owner proves that he/she has informed the licensee regarding his/her intention to abdicate from the design.
5. If a complaint is submitted to the court related to the design in accordance to Article 71 of this Law, the AIP shall not enter the abdication in the register without the consent of the claimant.

Article 53

Full or partial announcement of the invalidity of the registered industrial design

1. The AIP, through a decision, announces the design as full or partial invalid if:
 - 1.1. the design is not a design in accordance with Article 3, paragraph 1. sub-paragraph 1.5. of this Law;
 - 1.2. the design does not meet the requirements under Articles 5, 6, 7, 8, 9 and 10 of this Law;
 - 1.3. the applicant or owner of the registered design has no rights according to this Law;
 - 1.4. the design is in conflict with a prior design which was made available to public after the date of application or in cases when the priority is claimed, after the received priority date, the design shall be protected from the date which existed before the registration of registered design in the Republic of Kosovo or before application for such a right;
 - 1.5. any distinction sign is used in the next design, and the right holder of this distinctive sign has the right to prohibit such use;
 - 1.6. if the design constitutes an unauthorized use of a work protected under the Copyright Law;
 - 1.7. if the design constitutes an unauthorized use of any of the items listed in Article 6 of the Paris Convention, or of badges, emblems or escutcheons and different graffiti other than those covered by Article 6 of the Paris Convention and which will be determined by a sub-legal act issued by the Minister.
2. In cases when the industrial design is partially cancelled, may be maintained in the amended form, if that form is in accordance with the requirements for protection and if design identity is retained.

Article 54

Request on invalidity announcement

1. The request for invalidity announcement of the design according to Article 53 of this Law shall be submitted in written to the AIP.
2. Request for invalidity announcement of the design may be submitted during the protection period. The request may be filed even after the termination of effect of the design, if the applicant evidences that the procedures on infringement of the design have been initiated, or if applicant has initiated the court procedure

to prove that he/she has not in any case, infringed the relevant industrial design.

3. Application received according to paragraph 1. of this Article shall not be reviewed until the respective fee has been paid.

4. The content of the request for invalidity announcement shall be regulated by sub-legal act issued by the Minister.

5. Reasons for invalidity announcement of the industrial design, defined by Article 53 paragraph 1. sub-paragraph 1.3. of this Law may be requested only by person who in accordance to this Law has the right on the industrial design.

6. Reasons for invalidity announcement of the industrial design, defined by Article 53 paragraph 1. sub-paragraph 1.4., 1.5. and 1.6. of this Law, may be invoked only by the applicant or the holder of the contested right.

7. Reasons for invalidity announcement of the industrial design, defined by Article 53 paragraph 1. sub-paragraph 1.7. of this Law, may be invoked only by the person or the subject whose rights have been infringed by usage.

8. Without prejudice against the provisions set out in paragraphs 5., 6. and 7. of this Article, the request for the announcement of invalidity of an industrial design may be invoked by any natural or legal person.

Article 55

Review of the request for invalidity announcement

1. The AIP shall review the application for invalidity announcement of the industrial design.

2. If the AIP finds that the request for invalidity announcement is admissible, the AIP shall examine whether the causes for invalidity referred to in the application prejudice the maintenance of the industrial design.

3. During the examination of the application, the AIP shall invite the parties, to file information regarding the request within sixty (60) days from the day of receiving a written invitation.

4. Upon request of the applicant, the time limit referred to in paragraph 3. of this Article may be extended for a maximum of sixty (60) days, after payment of the respective fee.

5. In cases when the design invalidity announcement requirements are not met in accordance with Article 53 of this Law, then the AIP through a decision, shall reject the request for invalidity announcement.

Article 56

Participation of suspected violator in procedure

1. In case of the submission of the request for invalidation of registered industrial design during the protection period and until AIP has not yet made a decision, a third person who testifies that against him court proceedings have been initiated because of infringement of this design, as well as the applicant for invalidity announcement, can join as a party to the procedures for the announcement of design's invalidity, such request shall be submitted at the AIP.

2. The paragraph 1. of this Article shall also be applied in cases when any third party proves that the right holder of the industrial design has requested that he/she ceases an alleged infringement of the design and the third party has initiated the procedure to prove that he/she has not infringed the industrial design.

3. The request to join as a party shall be submitted in writing and shall include the causes for the join. The request shall not be reviewed until the specified fees have been paid in accordance to Article 54 paragraph 3. of this Law.

Article 57
Legal effects of announcement of invalidity

If the industrial design is announced as invalid, all legal effects derived from design registration shall be invalid.

CHAPTER X
CIVIL-LEGAL RIGHTS IMPLEMENTATION

Article 58
Competent court

For all of the cases of violations of the industrial design rights, the competent Court will rule in accordance with legal provisions in force.

Article 59
Persons entitled to request the exercise of design rights

In addition to the design owner and persons authorized by him/her, the licensee with the exclusive license of the owner shall be entitled to request the exercise of the rights conferred by this Law to the extent to which they have acquired the right to exploitation of industrial design based on the license contract under this law.

Article 60
Request for declaration and request for termination of design infringement

1. The design owner may institute a legal proceeding to establish the infringement of his design rights by requesting the declaration of infringement against a person who has infringed an industrial design right by performing without authorization any of the acts referred to in Article 17 of this Law, requiring infringement declaration.
2. The industrial design owner may initiate a legal action against a person who has infringed an industrial design by performing without authorization any of the acts referred to in Article 17 of this Law, claiming termination of the infringement and prohibition of such and similar future infringements.
3. The design owner may initiate a legal action against a person who has undertaken unauthorized actions, thus infringing or seriously threatening to infringe the design and requests the termination of such actions.
4. The legal action referred to in paragraphs 1., 2. and 3. of this Article may also be initiated against a person who in the course of his/her business activity conducts services used in the acts infringing an industrial design or from which infringement of an industrial design may follow.
5. At the request of the respondent party subject to the measures provided in Articles 60 and 61 this law, the court, instead of applying the measures, may order the payment of monetary compensation to the injured party, if it has been performed unintentionally and without negligence, the execution of the concerned measures would cause disproportionate harm and if the monetary compensation for the injured party is deemed reasonably satisfactory.

Article 61
Request for confiscation and destruction of products

1. The design owner may initiate a legal action against any person who has infringed an industrial design by performing without authorization any of the acts referred to in Article 17 of this Law, claiming that the products infringing the industrial design be removed from the market, seized or destroyed at the expense of that person.
2. The court shall determine the measures against the defendant under paragraph 1. of this Article at the expense of the defendant, unless there are special reasons that such an act not to be undertaken.

3. The imposition of measures specified in paragraph 1. of this Article by the court must be proportionate to the infringement.

Article 62

The request for damage compensation, ordinary compensation and unjust enrichment

1. The design owner may institute legal actions against the person who, intentionally or on a reasonable basis of knowledge, has caused damage by performing without authorization the actions under Article 17 of this Law, and claims compensation for the damage caused in accordance with the legal provisions.

2. The court in determining the amount of damages shall take into account all relevant aspects, such as negative economic consequences, including loss of profit caused to the injured party, or unjust profit by the offender and other elements of economic factors, such as moral prejudice to the holder of the right caused by the offender. As an alternative to paragraph 1. of this Article the compensation may also be calculated as a lump sum on the basis of elements such as the amount of licenses or fees which would be achievable if the offender would have requested a license to use the design from the design owner.

3. When the violator was not aware that he/she was involved in the infringing activity, the court may order the return of the profits generated by the violator from the unauthorized exploitation of the design according to the general rules of unjust enrichment or compensation of damage defined in the respective Law on Obligational Relationships.

4. Requests referred to in Articles 60, and 61 of this law, paragraphs 1., 2., and 3. of this Article may be filed within three (3) years from the date when the claimant becomes aware of the infringement or damage and violator, no later than five (5) years from the date of the infringement or the date of the last infringement in case of recurrence, unless otherwise provided for in the respective Law on Obligational Relationships.

Article 63

Request for publication of the judgment

1. The design owner may claim the publication of the court decision, which confirms complete or partial infringement of the design rights, in public media, at the expense of the defendant.

2. The court shall decide, within the limits of the claim, on the means of the public communication where the judgment shall be published, and whether it shall be published entirely or partially.

Article 64

Request for information

1. The industrial design owner, who has initiated civil proceedings to implement the design in cases of infringement, may claim the provision of information on the origin and distribution network of the goods infringing his/her industrial design.

2. The request referred to in paragraph 1. of this Article may be filed in the form of an indictment for interim measures against:

2.1. a person who has been sued in the civil proceedings referred to in paragraph 1. of this Article;

2.2. the person in whose possession the infringing goods were found at a commercial level;

2.3. the person who has been found to have used services suspected to infringe the design at a commercial level;

2.4. persons who during the exercise of their business activity provide services or use the services provided in activities suspected to infringe the design or;

2.5. a person who is indicated by any of the mentioned persons as being involved in the manufacture

or distribution of the goods or the provision of the services suspected of infringing an industrial design.

3. The request for information on the origin and distribution network of the goods and services referred to in paragraph 1. of this Article may include in particular:

3.1. information on the names and addresses of the producers, distributors, suppliers and other previous owners of the goods and providers of the services, respectively, as well as the intended wholesalers and retailers;

3.2. information on the quantities produced, delivered, received or ordered, as well as the price obtained for the goods or services concerned.

4. If the concerned person refuses to provide information without convincing reason, he/she shall be responsible for damage caused pursuant to legal provisions in force.

5. The provisions of this Article shall apply without prejudice to other provisions which shall:

5.1. give holders the right to receive more complete information;

5.2. govern the use of information communicated under this Article in civil and criminal proceedings;

5.3. govern the responsibility for misuse of the right to information;

5.4. provide an opportunity to refuse information that would compel the person referred to in paragraphs 1. and 2. this Article to admit the participation of relatives in a design infringement;

5.5. govern the protection of sources of confidential information or the processing of personal data.

6. The provisions of this Article shall not be applicable on Articles 60 and 61 of this Law that regulate the evidence storage and security.

Article 65

Request for transferring the design rights through the court

1. If the design application is filed by an unauthorized person or is registered in the register on the name of the person in contradiction with the provisions in Articles 11, 12, 13 and 14 of this Law, the authorized person may institute at the court a request for transfer of the industrial design, or require its registration in the register as designer in accordance with Article 16 of this Law.

2. A person authorized as referred in paragraph 1. of this Article may initiate the procedure at the court for transfer of design, throughout the duration of design protection.

3. The court shall immediately ex officio inform the AIP for the judgment that cannot be appealed, in order to transfer registration in the registry for publication in the bulletin of the AIP.

4. If the design is transferred through a judgment, license and other rights that are in favour of third parties shall cease on the day of entry of transfer in the register.

5. If before registration of transfer of design through a court, the unauthorized holder of the design or the licensee have used the relevant design or made effective and serious preparations to use it in good faith, the court may recognize them the right of non-exclusive license for usage after the following request submitted to the court no later than three (3) months from the date of registration of transfer.

Article 66

Interim measures in case of design infringement

1. Upon the request of the design owner, who evidences that his/her design has been infringed or attempted to be infringed, the court may impose interim measures in order to stop or prevent infringements and, in particular:

1.1. to order the alleged violator to end or terminate the actions of infringements of industrial design; the court may also issue such orders against the violator whose services used by a third parties may be infringing the design;

1.2. order the confiscation or delivery of products that infringe a design to prevent market entry or movement within business channels and removal of products from the market.

2. In the event of a commercial infringement, at the request of the design holder, who demonstrates the circumstances that may jeopardize the repair by damage, the court, in addition to ordering the interim measures referred to in paragraph 1. of this Article, may also order preliminary seizure of the movable and immovable property of the alleged violator including the freezing of bank accounts and other assets.

3. In order to impose and enforce the interim measures referred to in paragraph 2. of this Article, the court may require the opposing party or the relevant persons to communicate financial and commercial documents or access relevant information. The court shall ensure the protection of the confidentiality of such information and prohibit any misuse of these data.

4. The interim measures referred to in paragraphs 1., 2. and 3. of this Article may be imposed without informing the opposing party, if the applicant proves that other measures would not be effective, or that any delay would cause irreparable damage to him/her. In such case, the parties shall be informed without delay, and at the latest after the execution of measures. An examination, including the right to be heard, shall be conducted at the request of the opposing party for the purpose of deciding, within a reasonable time upon the notification of measures, whether such measures should be amended, revoked or confirmed.

5. In the decision ordering the interim measure, the court shall specify the duration of the measure and if the measure was ordered before the commencement of the proceedings on the merits of the case, the period within which it should be initiated the claim to justify the measure, which should not exceed twenty (20) working days or thirty-one (31) calendar days from the date of notification of the interim measure, whichever is longer. In the absence of a request to initiate proceedings on merit-based cases within the above period, the respondent may request to revoke or cease the effect of the interim measures.

6. The court shall, in relation to the measures referred to in paragraphs 1., 2. and 3. of this Article, require from the design holder any evidence that justifies a sufficient degree of certainty that he/she is the holder of the rights, and that the rights have been infringed or that such an infringement is inevitable.

7. The interim measure shall be revoked or expired due to an act or omission by the claimant, or if it is verified that there was no infringement or threat of infringement of a design, at the request of the opponent, the court may order the claimant to provide adequate compensation for any damage caused by these measures.

Article 67

Interim measures for preserving evidence

1. At the request of the design owner, who provided evidence verifying that his/her design has been infringed or can be infringed, and it is possible that the relevant evidence cannot be provided or it would be difficult to provide it, the court may, before the commencement of the procedure on merit-based cases, order an interim measure to preserve the evidence provided that the confidential information is preserved.

2. Through interim measures referred to in paragraph 1. of this Article, the court may order in particular:

2.1. a detailed description of products suspected to infringe the design with or without sampling;

2.2. seizure of infringing products;

2.3. seizure of materials and tools used in production, distribution of infringing products, and documentation related to it.

3. The interim measures set forth in paragraph 1. of this Article may be ordered, if necessary without hearing the opposing party, if the applicant confirms and makes it clear that there is a risk that the evidence may be destroyed or that any delay is likely to cause an irreparable harm for design holders. Notification must be given to the affected parties no later than the execution of measures. A review, including the right to be heard, should be made at the request of the affected party for the purpose of making a decision on, within a reasonable time after notifying the measure, whether it should be modified, revoked or confirmed.

4. In a decision ordering an interim measure, the court must specify the duration of such measure and if the measure is ordered before the start of court proceedings, the period within which the applicant should initiate legal action to justify the measure, which should be within twenty (20) working days and not more than thirty (31) calendar days, whichever expires later than the day of decision communication to the claimant and if the claim is not submitted within this period, the interim measure shall be revoked.

5. The court shall have the authority to order that measures for the preservation of evidence be conditional on the provision of adequate security by the respondent or an equivalent security intended to provide compensation for any prejudice, as provided in paragraph 6. of this Article.

6. In case the interim measures for preservation of evidence are revoked or expire due to any action or omission by the claimant, or where it was found that there was no infringement or threat of infringement of a design, the court may order the claimant, at the request of the opponent, to provide the respondent adequate compensation for any damage caused by these measures.

Article 68

Providing evidence during the civil procedure

1. When a party to the proceedings requires evidence that belongs to the opposing party or that are under its control, the court shall invite the opposing party to submit such evidence within a specified time.

2. At the request of the party who has provided evidence to verify the infringement of a design at commercial level for the purpose of material or economic profit and has specified during the proceedings, evidence such as: bank documents, financial or commercial documents under the control of the opposing party, the court shall invite the opposing party to submit such evidence within the prescribed time limit, provided that confidential information is preserved.

3. If the party is invited to present testimony, refuses that evidences belong to them or are under its control, the court may take the evidences to prove such a fact.

Article 69

Accelerated Procedures

1. The procedure concerning the infringement of an industrial design shall be subject to acceleration.

2. Upon the request of the court or any of the parties to the proceedings concerning the infringement of an industrial design, the AIP shall accept the request for the announcement of invalidity of the industrial design, submitted before or in the course of the procedure, and shall act on accelerated procedures. The court, taking into consideration the circumstances of the case, shall decide to terminate the proceedings up to the final decision upon the request of the party to announce the invalidity of the industrial design.

3. The measures provided from Article 58 to Article 68 of this Law shall apply to any infringement of an industrial design, unless other laws provide more favourable means for the holder of the design.

4. The measures, procedures and means provided for from Article 58 to Article 68 of this Law shall be fair,

equal, proportionate, affordable and dissuasive. They should not provide for unreasonable time limits or unreasonable delays and be applied in such a manner as to prevent the creation of barriers to legitimate trade and provide protection against their infringement.

5. The provisions of the respective Law on Contested Procedure on procedural expenses for the approval of legal costs and expenses of the successful party shall apply to the procedures from Article 58 to Article 68 of this Law. Any procedural costs must be borne by the losing party. In particular, legal expenses and fees should include any related costs, such as costs for witnesses, fees for lawyers, experts and technical advisers to the parties, and costs for identification of violators.

CHAPTER XI REPRESENTATION

Article 70 Representation by authorized representatives

1. Natural or legal persons, who have residence or business headquarters in the Republic of Kosovo, may exercise their rights according to this Law through authorized representatives who are registered in the register of representatives, maintained by the AIP.

2. Natural or legal persons who do not have permanent residence or business headquarters in the Republic of Kosovo may exercise their rights according to this Law through proceedings at the AIP only by authorized representatives, registered in the representatives' register maintained by the AIP.

Article 71 Authorized representatives

1. Natural or legal persons at the AIP may be represented only by the authorized representative, registered in the register maintained by the AIP.

2. The AIP shall register and unregister persons from the register of the Authorized Representatives, subject to the fact if such person meets or does not meet requirements defined by sub-legal act, issued by the Minister.

Article 72 Authorization of Authorized Representatives

1. An authorized representative of industrial design may be represented by natural or legal person at the AIP based on authorization issued by natural or legal person.

2. Authorization may be issued for one or more, existing or future, applications or industrial design registrations.

3. Authorization for all applications and industrial design registrations for a natural or legal person shall be considered as general authorization.

4. Authorization may be limited only for some defined actions undertaken at the AIP.

5. If cases of waiver from industrial design, the authorization shall contain clearly claims mentioned by the design owner.

Article 73 Withdrawal of the authorization

1. The design owner may withdraw the given authorization to design representative at any time.

2. After informing the AIP about the change of representation, AIP shall continue to communicate with the new design representative or directly with the design owner.

3. The design owner, who has issued two or more authorizations to various representatives for the same design, the last authorization shall be valid.

Article 74

Submitting the authorization

1. An industrial design representative who claims to be authorized to represent the owner at the AIP, but does not submit the authorization at the AIP to argument, shall be invited to submit a valid authorization within sixty (60) days from the date of the receipt of the invitation.

2. Upon request of the industrial design representative, the time limit may be extended for a maximum of sixty (60) days from the date of expiration of that time limit referred in paragraph 1. of this Article.

3. If industrial design representative does not submit valid authorization at the AIP within time limit and acts in his/her name, the action undertaken by the representative shall be deemed as not undertaken at all.

Article 75

Relationship to other rights of industrial property

The provisions of this Law shall not affect the application of other legal provisions related to trademarks or other distinctive signs, patents and provisions that regulate civil liability and unfair competition.

Article 76

Relationship with copyright

1. Design protected by industrial design right registered in accordance with this Law, is eligible for protection under the respective Law on Copyright and Related Rights, from the date when the design is created.

2. The extent to and the conditions under which such protection is given, including the level of originality required, shall be determined by the respective Law on Copyright and Related Rights.

CHAPTER XII

PUNITIVE PROVISIONS

Article 77

Punitive provisions

1. A fine from three thousand (3.000) to nine thousand (9.000) euros shall be applied to legal person, who during business activity in any form uses the products or services by infringing the rights defined in Article 17 of this Law.

2. A fine of five hundred (500) to one thousand five hundred (1.500) euros shall be imposed to the responsible person of the legal person for infringement according to Article 17 of this Law.

3. A fine of one thousand (1.000) to three thousand (3.000) Euros shall be imposed to a natural person who carries out individual business, and who during the exercise of his commercial activity in any form uses the products or services by infringing the rights defined in Article 17 of this Law.

Article 78

Issuance of sub-legal acts

The Minister shall issue sub-legal acts according to Article 21 paragraph 4., Article 22 paragraph 9., Article 23

paragraph 5., Article 28 paragraph 4., Article 30 paragraph 3., Article 36 paragraph 2., Article 38 paragraph 3., Article 40 paragraph 8., Article 44 paragraph 2., Article 45 paragraph 3., Article 46 paragraph 2., Article 49 paragraph 4., Article 50 paragraph 6., Article 54 paragraph 4., and Article 71 paragraph 2., within twelve (12) months from the entry into force of this law.

Article 79

Sub-legal acts applicable until the issuance of new sub-legal acts

1. Provided that they are not in contradiction with this Law and until the issuance of new sub-legal acts to fairly and fully implement this Law, sub-legal acts currently applicable shall remain in force, as follows:

1.1. Administrative Instruction No. 12/2016 on Industrial Design Registration.

Article 80

Repealing provisions

Upon entry into force of this Law, the Law No.05/L-058 on Industrial Design shall be repealed.

Article 81

Entry into force

This Law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 08/L-055
24 December 2021

Promulgated by Decree No. DL-50/2022 dated 13.01.2022 President of the Republic of Kosovo
Vjosa Osmani-Sadriu