Patent

Act

And

THE ACTS
ON AMENDMENTS
TO THE PATENT ACT

*/**/***/****/*****/******/*******

NN 173/2003, in force from January 1, 2004
*NN 87/2005, in force from July 18, 2005
**NN 76/2007, in force from July 31, 2007
***NN 30/2009, in force from March 17, 2009
****NN 128/2010, in force from November 25, 2010
*****NN 49/2011, in force from May 7, 2011
******NN 76/2013, in force from June 29, 2013
*******NN 46/2018, in force from May 26, 2018

Zagreb May, 2018

I. GENERAL PROVISIONS

Article 1

(1) This Act regulates the system of protection of an invention by a patent or a consensual patent.

(2) The provisions of this Act shall apply *mutatis mutandis* to a consensual patent, unless expressly provided otherwise.

Article 2

A patent is the exclusive right protecting a patent owner in respect of the economic exploitation of an invention.

Article 3

Foreign natural and legal persons not having a principal place of business, a domicile or a habitual residence in the territory of the Republic of Croatia shall enjoy the protection provided by this Act, if that results from international treaties binding the Republic of Croatia, or from the application of the principle of reciprocity.

Article 4

A natural or a legal person not having a principal place of business, a domicile or a habitual residence in the territory of the Republic of Croatia must be represented before the State Intellectual Property Office (hereinafter: the Office) by a representative entered in the Register of Representatives kept by the Office.

II. SUBJECT MATTER OF PATENT PROTECTION

PATENTABLE INVENTION
Article 5

(1) A patent shall be granted for any invention, in any field of technology, which is new, which involves an inventive step and which is eligible for industrial application.

(2) According to the conditions set out in paragraph (1) of this Article, a patent shall also be granted for an invention which concerns:

1. a product consisting of or containing biological material;
2. a process by means of which the biological material is produced, processed or used;
3. a biological material isolated from its natural environment or produced by means of a technical process, even if it previously occurred in nature.

(3) The biological material referred to in paragraph (2) of this Article shall be any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

(4) According to the conditions set out in paragraph (1) of this Article, an invention which concerns plants or animals shall be considered patentable if the technical feasibility of the invention is not confined to a particular plant or animal variety and if the process for carrying out the invention is not essentially biological.

(5) A process for the production of plants and animals referred to in paragraph (4) of this Article is essentially biological if it entirely consists of natural processes such as crossing or selection.

(6) The following in particular shall not be considered to be the inventions within the meaning of paragraph (1) of this Article:

1. discoveries, scientific theories and mathematical methods,
2. aesthetic creations,
3. rules, instructions or methods for performing mental activities, playing games or doing business,
4. presentation of information, and
5. computer programs.

EXCLUSION FROM PATENTABILITY
Article 6

Excluded from patent protection shall be:

1. inventions which concern animal breeds, plant varieties and essentially biological processes for the production of plants or animals, with the exception of inventions which concern non-biological and microbiological processes and products resulting from such processes, as provided for in Article 5, paragraph (4) of this Act; a microbiological process shall imply, under this Act, any process involving or performed upon or resulting in microbiological material.
2. the human body, at the various stages of its formation and development, and the simple discovery of one of its elements,

including the sequence or partial sequence of a gene. An invention relating to an element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical to that of a natural element. The industrial application of a sequence or a partial sequence of a gene must be disclosed in the patent application as originally filed.

3. inventions which concern diagnostic or surgical methods or methods of treatment practiced directly on the human or animal body, with the exception of the products, in particular substances or compositions used in such methods.

Article 7

(1) Inventions shall be considered unpatentable where their commercial exploitation would be contrary to public order or morality.

(2) The following, in particular, shall be considered as inventions referred to in paragraph (1) of this Article:

1. processes for cloning human beings;
2. processes for modifying the germ line genetic identity of human beings;
3. uses of human embryos for industrial or commercial purposes; and
4. processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

NOVELTY OF AN INVENTION

Article 8

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

(2) The state of the art shall comprise everything made available to the public at the global level by means of written or oral description, by use or in any other way prior to the filing date of the patent application.

(3) The state of the art shall also include the content of all patent applications as filed with the effect for the Republic of Croatia, the filing dates of which are earlier than the date of application referred to in paragraph (2) of this Article, and which were made available to the public only on, or after the date of filing the patent application, through the publication effected in the manner as provided in this Act.

(4) The provisions laid down in paragraphs (1) to (3) of this Article shall not exclude the possibility for patent protection of substances or compositions forming part of the state of the art, and used in processes referred to in Article 6, paragraph (3) of this Act, provided that their use in the mentioned processes does not form part of the state of the art.

NON-PREJUDICIAL DISCLOSURE OF THE INVENTION

Article 9

An invention shall also be considered to be new if not more than six months prior to the filing date of the patent application it formed part of the state of the art due to or in consequence of:

1. an evident abuse in relation to the patent applicant or his legal predecessor, or
2. the display at an official or officially recognized international exhibition in compliance with the Convention on International Exhibitions signed at Paris on 22 November 1928 and last revised on 30 November 1972, provided that the applicant indicates in the patent application, at the time of its filing, that the invention has been so displayed, and submits a corresponding certificate to that effect not later than 4 months from the filing date of the application.

INVENTIVE STEP

Article 10

(1) An invention shall involve an inventive step if, having regard to the state of the art it is not obvious to a person skilled in the art.

(2) In deciding whether an invention involves an inventive step, the content of the applications referred to in Article 8, paragraph (3) of this Act shall not be taken into consideration.

INDUSTRIAL APPLICABILITY

Article 11

An invention shall be industrially applicable if its subject matter can be manufactured or used in any kind of industry, including agriculture.

III. RIGHT TO THE ACQUISITION OF A PATENT

PERSONS ENTITLED TO ACQUIRE A PATENT FOR AN INVENTION

Article 12

(1) The right to a patent shall belong to the inventor or his successor in title.

(2) If the invention has been created jointly by two or more inventors, the right to a patent shall belong jointly to the inventors or their successors in title.

INVENTOR

Article 13

(1) An inventor shall be the person who has created an invention in the course of his creative work.

(2) Any person who has contributed to the creation of an invention by providing only technical assistance shall not be considered to be the inventor.

(3) The inventor shall have the moral right to be indicated as such in the patent application, in all the documents issued in relation to the patent grant, and in the Office Register of Applications and Register of Patents.

(4) The inventor's moral right shall not be transferable.

INVENTOR'S SUCCESSOR IN TITLE

Article 14

(1) The inventor's successor in title shall be a legal or a natural person entitled to acquire a patent by virtue of law, legal transaction or inheritance.

(2) An employer shall be considered to be the inventor's successor in title where, by virtue of the applicable law or work contract, he has the right to acquire a patent for the invention created under the inventor's employment.

IV. PATENT GRANTING PROCEDURE

1. Common Procedural Provisions

Article 15

(1) The State Intellectual Property Office (hereinafter: the Office) shall carry out the administrative patent and consensual patent granting procedure and other administrative and professional matters concerning the protection of an invention by patent.

(2) Administrative decisions made by the Office shall not be subject to any appeal, however, an administrative lawsuit may be instituted against such decisions, in accordance with the Administrative Disputes Act.

(3) The General Administrative Proceedings Act shall apply to certain procedural matters not regulated by this Act.

FEES AND PROCEDURAL CHARGES

Article 16

(1) The acquisition and maintenance of a patent shall be subject to payment of the administrative fees and procedural charges in compliance with special regulations.

(2) If the administrative fees and procedural charges are not paid in the course of the patent granting procedure, the patent application shall be deemed to be withdrawn, while in the case of non-payment of the administrative fees and procedural charges for the maintenance of a patent, such right shall lapse.

2. Patent Application

INSTITUTION OF THE PATENT GRANTING PROCEDURE

Article 17

(1) The patent granting procedure shall be instituted by filing a patent application to the Office.

(2) The manner of filing a patent application shall be defined by the Regulations (hereinafter: the Regulations) enacted, on the proposal of the Director General of the Office, by the Minister competent for the work of the Office.

UNITY OF THE INVENTION

Article 18

(1) A separate patent application shall be filed for each invention.

(2) One patent application may be used to apply for patent grants for several inventions, only if such inventions are so linked as to form a single inventive concept.

LANGUAGE AND SCRIPT OF A PATENT APPLICATION

Article 19

(1) A patent application shall be drafted in the Croatian language and in the Latin script.

(2) If the application has been drafted in a foreign language, a translation of the application into the Croatian language shall be filed with the Office.

CONTENT OF THE PATENT APPLICATION

Article 20

(1) The patent application shall contain:

1. a request for the grant of a patent,
2. a description of the invention,
3. one or more claims for the protection of the invention (hereinafter: claims),
4. any drawings referred to in the description or the claims, and
5. an abstract of the invention.

(2) A request for the grant of a patent shall contain: an express indication that the grant of a patent is applied for, the title of the invention expressing the essence of the invention and information concerning the applicant.

(3) In the event the inventor does not wish to be mentioned in the application, a written declaration shall be filed with the Office not later than 4 months from the filing date of the application.

(4) The patent application must disclose the invention in a manner sufficiently clear and precise for it to be carried out by a person skilled in the art.

(5) If the invention concerns viable biological material which cannot be disclosed in a manner enabling it to be carried out by a person skilled in the art, the application must be accompanied by proof to the effect that a sample of such material has been deposited with the competent institution not later than on the filing date of the patent application.

(6) The competent institution referred to in paragraph (5) of this Article shall be considered an institution which complies with the requirements prescribed by the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977 and last revised on 26 September 1980.

(7) The claims shall define the subject matter the protection of which has been applied for. The claims shall be clear and concise and fully supported by the description. Patent claims may be independent and dependent. Independent claims shall contain new and essential characteristics of an invention. Dependent claims shall contain specific characteristics of the invention as defined in an independent or other dependent claim.

(8) The abstract shall be a short summary of the essence of an invention serving exclusively for the purpose of technical information.

(9) The content and manner of drafting particular elements of the patent application and other details concerning the deposit of viable biological materials referred to in paragraph (5) of this Article shall be defined by the Regulations.

PATENT APPLICATION CONTENTS NECESSARY FOR ACCORDANCE OF THE FILING DATE

Article 21

The accordance of the filing date of the patent application shall require that on such a date the application contains:

1. an express indication that the grant of a patent is applied for,
2. the name, or company name respectively, and the domicile or the principle place of business of the applicant,
3. a description of the invention and one or more patent claims, even though such description and claims do not comply with the requirements prescribed by this Act and the Regulations.

3. Priority Right

Article 22

(1) If the same invention has been created by two or more inventors independently of each other, the priority in respect of right to the patent grant shall belong to the applicant whose patent application has the earliest filing date, provided that this first application has been published in accordance with Article 35 of this Act.

(2) The priority shall be in effect as from the date of filing the application with the Office, except where the requirements for the grant of priority right referred to in Articles 23 and 24 of this Act have been complied with.

REQUIREMENTS FOR THE GRANT OF PRIORITY RIGHT
Article 23

(1) In accordance with the provisions of Article 4 of the Paris Convention for the Protection of Industrial Property (hereinafter: the Paris Convention), any legal or natural person or his successor in title who has filed a correct application for any kind of protection for inventions in any Member State of the Paris Union for the Protection of Industrial Property (hereinafter: the Paris Union) or in any Member State of the World Trade Organization (hereinafter: the WTO), shall enjoy the right of priority in the Republic of Croatia from the date of filing the first application in the Member State of the Paris Union or the WTO, provided that the application for the same invention is filed with the Office within twelve months, and that the right of priority is claimed.

(2) The correct application referred to in paragraph (1) of this Article shall be considered to be an application the filing date of which is accorded in compliance with the national legislation of the Member State of the Paris Union or WTO in which it was filed, or in compliance with an international treaty concluded among the member states, regardless of the outcome thereof.

(3) A subsequent patent application filed in or for the same State shall be considered as the first application for the purposes of determining priority in such part which concerns the subject-matter of the invention of the first application, provided that on the date of filing the subsequent application, the previous application has been withdrawn, refused or rejected prior to being made available to the public and without leaving any rights outstanding, and has served as a basis for claiming priority. The previous application may not thereafter serve as a basis for claiming priority.

PRIORITY CLAIM
Article 24

The patent applicant intending to take advantage of the priority right referred to in Article 23 of this Act in the Republic of Croatia, shall file with the Office:

1. a priority claim containing essential data concerning the first application claiming priority (application number and filing date, a Member State of the Paris Union or WTO in or for which the application was filed) not later than up to the expiration of 2 months from the date of filing the application in the Republic of Croatia, and
2. a copy of the first application certified by the competent authority of the Member State of the Paris Union or WTO in or for which it was filed, not later than up to the expiration of the period of 3 months from the filing date of the priority claim or of 4 months from the date of filing the application in the Republic of Croatia, or 16 months from the earliest priority date claimed, whichever period expires first.

MULTIPLE PRIORITY CLAIM
Article 25

The patent applicant may, subject to the requirements referred to in Article 24 of this Act, claim multiple priorities on the basis of several earlier applications filed in one or more of the Member States of the Paris Union or WTO.

CHARACTERISTICS OF THE INVENTION WHICH IS THE SUBJECT OF THE PRIORITY CLAIM
Article 26

(1) The priority claim may relate only to such characteristics of the invention, which are contained in the first application or applications for which priority is claimed.

(2) If certain characteristics of the invention for which priority is claimed do not appear among the claims formulated in the first application or applications, a priority right shall be granted where the application elements as a whole specifically disclose all such characteristics.

DATE OF THE GRANTED PRIORITY RIGHT
Article 27

The date of granted priority shall be considered as the date of filing the patent application with the Office, for the purposes of the provisions referred to in Article 8, paragraphs (2) and (3) and Article 22 paragraph (1) of this Act.

CALCULATION OF TIME LIMITS IN CASES OF MULTIPLE PRIORITIES
Article 28

If multiple priorities are claimed, the time limits, which under this Act, run from the date of granted priority, shall be calculated as from the earliest date of the multiple priority right.

4. Course of the Procedure from Receipt of the Patent Application to the Publication Thereof

EXAMINATION OF A PATENT APPLICATION UPON ITS RECEIPT

Article 29

(1) Upon receipt of a patent application, the Office shall examine whether:

1. the application complies with the requirements for the accordance of the filing date referred to in Article 21 of this Act,
2. the administrative fee and procedural charges for filing the application have been paid in compliance with Article 16 of this Act,
3. the translation of the application in the Croatian language is filed, if the application has been drafted in a foreign language,
4. the drawings referred to in Article 20, paragraph (1), item 4, of this Act have been filed, and
5. the applicant who is a natural or a legal person having domicile or principal place of business outside Croatia is represented by a patent representative entered in the Register of Representatives kept by the Office.

(2) If the application does not comply with the requirements for the acceptance of the filing date referred to in Article 21 of this Act, the Office shall invite the applicant to correct the deficiencies expressly indicated in the invitation, within a time limit of 2 months from the receipt of the invitation.

(3) If the applicant does not comply with the Office invitation within the time limit referred to in paragraph (2) of this Article, the patent application shall be rejected by a decision.

(4) If the applicant corrects the deficiencies within the time limit referred to in paragraph (2) of this Article, the Office shall issue a decision whereby the date of receipt of the required corrections shall be accorded as the filing date of the patent application.

(5) Where a patent application refers to drawings not included in the application, the Office shall invite the applicant to file such within a time limit of 2 months from the receipt of the invitation, and if the applicant complies with the Office invitation, it shall be considered that the filing date is the date of receipt of the drawings by the Office. If the drawings are not filed, it shall be considered that the applicant did not refer to them.

(6) The Office shall invite the applicant who has not paid the administrative fee and procedural charges, or has not submitted the translation of the patent application into the Croatian language, to correct the respective deficiencies within the time limit of 2 months from the receipt of the invitation.

(7) At the reasoned request of the applicant, the Office may extend the time limits set out in this Article, for a time period considered to be justified, but not exceeding 3 months.

(8) If the applicant does not comply with the invitation referred to in paragraph (6) of this Article, the patent application having the accorded filing date shall be considered to be withdrawn and the Office shall issue a decision on the suspension of the patent granting procedure.

ENTRY OF THE PATENT APPLICATION INTO THE REGISTER OF PATENT APPLICATIONS

Article 30

(1) A patent application for which the filing date has been accorded by a decision shall be entered into the Register of Patent Applications kept by the Office.

(2) The content of the Register of Patent Applications and the manner of keeping it shall be defined by the Regulations.

PRIORITY CERTIFICATE

Article 31

(1) At the request of the applicant, the Office shall issue a certificate of the right of priority acquired on the basis of the filing date of the patent application, accorded in compliance with the provisions of Article 29 of this Act.

(2) The requirements for and the method of issuing the certificate referred to in paragraph (1) of this Article, as well as the content thereof shall be defined by the Regulations.

DIVISION OF THE PATENT APPLICATION

Article 32

(1) The applicant may on his own initiative, or upon request by the Office, divide the subject-matter of the patent application having the accorded filing date (the original

application) into two or more applications (a divisional application) and on the basis of each of them shall carry out a separate procedure, a decision to that effect being issued by the Office.

(2) The subject-matter of a divisional patent application shall not go beyond the content of the original application.

(3) The division of the original patent application shall be permitted up to the decision made concerning the request for the granting of a patent.

(4) A divisional application shall maintain the filing date of the original application and, if having grounds therefore within the meaning of the provisions of Article 23 of this Act, shall enjoy the priority thereof.

AMENDMENTS OF THE PATENT APPLICATION
Article 33

A patent application for which the filing date has been accepted shall not be subsequently amended by expanding the subject-matter for which protection has been applied for.

PRE-REQUISITES FOR THE PUBLICATION OF A PATENT APPLICATION
Article 34

(1) The examination of pre-requisites for the publication of a patent application shall establish whether the application complies with the following requirements:

1. whether it contains all the elements referred to in Article 20 of this Act drafted in the prescribed manner, and the necessary attachments prescribed by this Act,
2. whether the inventor is mentioned,
3. whether the proper priority claim has been filed within the meaning of Article 24 of this Act, if a priority right is claimed,
4. whether the application, at first sight, complies with the rule on the unity of invention referred to in Article 18 of this Act,
5. whether the subject-matter of the application is an invention which may be, at first sight, protected by a patent within the meaning of Article 5, paragraph (6), and Articles 6 and 7 of this Act.

(2) If such examination establishes that the requirements referred to in paragraph (1) of this Article are not complied with, the Office shall invite the applicant to correct the deficiencies expressly indicated in the invitation within a reasonable time limit. This time limit shall not be less than 2 months and not more than 3 months from the date of receipt of the invitation.

(3) Upon the reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article for a period which it considers to be justified.

(4) If the applicant does not correct the deficiencies referred to in paragraph (1) of this Article within the prescribed time limit, the Office shall issue a decision on the rejection of the patent application.

(5) The Office shall issue a decision on the refusal of a patent application if the application has been filed for an invention, which at first sight may not be protected by a patent within the meaning of Article 5, paragraph (6), and Articles 6 and 7 of this Act.

(6) If the applicant does not comply with the invitation referred to in paragraph (2) of this Article to correct the priority claim, the Office shall not grant the priority right.

5. Publication of a Patent Application

MANNER AND CONTENT OF THE PUBLICATION OF A PATENT APPLICATION
Article 35

(1) A patent application complying, according to the examination, with all the requirements referred to in Article 34 of this Act, the decision to that effect being issued by the Office, shall be published in the official gazette of the Office after the expiration of 18 months from its filing date, or from the date of granted priority respectively, whereby it becomes available to the public.

(2) The patent application referred to in paragraph (1) of this Article may be, upon request by the applicant, published prior to the expiration of the said time limit, but not before the expiration of 3 months from the date of its filing to the Office.

(3) A patent application published or otherwise made available to the public, despite being withdrawn or deemed to have been

withdrawn, shall be treated as not forming part of the state of the art.

(4) The content of the publication of a patent application shall be defined by the Regulations.

6. Course of the Procedure from the Publication of the Patent Application to the Grant of a Patent

REQUEST FOR THE GRANT OF A PATENT

Article 36

(1) Within 6 months from the date of publication of a patent application in the official gazette of the Office, the applicant may file:

1. a request for the grant of a patent on the basis of a substantive examination of the patent application, or
2. a request for the grant of a patent on the basis of the submitted results of the substantive examination of a patent application, or
3. a request for the grant of a patent not including a substantive examination of the patent application (a consensual patent).

(2) If, within the prescribed time limit, one of the requests referred to in paragraph (1) of this Article has not been filed, or the administrative fee and the procedural charges have not been paid in compliance with Article 16 of this Act, the patent application shall be considered to be withdrawn, and the Office shall issue a decision on the suspension of the procedure for the grant of the patent.

(3) The content of the request referred to in paragraph (1) shall be defined by the Regulations.

Grant of a Patent on the Basis of the Substantive Examination of a Patent Application

Article 37

(1) The substantive examination of a patent application shall establish whether the invention complies with all the requirements for the grant of the patent, i.e. whether the subject-matter of the application:

1. is an invention which is not excluded from patent protection in compliance with Article 5, paragraph (6) and Articles 6 and 7 of this Act;
2. is an invention which is disclosed in the application in compliance with Article 20, paragraph (4) of this Act;
3. is an invention which is in compliance with the rule of unity of invention referred to in Article 18 of this Act;
4. is an invention which is new in compliance with Articles 8 and 9 of this Act, which includes an inventive step in compliance with Article 10 of this Act, and which is industrially applicable in compliance with Article 11 of this Act.

(2) The Office may carry out the substantive examination of a patent application referred to in paragraph (1) of this Article, completely or in part, through one of the national patent offices of other countries with which it has concluded a cooperation agreement.

(3) The applicant who has also filed a patent application for the protection of the same invention with a national patent office of another country may file with the Office the results of substantive examination carried out by that office, translated into the Croatian language.

GRANT OF A PATENT ON THE BASIS OF THE SUBMITTED RESULTS OF THE SUBSTANTIVE EXAMINATION

Article 38

(1) A request for the grant of a patent by accepting results of the substantive examination in compliance with Article 36, paragraph (1), item 2 of this Act, may be filed only in cases where the patent application for the same invention has been previously filed with one or more patent offices.

(2) The offices referred to in paragraph (1) of this Article are national and international offices which, by virtue of Article 32 of the Patent Cooperation Treaty, have the status of an International Preliminary Examining Authority for international patent applications, and other offices with which, at the time of filing the request referred to in Article 36, paragraph (1), item 2 of this Act, the Office has already signed a cooperation agreement.

Article 39

(1) The applicant referred to in Article 36, paragraph (1), item 2 of this Act shall enclose to the request a signed statement to the effect that he will furnish evidence of the

results of the substantive examination carried out by one of the offices referred in Article 38 of this Act, within 6 months from the day of the availability thereof, and not more than within 5 years from the date of filing the application to the elected office.

(2) Upon the reasoned request of the applicant and the evidence furnished, the Office may extend the time limit referred to in paragraph (1) of this Article, for not more than 3 months after the termination of the procedure for the substantive examination.

(3) If the applicant does not, within the prescribed time limit, furnish a translation of the results of the substantive examination required by the Office to make a decision concerning a request for the grant of the patent, the patent application shall be considered to be withdrawn, and the Office shall issue a decision on the suspension of the procedure.

(4) Evidence to be attached to the requests referred to in this Article shall be defined by the Regulations.

Article 40

(1) The Office shall issue a decision concerning a request for the grant of a patent on the basis of acceptance of the results of the substantive examination of the requirements referred to in Article 37, paragraph (1), and on the basis of additional examinations.

(2) The additional examination of a patent application shall establish whether the invention complies with the requirements for the grant of a patent, i.e. whether the subject matter of the application is:

1. an invention in respect of which sufficient evidence has been furnished for the evaluation of compliance with the requirements set out in Article 37, paragraph (1) of this Act;
2. an invention which is new with regard to all of the patent applications filed earlier with the Office in compliance with Article 8, paragraph (3) of this Act.

CONSENSUAL PATENT

Article 41

A consensual patent shall be granted for an invention the subject-matter of which is patentable in compliance with Article 5 of this Act and is not excluded from patentability in compliance with Articles 6 and 7 of this Act, and which is industrially applicable in compliance with Article 11 of this Act.

Article 42

(1) A request for the grant of a consensual patent referred to in Article 36, paragraph (1), item 3 of this Act shall be published in the official gazette of the Office within three months from its filing date.

(2) The manner and content of the publication referred to in paragraph (1) of this Article shall be laid down by the Regulations.

OPPOSITION TO THE GRANT OF A CONSENSUAL PATENT

Article 43

(1) Following the publication of the request referred to in Article 42 of this Act, any legal or natural person may, within 6 months, file to the Office an opposition to the grant of a consensual patent, or a request for the substantive examination in compliance with Article 36, paragraph (1), item 1 of this Act.

(2) The opposition, or the request for the substantive examination referred to in paragraph (1) of this Article shall be accompanied by evidence on payment of the procedural charges for the opposition which shall amount to one third of the procedural charges for the substantive examination, or procedural charges for the substantive examination, in compliance with Article 16 of this Act.

(3) The content of the opposition referred to in paragraph (1) of this Article shall be defined by the Regulations.

PROCEDURE CONCERNING THE OPPOSITION TO THE GRANT OF A CONSENSUAL PATENT

Article 44

If the opposition to the grant of a consensual patent or a request for the substantive examination is filed, and the administrative fees and procedural charges are paid, the Office shall immediately notify the consensual patent applicant thereof.

Article 45

(1) The applicant for a consensual patent may, within six months from the receipt of the notification concerning opposition filed in compliance with Article 43, paragraph (1) of this Act, file a request for the grant of a patent on the basis of the substantive examination procedure in compliance with

Article 36, paragraph (1), item 1 of this Act; the applicant shall be required to pay the difference between the administrative fee for the opposition already paid and the administrative fee for the substantive examination.

(2) If the applicant for a consensual patent does not comply with paragraph (1) of this Article, the Office shall reject the patent application by a decision.

Article 46

Any natural or legal person may file a request for the substantive examination in compliance with Article 36, paragraph (1), item 1 of this Act for the entire duration of a consensual patent, which shall be carried out in compliance with Article 37, paragraph (1) of this Act, provided that the administrative fee and procedural charges have been paid in compliance with Article 16 of this Act.

DECISION ON THE REFUSAL OF A PATENT

Article 47

(1) If it has been established that the patent application:

1. does not comply with all the requirements for the grant of a patent referred to in Article 37, paragraph (1) of this Act, or
2. does not comply with the requirements for the grant of a patent set out in Article 40 of this Act, or
3. does not comply with the requirements for the grant of a consensual patent set out in Article 41 of this Act,

the Office shall inform the patent applicant in writing of the reasons for which the patent shall not be granted, and shall invite him to comment in writing on the specified reasons within a time limit which shall not be less than 2 months nor more than 4 months from the receipt of the invitation.

(2) Upon the reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (1) of this Article.

(3) If the patent applicant does not comply with the invitation referred to in paragraph (1) of this Article, the Office shall issue a decision on the refusal of a patent.

DECISION ON THE GRANT OF A PATENT

Article 48

(1) If it has been established that the patent application:

1. complies with all the requirements for the grant of a patent referred to in Article 37, paragraph (1) of this Act, or
2. complies with the requirements for the grant of a patent referred to in Article 40 of this Act, or
3. complies with the requirements referred to in Article 41 for the grant of a consensual patent, and that an opposition to the grant of a consensual patent in compliance with Article 43 of this Act has not been filed,

the requirements for the grant of a patent have been complied with, and the Office shall issue a decision to that effect.

(2) The Office shall provide the applicant with the text of the application on the basis of which it intends to grant a patent, and shall invite him to submit written approval concerning the text provided within 30 days from the day of receipt of the invitation.

(3) If the applicant does not comply with the invitation within the time limit referred to in paragraph (2) of this Article, the Office shall issue a decision on the grant of a patent, as though the approval had been given.

(4) If the patent applicant submits in time a written declaration to the effect that he does not agree with the proposal referred to in paragraph (2) of this Article, he shall state the reasons for that, and shall submit to the Office an amended text of the claims.

(5) If the Office accepts the applicant's reasons and amended claims referred to in paragraph (4) of this Article, it shall issue a decision on the grant of a patent according to the text of the claims proposed by the patent applicant.

(6) If the reasons stated by the applicant can not be accepted, the Office shall notify the applicant thereof, and shall issue a decision on the grant of a patent according to the final text of the claims as submitted for approval.

(7) The Office shall issue a decision referred to in paragraphs (3) and (5) of this Article provided that the administrative fees and procedural charges for the maintenance of a patent, for printing of the publication thereof,

and for the issuance of the patent certificate and patent specification have been paid in compliance with Article 16 of this Act.

PATENT REGISTER
Article 49

(1) The data specified in the decision on the grant of a patent shall be entered into the Patent Register kept by the Office, on the date of the decision.

(2) The data specified in the decision on the refusal of the request for the grant of a patent shall be entered into the Register of Patent Applications.

(3) The content and the manner of keeping the Patent Register shall be specified by the Regulations.

PATENT CERTIFICATE
Article 50

(1) The patent owner shall be issued a patent certificate as soon as possible from the date of the decision on the grant of a patent and the consensual patent owner shall be issued a consensual patent certificate.

(2) The content and form of the certificates referred to in paragraph (1) of this Article shall be specified by the Regulations.

PUBLICATION OF THE MENTION OF A PATENT GRANT
Article 51

(1) The mention of the grant of the patent shall be published in the official gazette of the Office, in the first issue following the date of the decision on the grant thereof. The decision to grant the patent shall take effect on the date of such publication.

(2) The content of the publication referred to in paragraph (1) of this Article shall be defined by the Regulations.

PATENT SPECIFICATION
Article 52

(1) The patent owner shall be issued the Patent Specification as soon as possible following the date of the decision on the grant of a patent, which shall be, where the consensual patent is concerned, designated as the "Consensual Patent Specification".

(2) The content and the form of the Patent Specification and the Consensual Patent Specification referred to in paragraph (1) of this Article shall be specified by the Regulations.

EXCERPT FROM THE REGISTER
Article 53

(1) Upon request by any natural or legal person, the Office shall issue an excerpt from the Register of Patent Applications and the Register of Patents.

(2) The manner of issuing and the content of the excerpt shall be specified by the Regulations.

ENTRY OF CHANGES INTO THE REGISTERS
Article 54

(1) Upon request by a party for the entry of changes into the register, the Office shall issue a decision on the entry into the Register of Patent Applications, or into the Patent Register of the changes which have occurred after the filing of the application, or following the entry of the decision on the grant of a patent, such as: license, transfer of rights, change of the name and/or the principle place of business of an applicant or a patent owner, etc.

(2) The entered changes referred to in paragraph (1) of this Article shall be published in the official gazette of the Office.

(3) The procedure related to the entry of changes into the Office registers, and the publication thereof in the official gazette, shall be specified by the Regulations.

7. Information Services

Article 55

(1) The Office shall, upon request, make available copies of patent applications published in its official gazette as well as copies of granted patents to any legal or natural person.

(2) Prior to publication of a patent application in the official gazette, the Office may make the following data available to any interested legal or natural person: the number of the application, its filing date or where the priority has been claimed, the number and date of such, the country in which or the organization with which the first application was filed, information on the applicant and the title of the invention.

(3) The Office shall, upon request of an interested legal or natural person, provide other information services, such as a search

of patent documents in a certain technical or technological field.

(4) The scope and manner of providing these services as well as the fees for them shall be specified by the Regulations.

CORRECTION OF DEFICIENCIES IN THE DOCUMENTS

Article 56

Linguistic and typing errors as well as other similar deficiencies in the documents shall be corrected by a decision on the basis of the written request of the patent applicant or patent owner respectively, or *ex officio*.

8. Reinstatement of Rights

Article 57

(1) If the applicant or the owner of a patent has, despite due care required by the circumstances, failed to perform an act in the course of the procedure before the Office within the time limit prescribed by this Act or regulation enacted by virtue of this Act, the direct result of which is a loss of rights conferred by the patent application or the patent, the Office shall authorize the reinstatement of rights, provided that the applicant:

1. files a proposal for the reinstatement of rights and completes the omitted acts within the prescribed time limit;
2. indicates the circumstances that prevented him from performing the omitted act in time;
3. pays the administrative fee and procedural charges in compliance with Article 16 of this Act.

(2) A proposal for the reinstatement of rights shall be filed within 3 months from the day on which the reason of failure ceased to exist, and if the applicant has later learned of failure, from the day he learned of such.

(3) Following the expiration of one year from the date of failing to comply with the time limit, the proposal referred to in paragraph (1) of this Article shall not be filed.

(4) Prior to doing so, the Office shall notify the person filing a proposal for reinstatement of rights regarding the reasons by which it intends to refuse the proposal, entirely or in part, and shall invite him to comment on those reasons within 2 months from the day of receipt of the invitation.

(5) A proposal for reinstatement of rights shall not be filed in connection with the failure to comply with the following acts:

1. filing of the proposal referred to in paragraph (1) of this Article,
2. filing of the request for the extension of a time limit,
3. filing of the request referred to in Article 23 of this Act,
4. filing one of the requests referred to in Article 36 of this Act,
5. filing of the opposition referred to in Article 43, paragraph (1) of this Act,
6. payment of the administrative fee and charges for the maintenance of a patent,
7. furnishing of the translation referred to in Article 29, paragraph (1), item 3 and Article 104, paragraphs (2) and (3) of this Act,
8. all the acts in the procedures before the Office, involving several parties.

(6) Any person who has in good faith exploited an invention or has made real and serious preparations for exploiting the invention which is the subject-matter of a published application, may, in the period between the loss of right referred to in paragraph (1) of this Article, and a publication of the fact concerning acceptance of the proposal for reinstatement of rights, continue such exploitation, without compensation for damages, for the purposes of his own business and needs related to it.

(7) The contents of the proposal, the requirements and procedure related to the proposal referred to in paragraph (1) of this Article, and the publication of indications concerning the reinstatement of rights shall be specified by the Regulations.

V. EFFECTS OF A PATENT

EXCLUSIVE RIGHTS ACQUIRED BY A PATENT

Article 58

(1) The patent owner shall be entitled to exploit the protected invention.

(2) Any other person not having the patent owner's consent shall be prohibited from:

1. making, offering for sale, selling, using, exporting or importing and stocking for

such purposes, the product carried out according to the invention,

2. using the process which is the subject matter of the invention, or offering the use thereof,

3. offering for sale, selling, using, exporting or importing and stocking for such purposes, the product which is obtained directly from a process which is the subject-matter of the invention.

(3) Any other person not having the patent owner's consent shall be also prohibited from offering and supplying the product (substance, composition, part of the apparatus) constituting an essential element of the invention, to persons not entitled to exploit the said invention, if the offerer or supplier knows or should have known from the circumstances of the case that such product is intended for putting the invention of another person into function.

(4) The provisions referred to in paragraph (3) of this Article shall not apply if the offered or supplied product is a staple commercial product, except where the supplier or offerer induces other persons to commit acts referred to in paragraph (2) of this Article.

(5) In the absence of proof to the contrary, a product shall be considered to have been obtained by a protected process if it is new and if a substantial likelihood exists that the product was made by a protected process, and that the patent owner has been unable, despite reasonable efforts, to determine the process actually used. Substantial likelihood that the product was obtained by the protected process shall exist, in particular, where the protected process is the only process known.

EXCLUSIVE RIGHTS RELATED TO PATENTS IN THE FIELD OF BIOTECHNOLOGY
Article 59

(1) If a biological material possessing specific characteristics as the result of the invention is protected by a patent, the exclusive rights referred to in Article 58, paragraphs (2) and (3) of this Act shall extend to any biological material derived from that biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(2) If a process that enables a biological material to be produced possessing specific characteristics as a result of the invention is protected by a patent, the exclusive rights referred to in Article 58, paragraphs (2) and (3) of this Act shall extend to biological material directly obtained through that process and to any other biological material derived from the directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(3) If a product containing or consisting of genetic information is protected by a patent, the exclusive rights referred to in Article 58, paragraphs (2) and (3) of this Act shall extend to all material, with the exception of the human body, at the various stages of its formation and development and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, in which the product is incorporated and in which the genetic information is contained and performs its function.

RIGHTS CONFERRED BY A PATENT APPLICATION
Article 60

(1) By publication of the patent application in compliance with Article 35 of this Act, the patent applicant shall acquire provisional rights, on the basis of which reasonable compensation for damages may be claimed from any third party which has exploited the invention within the period from the date of publication of the patent application and the date of publication of a mention of the grant of the patent contrary to Articles 58 and 59 of this Act, in a manner that could be prohibited after the grant of the patent.

(2) The patent application shall not have the effects set out in paragraph (1) of this Article when it has been refused, rejected, withdrawn, or deemed to be withdrawn.

SCOPE OF THE EXCLUSIVE RIGHTS
Article 61

(1) The scope of the patent owner's exclusive rights shall be determined by the claims which are finally accepted in the patent granting procedure, whereas the description and drawings shall serve to interpret the patent claims. The terms of the claims shall not be confined to their strict literal wording, nor shall the description and drawings be taken into account only for the purpose of clarifying vagueness in the claims. The claims shall neither be taken as guidelines indicating

that the scope of the exclusive rights may extend to the matter which a person skilled in the art might take as the intended scope of protection.

(2) Within the time period from the date of publication of a patent application up to the patent grant, the scope of protection shall be determined by the claims contained in the patent application, published in compliance with this Act, however, the patent as finally granted or as amended in nullity proceedings in which it has been partially revoked, shall retroactively determine the rights conferred by the application, in so far as the scope of protection is not thereby extended.

LICENSE CONTRACT AND TRANSFER OF RIGHTS
Article 62

(1) The right to exploit the protected invention shall be assigned by a license contract.

(2) A patent may be the subject of a transfer, complete or in part.

(3) The license contract and the contract on the transfer of a patent shall be concluded under the conditions and in a manner as prescribed by the Obligatory Relations Act.

(4) The conclusion of the license contract or the contract on the transfer of a joint patent shall require the consent of all the owners thereof.

(5) The provisions of this Article shall also apply in an appropriate manner to the conclusion of a license contract, and a contract on the transfer of the right conferred by a patent application.

VI. LIMITATION OF THE EFFECT OF A PATENT

EXCEPTIONS FROM THE EXCLUSIVE RIGHTS
Article 63

The patent owner's exclusive right of exploitation of the invention shall not apply to:

1. acts in which the invention is exploited for private and non-commercial purposes,
2. acts done for the purposes of research and development and for experiments relating to the subject-matter of the protected invention, including where such acts are necessary for obtaining registration or authorization for putting on the market a product comprising a medicine intended for people or animals, or a medicinal product,
3. direct and individual preparation of a medicine in a pharmacy on the basis of an individual medical prescription and acts relating to the medicine so prepared.

RIGHTS OF THE PRIOR USER
Article 64

(1) A patent shall have no effect against the person who had, prior to the filing date of the application or prior to the date of granted priority, exploited or manufactured, in good faith and within her/his economic activities, the product which is the subject-matter of the invention or, had made real and serious preparations for such exploitation of the invention in the Republic of Croatia.

(2) The person referred to in paragraph (1) of this Article shall have the right to proceed, without the patent owner's consent, with the exploitation of the invention to the extent to which she/he had exploited it or had prepared its exploitation up to the filing date of the application for the said invention.

(3) The right referred to in paragraph (2) of this Article may be transferred or inherited only with the working process and production plant in which the exploitation of the invention has been prepared or has started.

LIMITATION OF EFFECTS IN RESPECT OF PATENTS IN THE FIELD OF BIOTECHNOLOGY
Article 65

(1) The exclusive rights deriving from the provision set out in Article 59 of this Act shall not extend to biological material obtained from the propagation or multiplication of biological material placed on the market in the territory of the Republic of Croatia by the owner of the patent or with his consent, where the multiplication or propagation necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.

(2) By way of derogation from Article 59 of this Act, the sale or other form of commercialization of plant propagating material to a farmer by the owner of the patent or with his consent for agricultural use implies authorization for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm.

(3) By way of derogation from Article 59 of this Act, the sale or any other form of commercialization of breeding stock or other animal reproductive material to a farmer by the owner of the patent or with his consent implies authorization for the farmer to use the protected livestock for agricultural purposes, including making the animal or other animal reproductive material available for the purposes of pursuing his agricultural activity but not sale within the framework or for the purpose of a commercial reproduction activity.

Exhaustion of the Patent Owner's Exclusive Rights
Article 66

The exclusive rights conferred by a patent extending to acts concerning a product protected by the patent which are carried out within the territory of the Republic of Croatia, shall be considered exhausted once the product has been put on the domestic market by the patent owner or with his express consent, unless there are legitimate grounds for the patent owner to prohibit further commercialization of the product.

Vehicles in International Traffic
Article 67

The use of products made according to a protected invention in the construction or equipment of a vessel, aircraft or land vehicle belonging to any of the Member States of the Paris Union or WTO shall not be considered a patent infringement where such transport means finds itself temporarily or accidentally in the territory of the Republic of Croatia, provided that the built-in product serves exclusively for the purposes of the said transport means.

VII. COMPULSORY LICENSE

GRANT OF A COMPULSORY LICENSE
Article 68

(1) The competent court in the Republic of Croatia may grant a compulsory license for lack or insufficiency of exploitation of a patent to any person filing a request for the grant of a compulsory license, or to the Government of the Republic of Croatia, if the patent owner has not exploited the invention protected by a patent in the territory of the Republic of Croatia on reasonable terms or has not made effective and serious preparations for its exploitation.

(2) A request for the grant of a compulsory license based on paragraph (1) of this Article can be filed after the expiration of a period of four years from the filing date of a patent application, or after the expiration of three years from the date the patent was granted.

(3) A compulsory license cannot be granted if the patent owner provides legitimate reasons to justify non-exploitation or insufficiency of exploitation of the protected invention.

(4) Upon a reasoned request, the court may grant a compulsory license in respect of a first patent to the owner of a patent or to the owner of a plant variety right who cannot use his patent (second patent) or his plant variety right without infringing the first patent, provided that the invention claimed in the second patent or a protected plant variety involves an important technical advance of considerable economic significance in relation to the invention claimed in the first patent or to the protected plant variety. The competent court may take any measure it regards as useful to verify the existence of such a situation.

(5) In the case of a compulsory license as provided in paragraph (4) of this Article, the owner of the first patent shall be entitled to a cross license on reasonable terms to use the invention protected by the second patent or protected plant variety.

(6) The court may grant a compulsory license if the exploitation of the patented invention is necessary in situations of extreme urgency (national security, public interest protection in the field of health, food supply, environmental protection and improvement, specific commercial interest) or when it is necessary to remedy a practice determined by a judicial or administrative process to be anti-competitive.

(7) In the case of semi-conductor technology, a compulsory license may be granted only in the cases set out in paragraph 6 of this Article.

(8) A compulsory license may be granted only if the person filing the request has made efforts to obtain authorization from the patent owner on reasonable commercial terms and conditions and if such efforts have not been successful within a reasonable period of time. The court may derogate from these conditions in the situations set out in paragraph (6) of this Article. The right holder shall be informed of the granting of a compulsory license as soon as is reasonably possible.

CONDITIONS APPLICABLE TO THE GRANT OF A COMPULSORY LICENSE
Article 69

(1) A compulsory license shall be non-exclusive, and its scope and duration shall be exclusively limited to the purpose for which it was authorized.

(2) A compulsory license shall be transferred only with the production plant or the part thereof respectively, in which the invention it is granted for has been exploited.

(3) A compulsory license shall be granted predominantly for the purposes of supplying the domestic market unless it is necessary to correct a practice determined by judicial or administrative process to be anti-competitive.

(4) The competent authority shall, upon reasoned request by an interested person, cancel a compulsory license, subject to adequate protection of the legitimate interests of the persons so authorized, if and when the circumstances which led to its authorization cease to exist and are unlikely to recur.

(5) The patent owner has the right to remuneration, taking into account the economic value of the authorization and need to correct anti-competitive practice.

(6) A compulsory license according to Article 68 paragraph (4) of this Act shall be non-transferable except with a transfer of the second patent or the protected plant variety.

VIII. DURATION, MAINTENANCE AND CESSATION OF EFFECT OF A PATENT

TERM OF A PATENT
Article 70

(1) The term of a patent shall be 20 years from the filing date of the application.

(2) The term of a consensual patent shall be 10 years from the filing date of the application.

SUPPLEMENTARY PROTECTION CERTIFICATE
Article 71

(1) The term of a patent may be extended by a Certificate on Supplementary Protection (hereinafter: certificate) in cases where a basic patent has been granted for a medicine intended for humans or animals or a plant protection product, the placing on the market of which requires prior authorization of the competent State authority, for a time period equal to the period which elapsed between the filing date of a patent application and the date of the first authorization to place the medicine intended for humans or animals or the plant protection product on the market, reduced by 5 years, but not exceeding 5 years from the date the certificate takes effect, to be decided by the Office**.**

(2) A certificate shall be granted upon a request of the owner of the basic patent, if the following conditions are met on the date of filing of the application for a certificate:

1. the medicine intended for humans or animals or the plant protection product is protected by a basic patent in force,
2. authorization to place the medicine intended for humans or animals or the plant protection product on the market has been granted in the Republic of Croatia, and is in force,
3. the basic patent for the medicine intended for humans or animals or the plant protection product has not already been the subject of a certificate,
4. an application for the basic patent was filed in the Republic of Croatia after 1 January 1993, and
5. the first authorization to place the medicine intended for humans or animals or the plant protection product on the market was granted after 1 January 2005.

(3) The certificate shall take effect at the end of the lawful term of the basic patent.

(4) Under this Act, a basic patent shall mean a patent which protects an active ingredient or a combination of active ingredients of the medicine intended for humans or animals or the plant protection product, and a process to obtain or apply such products.

(5) The first authorization to place on the market as used in this Article shall mean the first authorization to place a medicine intended for humans or animals or a plant protection product on the market, obtained in the Republic of Croatia or EU.

(6) The grant of a certificate and annual maintenance thereof shall be subject to payment of the prescribed administrative fee and procedural charges.

(7) The application for a certificate shall be filed to the Office within 6 months from the date on which the authorization to place a

medicine intended for humans or animals or a plant protection product on the market was granted, and if the authorization is granted before the basic patent is granted, it shall be filed within 6 months from the date on which the patent is granted.

(8) Data concerning the granting of a certificate and its duration shall be entered in the corresponding Register of the Office.

(9) The requirements, the granting procedure and contents of the certificate referred to in paragraph (1) of this Article shall be defined by the Regulations.

(10) The provisions of this Article shall not apply to a consensual patent.

SUBJECT-MATTER AND EFFECTS OF PROTECTION
Article 72

(1) Within the limits of the protection conferred by the basic patent, the protection conferred by a certificate shall extend only to the medicine or medicinal product intended for humans or animals or to plant protection product respectively, covered by the authorizations to place the corresponding products on the market, and for any use of the product as a medicine or medicinal product intended for humans or animals or a plant protection product that has been authorized prior to the expiry of the certificate.

(2) The certificate shall confer to the owner of the basic patent or his successor in title the same rights as conferred by the basic patent and shall be subject to the same limitations and the same obligations**.**

PUBLICATION
Article 73

(1) In the official gazette, the Office shall publish data concerning an application for a certificate, decision on the grant of a certificate, or rejection of the application for a certificate and termination of a certificate.

(2) The data to be published shall be defined by the Regulations.

ANNUAL FEES AND PROCEDURAL CHARGES FOR THE MAINTENANCE OF A PATENT
Article 74

(1) The maintenance of rights conferred by an application and a granted patent shall be subject to payment of the prescribed annual administrative fee and procedural charges, in the manner prescribed by the Regulations.

(2) The annual fee and procedural charges referred to in paragraph (1) of this Article shall be payable for the third and every subsequent year, counting from the application filing date.

(3) If the patent owner fails to pay the administrative fee and procedural charges in compliance with the preceding paragraph, he may pay them in the grace period of 6 months, provided that he also pays administrative and procedural surcharges.

(4) The Office shall remind the patent owner of nonpayment of the annual administrative fee and procedural charges for the maintenance of a patent and of the consequences thereof, and of the possibility of payment according to paragraph (3) of this Article.

PRE-TERM LAPSE OF A PATENT DUE TO THE NON-PAYMENT OF ANNUAL MAINTENANCE FEES AND PROCEDURAL CHARGES
Article 75

If the patent owner does not pay the prescribed administrative fee and procedural charges for the maintenance of a patent, the patent shall lapse on the day following the day on which the time limit for the payment referred to in Article 74 of this Act has expired.

PRE-TERM TERMINATION OF A PATENT DUE TO THE SURRENDER THEREOF
Article 76

(1) If the patent owner surrenders a patent, it shall be terminated on the day following the day on which a certified written declaration concerning the surrender thereof has been filed to the Office.

(2) If a particular right on behalf of third persons has been entered into the register, the patent owner may not surrender a patent without the prior certified written consent of those persons.

PRE-TERM TERMINATION OF A CERTIFICATE
Article 77

(1) A certificate referred to in Article 71 of this Act shall be terminated:

1. if the certificate-holder surrenders it, on the day following the day on which a

certified written declaration on surrender is furnished to the Office;

2. if the annual fee for the maintenance thereof is not paid within the period prescribed by this Act;

3. if the product for which the certificate was granted would no longer be in circulation in the territory of the Republic of Croatia, due to the revocation of the authorization for its placing on the market in compliance with a national regulation.

(2) The Office shall decide on the termination of a certificate *ex officio*, or at the request of an interested person.

INHERITANCE OF THE PATENT OWNER'S CAPACITY
Article 78

(1) A patent shall be terminated on the day of the patent owner's death, or on the day of the loss of the capacity of the legal person respectively, unless it is transferred to heirs or successors in title.

(2) The provisions of this Article shall apply *mutatis mutandis* to a patent applicant.

IX. DECLARATION OF NULLITY OF A PATENT

REASONS FOR THE DECLARATION OF NULLITY OF A PATENT
Article 79

A patent may be declared null and void at any time, on the proposal of any natural or legal person or a State Attorney, if the patent has been granted:

1. for the subject matter which may not, within the meaning of Article 5, paragraph (6) and Articles 6 and 7 of this Act, be protected by a patent,

2. for an invention which, on the filing date of the patent application or on the date of the granted priority respectively, was not new or did not include an inventive step,

3. for an invention which is not industrially applicable,

4. for an invention which is not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art,

5. for the subject-matter extending beyond the content of the patent application as filed or, if the patent was granted on a divisional application or on a new application filed under Article 89 of this Act, beyond the content of the earlier application as filed; or

6. on behalf of a person not entitled to the patent protection for the invention.

PROPOSAL FOR THE DECLARATION OF NULLITY OF A PATENT
Article 80

(1) The procedure concerning the declaration of nullity of a patent shall begin by filing a proposal with the Office.

(2) The proposal referred to in paragraph (1) of this Article shall contain the data concerning the applicant, the owner of the patent, the number of the decision, the registration number of the patent and the reasons for the proposal of the declaration of nullity of the patent supported by necessary evidence.

PROCEDURE CONCERNING THE PROPOSAL FOR THE DECLARATION OF NULLITY OF A PATENT
Article 81

(1) If the proposal for the declaration of nullity of a patent is not drafted in compliance with the provision referred to in Article 80, paragraph (2), of this Act, or if the administrative fee and procedural charges have not been paid in compliance with Article 16 of this Act, the Office shall invite the applicant to correct the deficiencies within 30 days from the day of receipt of the invitation.

(2) If the applicant does not correct the proposal within the time limit specified in paragraph (1) of this Article, the Office shall reject the proposal by a decision.

(3) The Office shall communicate the correct proposal to the patent owner and shall invite him to submit his response within a period which shall not be less than 30 days and not more than 60 days from the day of the receipt thereof.

(4) In the course of the procedure concerning the declaration of nullity of a patent, the Office shall invite the parties as many times as necessary to submit, within the period referred to in paragraph (3) of this Article, their comments on the submissions of the other party.

(5) The Office shall hold a hearing if it considers that it is necessary for the establishment of the facts essential for its decision.

(6) Upon a reasoned request, the Office may extend the time limits referred to in paragraphs (1) and (3) of this Article for the time it considers to be justified.

(7) In cases where the owner of a consensual patent is concerned, and where the evidence referred to in Article 80, paragraph (2) of this Act are sufficient for reasonable doubt that the consensual patent complies with the requirements referred to in Article 41 of this Act, the response referred to in paragraph (3) of this Article shall also contain a request for the substantive examination.

CONTINUATION OF THE PROCEDURE FOR THE DECLARATION OF NULLITY OF A PATENT BY THE OFFICE OF ITS OWN MOTION

Article 82

(1) If the person having filed the proposal for the declaration of nullity of a patent withdraws the proposal in the course of the procedure, the Office may continue the procedure of its own motion.

(2) The same applies where the patent owner has surrendered the patent or the patent has lapsed.

DECISION CONCERNING THE PROPOSAL FOR THE DECLARATION OF NULLITY OF A PATENT

Article 83

(1) On the basis of the results of the procedure, the Office shall issue a decision on the declaration of nullity of a patent, entirely or in part, or the decision on the refusal of the proposal.

(2) The patent application and the patent granted thereon shall not have from the outset the effects specified in Articles 58 to 60 of this Act, to the extent that the patent has been declared null and void.

DECLARATION OF NULLITY OF A SUPPLEMENTARY PROTECTION CERTIFICATE

Article 84

(1) A certificate shall be null and void if:

1. it was granted contrary to the requirements prescribed by this Act;
2. the basic patent has lapsed according to Articles 76 and 77 of the Act;
3. the basic patent is revoked entirely or in part whereby the product for which the certificate was granted would no longer be protected by the claims of the basic patent or, upon expiry of the basic patent, grounds for revocation exist which would have justified such revocation.

(2) The provisions of this Act relating to the procedure concerning a proposal for the declaration of nullity of a patent shall apply *mutatis mutandis* to the procedure for the declaration of nullity of a supplementary protection certificate.

X. REVOCATION OF THE DECISION ON THE GRANT OF A PATENT

REASONS FOR THE REVOCATION OF THE DECISION ON THE GRANT OF A PATENT

Article 85

The decision on the grant of a patent may be revoked prior to the expiration of the term of a patent, if it is established:

1. that the viable biological material deposited in the authorized institution in compliance with the provisions of Article 20, paragraph (6) of this Act no longer exists or that the said material is no longer available to the public,
2. that its availability to the public through the authorized institution in which it was deposited was discontinued in the period longer than that prescribed.

PROPOSAL AND PROCEDURE CONCERNING THE REVOCATION OF THE DECISION ON THE GRANT OF A PATENT

Article 86

(1) The procedure concerning the revocation of the decision on the grant of a patent shall begin with the filing of a proposal with the Office.

(2) The provisions of this Act relating to the content of the proposal and to the procedure concerning the declaration of nullity of a patent shall apply *mutatis mutandis* to both the content of the proposal and the procedure concerning the revocation of the decision on the grant of a patent.

DECISION ON THE PROPOSAL CONCERNING THE REVOCATION OF THE DECISION ON THE GRANT OF A PATENT
Article 87

(1) On the basis of the results of the procedure, the Office shall issue a decision on the revocation of the decision on the grant of a patent, or the decision refusing the proposal as unfounded.

(2) The decision on the revocation of the decision on the grant of a patent shall have legal effect from the date on which the Office has established that the viable biological material no longer exists, or is no longer available to the public for other reasons, or that the discontinuance of availability of the viable biological material to the public has taken place within a period longer than that prescribed.

XI. ENFORCEMENT OF RIGHTS

1. CIVIL PROTECTION OF RIGHTS

ACTION FOR THE ESTABLISHMENT OF THE RIGHT TO PATENT PROTECTION
Article 88

(1) The inventor or his successor in title shall be entitled to file an action with the competent court, to request the establishment of the right to the patent protection of the invention, if a patent application has been filed by a person not entitled to such right or, in case of a jointly created invention, by the person who is not the sole person entitled to such right.

(2) The action referred to in paragraph (1) of this Article may be brought up until the decision on the grant of a patent is made.

(3) The action shall be disposed of as soon as possible.

RIGHT TO RESUME THE PROCEDURE FOR THE GRANT OF A PATENT BY VIRTUE OF THE FINAL COURT DECISION
Article 89

The inventor or his successor in title respectively, whose right to the grant of patent protection for the invention has been established by a final court decision, shall be entitled to resume the procedure for the grant of a patent within 3 months from the date the court decision becomes final or to file a new application for the same invention claiming the filing date and priority date, if any, of the application filed by the applicant not entitled to the grant of the patent.

ACTION FOR THE INFRINGEMENT OF THE INVENTOR'S MORAL RIGHT
Article 90

(1) The inventor shall be entitled through a civil action before the court to request the entry of his name into the patent application and all the documents issued for a patent as well as in the appropriate Office registers, if the person mentioned as such in the application is not the inventor.

(2) The right to the action referred to in paragraph (1) of this Article shall also belong to the inventor of the joint invention who is not mentioned in the patent application.

(3) The request referred to in paragraph (1) of this Article may be accompanied by a request for the final court decision to be published at the expense of the defendant.

(4) There shall be no time limit for an action referred to in paragraphs (1) and (2) of this Article. After the death of the inventor the right to an action shall belong to his heirs.

ACTION CONCERNING THE INFRINGEMENT OF A PATENT
Article 91

(1) The patent owner or the holder of an exclusive license shall be entitled to a civil action before the competent court against any person who infringes the patent by performing any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act.

(2) The right to the action referred to in paragraph (1) of this Article, after the publication of a patent application, shall belong to the applicant of a published application or the holder of an exclusive license.

(3) The owner of a consensual patent shall be required to prove, prior to the action referred to in paragraph (1) of this Article, that he has filed a request for the grant of a patent on the basis of the substantive examination of a patent application.

CLAIMS CONTAINED IN THE ACTION
Article 92

(1) An action for the infringement of a patent may contain a claim for:

1. establishment of the existence of an infringement,
2. prohibition of specified acts infringing the patent,
3. compensation for damages in cases where the infringement was committed intentionally or by negligence,
4. seizure and destruction of products resulting from or acquired by the infringement of a patent, and articles (implements and tools) predominantly used for the manufacturing of the products infringing a patent,
5. an order requiring the infringer to inform the plaintiff of the identity of third persons involved in the production and distribution of the infringing goods or services and of their channels of distribution, unless this would be out of proportion to the seriousness of the infringement,
6. the laying of accounts,
7. the publication of the court decision at the expense of the defendant.

(2) The patent applicant shall be entitled to claim compensation for damages incurred from the publication date of the patent application in the manner provided for in Article 35 of this Act.

(3) In respect of details concerning the compensation for damages caused by the infringement of a patent not regulated by this Act, the corresponding provisions of the Obligatory Relations Act shall apply.

BURDEN OF PROOF
Article 93

(1) If the subject matter of the infringement is a patent protected process for obtaining a new substance, any equal substance or any substance of equal composition shall be considered as resulting from the protected process, unless proved to the contrary.

(2) The burden of proof shall be on the defendant preparing such a product or composition.

ORDERING A PROVISIONAL MEASURE
Article 94

(1) The action referred to in Article 92 of this Act may, before the court final decision comes into effect, constitute a claim for ordering a provisional measure comprising:

1. the order to cease and desist from acts infringing the patent,
2. the seizure or exclusion from circulation of products resulting from or acquired by the infringement of a patent and of the articles (implements and tools) predominantly used in the manufacture of the products infringing a patent,
3. the order to the infringer to inform the plaintiff of the identity of third persons involved in the production and distribution of the infringing goods or services and of their channels of distribution, unless this would be out of proportion to the seriousness of the infringement.

(2) By way of derogation from the provisions referred to in paragraph (1) of this Article, the proposal for ordering a provisional measure may be filed even before the action, provided that the action is brought within 15 days from the day of filing a proposal.

(3) The court may order provisional measures *inaudita altera parte* where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder, or where there is a demonstrable risk of evidence being destroyed.

(4) Where provisional measures have been adopted *inaudita altera parte*, the parties affected shall be given notice without delay, and not later than within 7 days after the execution of the measures.

(5) The court may require the applicant to provide any reasonably available evidence in order to confirm with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right has been infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

(6) In respect of details concerning the ordering of provisional measures not regulated by this Act, the corresponding provisions of the Execution Act shall apply.

STATUTE OF LIMITATIONS FOR ACTIONS CONCERNING THE INFRINGEMENT OF A PATENT
Article 95

An action concerning an infringement of a patent may be initiated within 3 years from the day of learning of the infringement and the infringer, but

not after the expiration of the period of 5 years from the day on which the infringement was committed.

URGENCY OF THE PROCEDURE CONCERNING THE ACTION FOR THE INFRINGEMENT OF A PATENT

Article 96

The action concerning the infringement of a patent shall be initiated as soon as possible.

2. MISDEMEANOR PROVISIONS

Article 97

(1) Any legal person shall be punished for a misdemeanor by a fine amounting from HRK 20,000 to 100,000, if such act is contrary to the provisions of this Act:

1. making, offering for sale, selling, or importing and stocking for such purposes a product manufactured according to the protected invention (Article 58, paragraph (2), item 1, and Article 59),
2. using or offering for use a process which is the subject-matter of the protected invention (Article 58, paragraph (2), item 2, and Article 59),
3. offering for sale, selling, using, exporting or importing and stocking for such purposes a product obtained directly from the process which is the subject-matter of the protected invention (Article 58, paragraph (2), item 3, and Article 59),
4. offering or delivering a product which constitutes the essential element of the protected invention (Article 52, paragraph (3), and Article 59).

(2) Any natural person shall be punished for a misdemeanor referred to in paragraph (1) of this Article by a fine amounting from HRK 2,000 to 8,000

(3) A responsible person in the legal entity shall also be punished for a misdemeanor referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000 to 10,000.

(4) Articles intended or used for the commitment of the misdemeanor referred to in paragraphs (1), (2) and (3) of this Article shall be seized and destroyed, the final decision to that effect being issued by the judicial authority.

Article 98

(1) The commitment of misdemeanors referred to in Article 97 of this Act shall, in addition to a fine, be subject to the pronunciation of the protective measure ordering the seizure of products resulting from or acquired by the commitment of misdemeanors, and of objects (tools and implements) predominantly used in the manufacture of products infringing a patent, irrespective of whether they are the property of the infringer or not.

(2) The decision referred to in paragraph (1) of this Article may comprise the ordering of the destruction of the seized articles and objects.

XII. EUROPEAN PATENT APPLICATION AND EUROPEAN PATENT

EXTENSION OF THE EFFECTS OF EUROPEAN PATENTS

Article 99

(1) A European patent application and a European patent extending to the Republic of Croatia shall, subject to the provisions of this Chapter, have the effect of and be subject to the same conditions as a national patent application and a national patent under this Act.

(2) Pursuant to this Act:

5. "European patent application" means an application for a European patent filed under the European Patent Convention (hereinafter: EPC), as well as an international application filed under the Patent Cooperation Treaty (hereinafter: PCT) for which the European Patent Office (hereinafter: EPO) acts as the designated or elected Office and in which the Republic of Croatia is designated;
6. "extended European patent" means a European patent granted by the EPO on a European patent application in respect of which extension to the Republic of Croatia has been requested;
7. "national patent application" means a patent application filed to the Office under this Act;
8. "national patent" means a patent granted on the basis of a national patent application.

REQUEST FOR EXTENSION
Article 100

(1) A European patent application and a European patent granted on such application shall be extended to the Republic of Croatia at the request of the applicant. The request for extension shall be deemed to be filed with any European patent application filed on or after the date on which the Cooperation Agreement between the Government of the Republic of Croatia and the European Patent Organization enters into force.

(2) The Office shall publish any request for extension as soon as possible after it has been informed by the EPO that the prescribed extension fee has been paid, but not before the expiry of 18 months from the filing date or, if priority has been claimed, from the earliest priority date.

(3) The request for extension may be withdrawn at any time. It shall be deemed withdrawn where the prescribed extension fee has not been paid in time or where the European patent application has been finally refused, withdrawn or deemed withdrawn. The Office shall publish this as soon as possible if the request for extension has already been published by it in accordance with paragraph (2) of this Article.

(4) The manner and the content of the publication according to paragraphs (1) and (2) of this Article shall be provided by a special regulation enacted by this Act.

EXTENSION FEE
Article 101

(1) The extension fee under Article 100, paragraph (2) of this Act shall be paid to the EPO within the applicable time-limits provided under the EPC for the payment of the designation fee.

(2) The extension fee may still be validly paid within the grace period specified in the EPC for the payment of designation fees, provided that a surcharge of 50% is paid within this period.

(3) For the payment of extension fees, the EPO Rules relating to Fees shall apply *mutatis mutandis.* Extension fees validly paid shall not be refunded.

EFFECTS OF EUROPEAN PATENT APPLICATIONS
Article 102

(1) A European patent application which has been accorded a filing date shall be equivalent to a regular national patent application where appropriate with the priority claimed for the European patent application, whatever its outcome may be.

(2) A published European patent application shall provisionally confer protection as conferred by a published national patent application under Article 60 of this Act from the date on which a translation of the published European patent application into the Croatian language has been communicated by the applicant to the person using the invention in the Republic of Croatia.

(3) The European patent application shall be deemed not to have had *ab initio* the effects referred to in paragraph (2) of this Article, where the request for extension has been withdrawn or is deemed withdrawn.

EFFECTS OF EUROPEAN PATENTS
Article 103

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

(2) Within three months from the date on which the mention of the grant of the European patent has been published, the owner of the patent shall furnish the Office with a translation of the specification of the European patent in the Croatian language and shall pay the prescribed administrative fee and procedural charges for publication in the official gazette of the Office, in compliance with Article 16 of this Act.

(3) If, as a result of an opposition filed with the EPO, the European patent is maintained with amended claims, the owner of the patent shall, within three months from the date of publication of the decision to maintain the European patent as amended, furnish the Office with a translation of the amended claims in the Croatian language and pay the prescribed administrative fee and procedural charges for publication in the official gazette of the Office.

(4) Where the text of claims contains reference signs used in the drawings, such drawings

shall be attached to the translation referred to in paragraphs (2) and (3) of this Article.

(5) The Office shall publish in its official gazette mention of any translation duly filed under paragraph (2) or (3) of this Article as soon as possible. The content of the publication shall be provided by the Regulations.

(6) If the translation specified in paragraph (2) or (3) of this Article is not filed in the prescribed time-limit or the prescribed administrative fee and procedural charges are not paid in due time, the extended European patent shall be deemed to be void *ab initio*. Article 122 of the EPC shall apply *mutatis mutandis*.

(7) An extended European patent and the European patent application on which it is based shall be deemed not to have had *ab initio* the effects specified in paragraph (1) of this Article and Article 102, paragraph (2) of this Act to the extent that the patent has been revoked in opposition proceedings before the EPO.

(8) The Office shall issue a decision on the entry of the extended European patent into the Register of Patents referred to in Article 49 of this Act.

AUTHENTIC TEXT OF EUROPEAN PATENT APPLICATIONS OR EUROPEAN PATENTS
Article 104

(1) The text of a European patent application or a European patent in the language of the proceedings before the EPO shall be the authentic text in any proceedings in the Republic of Croatia.

(2) Where the translation in the Croatian language confers protection narrower than that conferred by the extended European patent application or the extended European patent, the translation as provided for under Articles 102 and 103 shall be regarded as authentic, except in the revocation proceedings.

(3) An applicant for a European patent or the owner of an extended European patent may file a corrected translation at any time. The corrected translation of the claims of a published European patent application shall not have any legal effects until it has been communicated to the person using the invention in the Republic of Croatia. The corrected translation of the specification of an extended European patent shall not have any legal effect until mention of it has been published by the Office as soon as possible after payment of the administrative fee and procedural charges prescribed for the publication.

(4) Any person who, in good faith, uses or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of the application or patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

RIGHTS OF EARLIER DATE
Article 105

(1) A European patent application for which the extension fee has been paid and an extended European patent shall have, with regard to a national patent application and a national patent, the same state of the art effect as a national patent application and a national patent.

(2) A national patent application and a national patent shall have, with regard to an extended European patent, the same state of the art effect as they have with regard to a national patent.

SIMULTANEOUS PROTECTION
Article 106

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

RENEWAL FEES FOR EXTENDED EUROPEAN PATENTS
Article 107

(1) Renewal fees for an extended European patent shall be paid to the Office for the years following the year in which the mention of the grant of the European patent was published.

(2) Article 141, paragraph (2) of the EPC shall apply *mutatis mutandis*.

APPLICABILITY OF THE EPC
Article 108

The provisions of the EPC and its implementing regulations shall not apply unless otherwise provided in the provisions of this Act.

XIII. INTERNATIONAL APPLICATION UNDER THE PATENT COOPERATION TREATY

INTERNATIONAL APPLICATION
Article 109

(1) An international application shall be an application filed in compliance with the PCT. Any reference to the PCT in this Chapter of the Act shall be, at the same time, considered to be a reference to the Regulations under the Patent Cooperation Treaty.

(2) The provisions of the PCT, this Act, and a regulation enacted by virtue of this Act shall apply to an international application filed with the Office as the receiving office, or in which the Office is indicated as a designated or elected office.

INTERNATIONAL APPLICATION FILED WITH THE OFFICE AS THE RECEIVING OFFICE
Article 110

(1) An international application may be filed with the Office as the receiving office if the applicant is a Croatian national, or any natural person domiciled in the Republic of Croatia or a legal person having its principal place of business in the Republic of Croatia.

(2) The filing of the international application referred to in paragraph (1) of this Article shall be, in compliance with Article 16 of this Act, subject to the payment of the prescribed administrative fee and procedural charges for its transmittal to the International Bureau, within one month from the date of receipt of the international application.

INTERNATIONAL APPLICATION FILED WITH THE OFFICE AS THE DESIGNATED OR ELECTED OFFICE
Article 111

(1) An international application in which the Republic of Croatia is designated or elected, in compliance with the provisions of the PCT, for the grant of a national patent, shall, subject to payment of the administrative fee and procedural charges, be filed with the Office in the Croatian language not later than up to the expiration of a period of 31 months from the international filing date or priority date respectively, if priority is claimed in the international application in compliance with Article 8 of the PCT.

(2) The international application filed with the Office as a designated or elected office shall be published in the official gazette of the Office in a manner provided for in Article 35 of this Act.

(3) The provisional rights provided for under the provisions of Article 60 of this Act for the international applications referred to in paragraph (1) of this Article shall be effective as of the date of publication of the translation in the Croatian language.

(4) In respect of international applications referred to in paragraph (1) of this Article, the time limit within which one of the requests referred to in Article 36 of this Act may be filed shall run from the date of the publication in the official gazette of the Office.

(5) An international application published under Article 21 of the PCT shall not be considered state of the art under Article 8, paragraph (3) of this Act as long as the conditions set out in paragraph (1) above have not been met.

XIV. TRANSITIONAL AND FINAL PROVISIONS

PATENTS GRANTED UP TO THE APPLICATION OF THIS ACT
Article 112

(1) Patents entered into the Office Patent Register up to the date determined for the application of this Act shall remain in effect and the provisions of this Act shall apply to them.

(2) The owner of a patent protecting the invention of medicine for humans and animals or inventions relating to the application of substances or compositions in the treatment of humans and animals, where the application was filed up to 31 December 1992, or the priority for such application was claimed up to 31 December 1992 may, in the procedure concerning the infringement of a patent, claim remuneration only through an action for the period after 1 January 1993.

PENDING PROCEDURES
Article 113

(1) All patent granting procedures, procedures concerning proposals for the declaration of a patent null and void, and procedures concerning proposals for the revocation of the decision on the patent grant pending up to the beginning of application of this Act, shall be carried out according to the provisions in force up to the beginning of application of this Act.

(2) Procedures concerning the infringement of a patent or rights conferred by a patent application pending up to the day the application of this Act begins, shall be carried out according to the provisions in force up to the day the application of this Act begins.

TRANSLATIONS ACCORDING TO THE AGREEMENT ON THE APPLICATION OF ARTICLE 65 OF THE EPC
Article 114

(1) The provisions of Article 103, paragraphs (2) and (3) of this Act providing for the obligation of the owner of the extended European patent to provide a translation of the specification and amended claims in the Croatian language, shall apply until the entry into force of the Agreement on the Application of Article 65 of the EPC, dated 17 October 2000.

(2) After the entry into force of the Agreement referred to in paragraph (1), the owner of a patent shall provide the Office with the following:

1. a patent specification in the English language or a translation in the English language of the specification, and the translation in the Croatian language of claims, where a patent has been granted in a language of the proceedings other than English, within the time limit and subject to payment of the prescribed administrative fee and procedural charges for publication as provided for under Article 103, paragraph (2) of this Act;

2. a translation in the English and Croatian languages of the amended claims, where the extended European patent is maintained with amended claims, within the time limit and subject to payment of the prescribed administrative fee and procedural charges for publication as provided for under Article 103, paragraph (3) of this Act.

(3) In the case of a dispute relating to the extended European patent, and upon the request of the alleged infringer, or the competent court or other judicial authority in the course of legal proceedings, the owner shall, at his own expense, provide a full translation of the specification in the Croatian language.

(4) The translation referred to in paragraph (3) of this Act shall be regarded as authentic in any proceedings in the Republic of Croatia, except in revocation proceedings, where the translation in the Croatian language confers protection narrower in scope than that conferred by the extended European patent in the language of proceedings.

REGULATIONS
Article 115

The Regulations defining the matters referred to in: Article 17, paragraph (2); Article 20, paragraph (9); Article 21; Article 30, paragraph (2); Article 31, paragraph (2); Article 35, paragraph (4); Article 36, paragraph (3); Article 39, paragraph (4); Article 42, paragraph (2); Article 43, paragraph (3); Article 49, paragraph (3); Article 50, paragraph (2); Article 51, paragraph (2); Article 52, paragraph (2); Article 53, paragraph (2); Article 54, paragraph (3); Article 55, paragraph (4); Article 57, paragraph (7); Article 71, paragraph (9); Article 73, paragraph (2); Article 74, paragraph (1); Article 103, paragraph (5) and Article 109, paragraph (2) shall be enacted by the Minister competent for the work of the Office, upon a proposal by the Director General of the Office, not later than the date the application of this Act begins.

CESSATION OF THE VALIDITY OF OTHER PROVISIONS
Article 116

The provisions of the Patent Act (*Official Gazette* nos. 78/1999 and 32/2002) shall cease to be valid on the date the application of this Act begins, with the exception of provisions set out in Article 95, in the section relating to representation, which shall apply up to the enactment of a special act.

DEFERRED APPLICATION OF PARTICULAR PROVISIONS OF THE ACT
Article 117

(1) The application of the provisions laid down in Articles 71–73 and Article 84 of this Act shall begin on 1 March 2010.

(2) The provisions laid down in Articles 99 – 108 and Article 114 of this Act shall apply from the entry into force of the Cooperation

Agreement between the Government of the Republic of Croatia and the European Patent Organization in the field of patents, in compliance with the provisions of the Act Ratifying the Cooperation Agreement between the Government of the Republic of Croatia and the European Patent Organization in the field of patents (*Official Gazette* – International Treaties, No. 14/2003).

ENTRY INTO FORCE AND APPLICATION OF THE ACT

Article 118

This Act shall enter into force on the eighth day following the date of publication thereof in the *Official Gazette* of the Republic of Croatia, and shall be applied as of 1 January 2004.

THE ACT ON AMENDMENTS TO THE PATENT ACT *

In the Patent Act («Official Gazette» No. 173/03) Article 4 is amended to read:

"(1) A legal or a natural person not having a principal place of business, a domicile or a habitual residence in the territory of the Republic of Croatia must be represented before the State Intellectual Property Office (hereinafter: the Office) by a representative entered in the Register of Representatives kept by the Office, if the matter of representation is not otherwise provided for by law.

(2) By way of derogation from the provision set out in paragraph (1) of this Article, a foreign legal or natural person may individually, without a representative, perform the following acts:
1. File patent applications,
2. Perform other acts relating to the establishment of the filing date of a patent application,
3. File true copies of the first patent application, when claiming priority right referred to in Article 23 of this Act,
4. Receive from the Office notifications relating to the procedures referred to in items 1 to 3 of paragraph (2) of this Article,
5. Pay the administrative fees and procedural charges in accordance with Article 16 of this Act.

(3) In the case of individually performing the acts, referred to in paragraph (2) of this Article, a foreign legal or natural person shall communicate to the Office the address for correspondence, which shall be in the territory of the Republic of Croatia.

(4) If a foreign legal or natural person fails to appoint a representative or to communicate the address for correspondence to the Office, in accordance with the provision set out in paragraph (3) of this Article, the Office shall invite it in writing to appoint a representative or to communicate the address for correspondence within a period of three months.

(5) If a foreign legal or natural person fails to comply with the invitation of the Office referred to in paragraph (4) of this Article, the Office shall reject its communication by a decision, and provide for the legal service to be made by displaying of communications on the notice board of the Office.

(6) By way of derogation from the provision set out in paragraph (1) of this Article, the administrative fees and procedural charges for the maintenance of a patent may be paid by any person."

Article 2

In Article 21, item 3 is amended to read:
"a part of the patent application, which, at first sight appears to be the description of the invention, even though such description does not comply with all the requirements prescribed by this Act and the Regulations."

Article 3

In Article 24 paragraphs (2), (3), (4) and (5) are added to read:

"(2) If a patent application claiming priority of the first application is filed on the date, which is later than the date on which the priority period referred to in Article 23 paragraph (1) of this Act expired, the patent applicant may file a request for the restoration of the priority right.

(3) The request referred to in paragraph (2) of this Article may be filed within two months from the date of expiration of the priority period.

(4) The Office shall adopt a request for the restoration of the priority right, provided that the applicant:
1. State the reasons for the failure to comply with the priority period in spite of due care required by the circumstances having been taken, and
2. Pay the administrative fees and procedural charges referred to in Article 16 of this Act.

(5) If the applicant fails to comply with the requirements referred to in paragraph (4) of this Article, the request referred to in paragraph (2) of this Article shall be rejected by a decision."

Article 4

Following Article 24, Article 24a is added to read:

"Article 24a

(1) A patent applicant may file a request for the correction or addition of a priority claim within a time limit of sixteen months from the priority date or, if the correction or addition would cause a change in the priority date, sixteen months from the priority date as so changed, whichever sixteen-month period expires first, provided that such a request is filed within four months from the filing date of the patent application.

(2) In addition to the request referred to in paragraph (1) of this Article, the applicant

shall pay the administrative fees and procedural charges referred to in Article 16 of this Act. If the applicant fails to pay the administrative fees and procedural charges within the prescribed time limit, the request shall be rejected by a decision.

(3) If the priority date is changed due to the correction or addition of the priority claim, the time limits shall be counted from the priority date as changed.

(4) The request referred to in paragraph (1) of this Article shall not be filed after the applicant has filed a request for publication of the application in accordance with Article 35 paragraph (2) of this Act, unless such a request for publication is withdrawn before the technical preparations for publication of the application have been completed."

Article 5

In Article 41 words "paragraph (6)" are added to follow words "Article 5".

Article 6

In Article 57 paragraph (5) item 3 words: "Article 23" shall be replaced by words: "Articles 24 and 24a".
Item 6 is amended to read:
"filing of the request referred to in Article 57a".

Article 7

Following Article 57 a subtitle and Article 57a are added to read:
"9. Continued Processing

Article 57a

(1) If the applicant for or the owner of a patent has failed to comply with a time limit for an act in a procedure before the Office and that failure has the direct consequence of causing a loss of rights conferred by a patent application or a patent, he may file a request for the continued processing with respect to the patent application or the patent. The Office shall authorize the continued processing, provided that the applicant:
   1. Files a request for the continued processing, and performs all the omitted acts within the prescribed time limit, and
   2. Pays the administrative fee and procedural charges in accordance with Article 16 of this Act.

(2) A request for the continued processing may be filed within two months from the day on which he learned about the legal consequences referred to in paragraph (1) of this Article.

(3) If the omitted acts have not been performed within the time limit referred to in paragraph (2) of this Article, or if the administrative fees and procedural charges referred to in Article 16 of this Act have not been paid, a request for the continued processing shall be deemed not to be filed, and the decision to that effect shall be issued by the Office.

(4) A request for the continued processing shall not be filed, if failure to comply with concerns the time limit:
   1. Referred to in paragraph (2) of this Article,
   2. For filing the request referred to in Articles 24 and 24a of this Act,
   3. For filing the proposal referred to in Article 57 of this Act,
   4. For all the acts in the procedures before the Office involving several parties.

(5) If the Office complied with the request referred to in paragraph (1) of this Article the provision set out in Article 57 paragraph (6) of this Act shall apply mutatis mutandis."

Article 8

In Article 74 paragraph (1) words "by the Regulations" shall be replaced by words: "regulation enacted by virtue of this Act".

Article 9

In Article 100 paragraph (4) words: "paragraphs (1) and (2)" shall be replaced by words "paragraphs (2) and (3)".

Article 10

This Act shall enter into force on the day of its publication in the "Official Gazette", while Article 5 has been applied as from 1 January 2004.

THE ACT
ON AMENDMENTS TO THE PATENT ACT**

Article 1

In the Patent Act ("Official Gazette" 173/2003 and 87/2005), in Article 5, paragraph (7) is added to read:

"(7) The provision of paragraph (6) of this Article shall exclude patentability of the subject-matter or activities referred to in that provision only to the extent to which a patent application or a patent relates to such subject-matter or activities as such."

Article 2

In Article 6, paragraph (1), item 1 the Croatian word translated as "Act;" is replaced by the Croatian words translated as "Act, whereby"

Article 3

In Article 7 paragraph (1) after the Croatian word translated as "morality" a comma is inserted and is followed by the Croatian words translated as "but not merely because such exploitation is prohibited by law or other regulation."

Article 4

Article 15 is amended to read:

"(1) The State Intellectual Property Office (hereinafter: the Office) shall carry out the administrative procedures for the grant of patents, consensual patents and Supplementary Protection Certificates, and shall perform other administrative and professional tasks concerning the protection of inventions.

(2) The administrative decisions issued by the Office in the first instance may be appealed and the appeals shall be decided on by the Board of Appeal in accordance with the provisions of this Act.

(3) The provisions of the Act on General Administrative Proceedings shall apply to particular matters concerning the procedure referred to in paragraphs (1) and (2) of this Article, not regulated by this Act.

(4) The administrative decisions issued by the Board of Appeal in the second instance may be subject to administrative disputes, in accordance with the Act on Administrative Disputes."

Article 5

In Article 16, paragraph (1), after the Croatian words translated as "maintenance of a patent" a comma is inserted and is followed by the Croatian words translated as "a consensual patent and a Supplementary Protection Certificate".

After paragraph (2), paragraph (3) is added to read:

"(3) The filing of an appeal shall be subject to payment of the administrative fee and procedural charges in accordance with special regulations. If the fee and procedural charges are not paid before the expiration of the appeal period, the appeal shall not be considered as filed."

Article 6

In Article 23, paragraph (1), the Croatian words translated as "any legal or natural person", are replaced by the same Croatian words in the appropriate grammatical case, with no relevance to the English translation, and the Croatian words translated as "his successor in title", are replaced by the same Croatian words in the appropriate grammatical case, with no relevance to the English translation. After the Croatian words translated as "the first application", a Croatian word is inserted, with no relevance to the English translation.

Article 7

In Article 24, paragraph (5) is amended to read:

"(5) Prior to refusing a request for the restoration of the priority right, the Office shall inform the applicant of the reasons for which it intends to refuse the request in its entirety or in part, and shall invite him to file observations on such reasons within two months from the date of receipt of the invitation."

Article 8

After Article 24a, Article 24b is added to read:

"Article 24b

The requests referred to in Article 24 paragraph (2) and Article 24a paragraph (1) of this Act may not be filed after the patent applicant filed a request for the publication of an application in accordance with Article 35 paragraph (2) of this Act, unless such request for the publication is withdrawn before completion of the technical preparations for the publication of the application."

Article 9

In Article 29, paragraph (1), item 3, a spelling error of the Croatian words translated as "in a foreign language" is corrected.

In item 5, the Croatian words translated as "a natural or a legal person having domicile or principal place of business" are replaced by the Croatian words translated as "a natural or a legal person having principle place of business, or domicile or habitual residence".

Article 10

In Article 34, paragraph (1), items 4 and 5 are deleted.

Paragraph (5) is deleted.

The former paragraph (6) becomes paragraph (5).

Article 11

In Article 36, paragraph (1), item 2 is deleted.

The former item 3 becomes item 2.

Article 12

The heading above Article 38, and Articles 38, 39 and 40 are deleted.

Article 13

In Article 47, paragraph (1), item 2 is deleted.

The former item 3 becomes item 2.

Article 14

In Article 48, paragraph (1), item 2 is deleted.

The former item 3 becomes item 2.

Article 15

The heading above Article 54 and Article 54 are deleted.

Article 16

The heading above Article 57 translated as “8. Reinstatement of Rights” is amended to read “8. Restitutio in Integrum”.

In Article 57 the Croatian words translated as “reinstatement of rights” in the appropriate grammatical case are replaced by the Croatian words translated as restitutio in integrum in the appropriate grammatical case.

In paragraph (3), the second sentence is added to read:

“In the case of failure to comply with a time limit for payment of a renewal fee for the maintenance of a patent, the time limit prescribed in Article 74 paragraph (3) of this Act shall be included in the one-year period.”

In paragraph (5) item 7, number “104” is replaced by number “103”.

Article 17

In Article 58, paragraph (5) is amended to read:

“(5) In the absence of proof to the contrary, a product shall be considered as having been obtained by a protected process, if the product is new, or if it is likely that the product was obtained by a protected process, and that the patent owner has been unable, despite reasonable efforts, to determine the process actually used. The likelihood that the product was obtained by the protected process shall exist, in particular, where the protected process is the only process known.”

Article 18

After Article 61, Title “Va AMENDMENT OF A PATENT”, a heading and Article 61a, are added to read:

“ENTRY OF CHANGES IN THE REGISTERS

Article 61a

(1) Upon the request by a party for the entry of changes in the register, the Office shall issue a decision on the entry in the Register of Patent Applications, or in the Register of Patents of the changes, which have occurred after the filing of the application, or following the entry of the decision on the grant of a patent.

(2) The changes referred to in paragraph (1) of this Article, as entered, shall be published in the official gazette of the Office.

(3) The procedure concerning the entry of changes in the Registers of the Office, and the publication thereof in the official gazette, as well as payment of the fees and procedural charges shall be laid down by the Ordinance and special regulations enacted pursuant to this Act.”

Article 19

In Article 62, paragraph (5) is amended to read:

“(5) A licence and the transfer of rights shall have effect against third persons from the date of their entry in the register.”

After paragraph (5), paragraph (6) is added to read:

“(6) The provisions of this Article shall also apply mutatis mutandis to the conclusion of licence contracts and contracts on the transfer of the rights conferred by a patent application, a consensual patent and a Supplementary Protection Certificate.”

Article 20

After Article 62, headings and Articles 62a and 62b are added to read:

“RIGHTS IN REM AND LEVY OF EXECUTION”

Article 62a

(1) A patent may be the subject of the rights in rem and levy of execution.

(2) A right in rem shall be entered in the register upon the request of a lien creditor or a lien debtor. The granting of a right in rem shall have effect

against third parties as of the date of its entry in the register.

(3) The court levying an execution ex officio shall inform the Office without delay of the execution levied upon a patent for the purpose of the entry of the levy of execution in the register. The entry of the levy of execution in the register shall be carried out at the expense of the execution creditor.

(4) The provisions of this Article shall also apply mutatis mutandis to the grant of the rights in rem and to the levy of execution upon the right conferred by a patent application, a consensual patent and a Supplementary Protection Certificate.

BANKRUPTCY PROCEEDINGS

Article 62b

Where a patent, or the right conferred by a patent application, a consensual patent or a Supplementary Protection Certificate forms part of a bankruptcy estate, the bankruptcy estate manager shall inform the Office ex officio of the institution of the bankruptcy proceedings for the purpose of the entry of the bankruptcy in the register."

Article 21

Article 66 is amended to read:

"(1) The placing on the market in the territory of the Republic of Croatia, or, after the accession of the Republic of Croatia into the full membership of the European Union, in the territory of any of the States of the European Union, or States Parties to the Agreement Creating the European Economic Area, of a product made according to the invention or a product directly obtained by a process which is the subject matter of an invention by the owner of a patent, or with his express authorization shall exhaust for the territory of the Republic of Croatia, the exclusive rights conferred by the patent in respect to such a product.

(2) The provisions of paragraph (1) of this Article shall also apply mutatis mutandis to the exclusive rights conferred by the Supplementary Protection Certificate."

Article 22

After the Title "VII COMPULSORY LICENCES", a subheading 1, Article 67a and subheading 2 are added to read:

"1. Common Provisions

COMPETENCE AND PROCEDURE FOR THE GRANT OF A COMPULSORY LICENCE

Article 67a

(1) The Commercial Court in Zagreb shall be competent to grant compulsory licences.

(2) The procedure for the grant of a compulsory licence shall be instituted by a legal action against the owner of a patent or a holder of a Supplementary Protection Certificate, containing an application for the grant of a compulsory licence. In the notice of legal action, the plaintiff shall indicate all the facts and present all the evidence, on which the application is based. The court shall decide on the grant of a compulsory licence by a judgment.

(3) The decisions of the court issued in the procedures for the grant of a compulsory licence may be appealed in accordance with the rules laid down in the Act on Civil Proceedings.

(4) In the absence of proof to the contrary, it shall be considered that, in the procedure for the grant of a compulsory licence, the owner of a patent or the holder of a Supplementary Protection Certificate is the person who is entered as such in the Register of Patents.

(5) The Act on Civil Proceedings shall apply to particular matters relating to the procedure for the grant of a compulsory licence, not regulated by this Act.

2. Compulsory licences in the cases of insufficient exploitation of a patent, national emergencies, the need for protection from unfair market competition, exploitation of another patent or protected plant variety, and cross-licensing."

Article 23

In Article 68, paragraph (4), the words cited at the end of the first sentence "or protected plant variety" are deleted.

Article 24

After Article 69, a subheading "3. Compulsory licences for patents relating to the manufacture of pharmaceutical products intended for export to countries having public health problems", and headings and Articles 69a to 69h are added to read:

"GRANTING OF A COMPULSORY LICENCE"

Article 69a

(1) The court may grant to any person filing an application pursuant to the provisions of this Act, a compulsory licence for a patent and/or issue a Supplementary Protection Certificate required for the manufacture and sale of pharmaceutical

products, when such products are intended for export to importing countries having public health problems. When deciding on the grant of a compulsory licence the court shall take into consideration in particular, the need to implement the Decision adopted by the WTO General Council on 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (hereinafter: the Decision) of 14 November 2001.

(2) The pharmaceutical product referred to in paragraph (1) of this Article shall be any product of the pharmaceutical industry, including medicinal products for human use, comprising any substance or combination of substances intended for treating or preventing disease in human beings, and any substance or combination of substances, which may be administered to human beings with a view to restoring, correcting or modifying physiological functions in humans, by exerting a pharmacological, immunological or metabolic action, or to making a medicinal diagnosis, including active ingredients and diagnostic kits ex vivo.

(3) The importing country referred to in paragraph (1) of this Article shall be any country to which the pharmaceutical product is to be exported. The importing country may be:

(a) any least-developed country appearing as such in the United Nations list;

(b) any member of the WTO, other than the least-developed country members referred to in item (a) of this paragraph that has made a notification to the Council for TRIPS of its intention to use the system as an importer, including whether it will use the system in whole or in a limited way;

(c) any country that is not a member of the WTO, but is listed in the OECD Development Assistance Committee's list of low-income countries with a gross national product per capita of less than USD 745, and has made a notification to the Office of its intention to use the system as an importer, including whether it will use the system in whole or in a limited way.

(4) Any WTO member that has made a declaration that it will not use the system as an importing WTO member is not an eligible importing country.

(5) Importing countries, which are not WTO members, and are least developed or developing countries, eligible under paragraph (3) of this Article shall comply with additional requirements:

(a) the importing country shall make the notification pursuant to the Decision directly to the Office;

(b) the importing country shall state in the notification that it will use the system to address public health problems, and not as an instrument to pursue industrial or commercial policy objectives, and that it will adopt the measures referred to in paragraph 4 of the Decision;

(c) the court may, upon a legal action instituted by a right holder or by the Office, terminate a compulsory license, if the importing country has failed to comply with its obligations referred to in item (b).

(6) A legal action containing an application for the grant of a compulsory license shall be instituted before the court pursuant to the provisions of Article 67a of this Act, if in the territory of the Republic of Croatia there is a patent or a Supplementary Protection Certificate the effects of which cover the intended manufacturing and sale activity for export purposes.

(7) A legal action shall contain:

(a) information concerning the applications for compulsory licences filed in other countries for the same product with details of the quantities and importing countries concerned;

(b) information concerning the applicant for a compulsory licence and of her/his representative, if any;

(c) the non-proprietary name of the pharmaceutical product, which the applicant intends to manufacture under the compulsory licence;

(d) the quantity of the pharmaceutical product, which the applicant intends to manufacture under the compulsory licence;

(e) the importing country;

(f) evidence of prior negotiations with the right holder pursuant to the provisions of paragraph (10) of this Article;

(g) evidence of a specific request from an authorized representative of the importing country, or a non-governmental organization acting with the formal authorization of one or more importing countries, or UN bodies or other international health organization acting with the formal authorization of one or more importing countries, indicating the quantity of the product required.

(8) When deciding on an application for the grant of a compulsory license, the court shall verify in particular the following:

(a) whether each importing country cited in the application, which is a WTO member, has made a notification to the WTO pursuant to the Decision, or whether each importing country cited in the application, which is not a WTO member, has made a notification to the Office pursuant to the provisions of this Article in respect of each of the products covered by the application. This shall be without prejudice to the possibility, which the least-

developed countries have pursuant to the Decision of the TRIPS Council of 27 July 2002;

(b) that the quantity of the product cited in the application does not exceed that notified to the WTO and the Office, respectively, by an importing country, which is a WTO member;

(c) that, taking into account other compulsory licenses granted elsewhere, the total amount of the product authorized to be produced for any importing country does not significantly exceed the amount notified by that country to the WTO, and the Office, respectively.

(9) The information referred to in paragraph (8) of this Article shall be provided and presented in a legal action by the applicant for the grant of a compulsory licence.

(10) A compulsory license may be granted only if the applicant has made efforts to obtain authorization from the patent owner for the exploitation of the protected invention on reasonable commercial terms and conditions, and if such efforts have not been successful within thirty days prior to a legal action. This provision shall not apply in situations of national emergency or other circumstances of extreme urgency, or in cases of public non-commercial use, pursuant to Article 31, item (b) of the TRIPS Agreement.

COMPULSORY LICENSE CONDITIONS

Article 69b

(1) A compulsory license shall be granted as a non-exclusive license, and its scope and duration, which shall be cited in a decision on its grant, shall be exclusively limited to the purpose for which it has been granted. The quantity of products to be manufactured under such licence shall not exceed the quantity necessary to satisfy the needs of the importing country, or importing countries cited in a legal action, taking into account the quantity of the products manufactured under compulsory licenses granted elsewhere.

(2) A compulsory license shall be transferred only with the production plant in which the invention, it is granted for, has been exploited.

(3) In its decision the court shall specify the acts, which the applicant is entitled to perform, and which are necessary for the purpose of manufacturing the products intended for export and distribution in the country or countries cited in the application. No product made or imported under a compulsory license shall be offered for sale or put on the market in any country other than that cited in the application, except where an importing country avails itself of the possibilities under subparagraph 6(i) of the Decision to export to fellow members of a regional trade agreement that share the health problem in question.

(4) In its decision the court shall order that the products made under such license shall be clearly identified, through specific labeling or marking, as being produced under a compulsory licence. The products shall be distinguished from those made by the right holder through special packaging and/or special coloring or shaping, provided that such distinction is feasible, and does not have a significant impact on price. The packaging and any associated literature shall bear an indication that the product is subject to a compulsory license, giving the name of the competent court which granted it, the file number and specifying clearly that the product is intended exclusively for export to and distribution in the importing country or countries. Details of the product characteristics shall be made available to the customs authorities in the Republic of Croatia and the Member States of the European Union.

(5) In its decision the court shall order that before shipment to the importing country the licensee shall post on a web site, the address of which shall be communicated to the Office, the following information:

(a) the quantities of products being supplied under the licence to the importing countries;

(b) the distinguishing features of the product concerned.

(6) If a product covered by a compulsory licence granted in the Republic of Croatia, is patented in the importing country cited in the application, the product shall only be exported if those countries have issued a compulsory licence for the import, sale and/or distribution of the product concerned.

(7) In its decision the court shall order the applicant to pay remuneration to the right holder, as determined by the court as follows:

(a) in the cases of national emergency or other circumstances of extreme urgency or in cases of public non-commercial use under Article 31 item (b) of the TRIPS Agreement, the remuneration shall be a maximum of 4% of the total price to be paid by the importing country or on its behalf;

(b) in all other cases, the remuneration shall be determined taking into account the economic value of the use authorized under the license to the importing country or countries concerned, as well as humanitarian or non-commercial circumstances relating to the issue of the license.

(8) When the court decision on the grant of a compulsory license has become final, the court may, upon a claim for the preservation of evidence filed by the right holder, inspect books and other records kept by the licensee, for the sole purpose

of checking whether all the obligations contained in the court decision on the grant of a compulsory license, and in particular those relating to the final destination of the products, have been complied with. The books and records shall contain a proof of exportation of the product, in the form of a declaration of exportation certified by the customs authority, and a proof of importation.

(9) The license conditions shall be without prejudice to the method of distribution in the importing country.

REFUSAL OF AN APPLICATION FOR THE GRANT OF A COMPULSORY LICENCE

Article 69c

The court shall refuse by a decision an application for the grant of a compulsory license if it does not contain elements necessary for taking a decision, or if any of the conditions for the grant of a compulsory licence laid down in this Act have not been met.

TERMINATION OR MODIFICATION OF A COMPULSORY LICENCE

Article 69d

(1) The right holder or the licensee may institute a legal action claiming from the court to terminate a compulsory licence, if it has established that the counter party has failed to respect a decision on the grant of a compulsory license. In its decision to terminate the compulsory license, the court shall specify the time period within which the licensee shall arrange for any product in his possession, custody, power or control to be redirected at his expense to the countries in need referred to in Article 69a of this Act, or otherwise disposed of, in consultation with the right holder.

(2) When notified by the importing country that the amount of pharmaceutical product has become insufficient to met its needs, the licensee may institute a legal action, claiming the modification of the licence conditions, for the purpose of permitting the manufacture and export of additional quantities of the product to the extent necessary to meet the needs of the importing country concerned. In such cases the court shall apply expeditious proceedings. If the additional quantity of the product requested does not exceed 25%, the provisions of Article 69a paragraph (8) of this Act shall not apply.

NOTIFICATIONS

Article 69e

(1) The court shall notify the Council for TRIPS through the intermediary of the Office of its final decisions on the grant of compulsory licenses, and of the license conditions, as well as of its termination or modification.

(2) The information provided shall include in particular:

(a) the name and address of the licensee;

(b) the product concerned;

(c) the quantity to be supplied;

(d) the importing country;

(e) the duration of the licence;

(f) the website address referred to in Article 69b, paragraph (5) of this Act.

PROHIBITION OF IMPORTATION

Article 69f

(1) The import into the Republic of Croatia and the member countries of the European Union of products manufactured under a compulsory license granted pursuant to the provisions of this Act for the purposes of release for free circulation, re-import, placing under suspensive procedures or placing in a free zone or free warehouse shall be prohibited.

(2) Paragraph (1) of this Article shall not apply in the case of re-export to the importing country cited in the application and identified in the packaging and documentation associated with the product, or placing under a transit or customs warehouse procedure or in a free zone or free warehouse for the purpose of re-export to that importing country.

ACTION BY CUSTOMS AUTHORITIES

Article 69g

(1) If there are sufficient grounds for suspecting that products manufactured under a compulsory license granted pursuant to the provisions of this Act are being imported in the Republic of Croatia contrary to the provisions of Article 69f paragraph (1) of this Act, the competent customs authorities shall detain the products concerned for checking, as long as necessary, but not more than 10 working days. If special circumstances apply, the competent customs authorities may decide on the extension of the detention period by a maximum of 10 working days.

(2) The competent customs authorities shall inform without delay the right holder and the manufacturer or the exporter of the products concerned, about the detention referred to in paragraph (1), and shall invite him to furnish information and evidence on the products concerned.

(3) If in the detention period the competent customs authorities establish violation of the compulsory license, contrary to the prohibition

referred to in Article 69f paragraph (1) of this Act, it shall seize the products and put them out of circulation in accordance with the customs regulations.

(4) The procedure of detention and seizure of the goods shall be carried out at the expense of the importer in accordance with the customs regulations. The importer and any other person who attempted illicit importation shall be severally responsible for the recovery of the expenses concerned.

(5) If established that the importation of the products detained in accordance with the provisions of this Article would not violate the prohibition referred to in Article 69f paragraph (1) of this Act, the customs authorities shall release the products in the territory of the Republic of Croatia, provided that the customs regulations have been complied with.

(6) The customs authorities shall notify the Office of any seizures and destruction of the products made in accordance with the provisions of this Article.

Article 69h

The provisions of Articles 69f and 69g of this Act shall not apply to import of small quantities of products within the limits laid down in respect of relief from customs duty, contained in traveler's personal luggage intended for personal and non-commercial use."

Article 25

The headings above Articles 71, 72 and 73, and Articles 71, 72 and 73 are deleted.

Article 26

In Article 76, paragraph (1) is amended to read:

"(1) The patent owner may surrender a patent in its entirety or in part by a written declaration on the surrender thereof, certified by the public notary. The declaration on surrender shall take effect on the day following the day of its communication to the Office."

After paragraph (2), paragraph (3) is added to read:

"(3) The surrender of a patent shall be entered into the register, and published in the official gazette of the Office."

Article 27

A heading above Article 77, and Article 77 are deleted.

Article 28

In Article 81, paragraph (4) the second sentence is added to read:

"At the same time the Office shall invite the applicant to file, where necessary, the description, claims and drawings as amended, provided that the subject matter of the protection does not extend beyond the content of a patent as granted."

Paragraphs (5), (6) and (7) are amended to read:

"(5) Before taking a decision to maintain a patent as amended, the Office shall inform the parties that it intends to maintain the patent as amended in the procedure for the declaration of nullity, and shall invite them to file their reasoned observations within a period referred to in paragraph (3) of this Article, if they disapprove of the text in which it intends to maintain the patent. If the parties disapprove of such text, the procedure for the declaration of nullity may be continued.

(6) If the parties approve of the text in which the Office intends to maintain the patent or if they fail to reply to the invitation referred to in paragraph (5) of this Article, the Office shall invite the owner of the patent to pay the administrative fee and procedural charges for printing a new patent specification within a period of 60 days from the receipt of the invitation. If the fee and procedural charges are not paid in due time, the patent shall be declared null and void within the limits of the proposal.

(7) Upon a reasoned request, the Office may extend the time limits referred to in this Article for a period it considers to be justified, but which shall not exceed 60 days."

After paragraph (7), paragraphs (8) and (9) are added to read:

"(8) The Office may hold oral proceedings, if it considers it necessary in order to establish the facts essential for its decision.

(9) If a proposal for the declaration of nullity of a consensual patent is filed, and where the supporting evidence referred to in Article 80, paragraph (2) of this Act is sufficient for likelihood that the consensual patent does not comply with the requirements referred to in Article 41 of this Act, a reply to the invitation referred to in paragraph (3) of this Article shall also contain a request for the substantive examination."

Article 29

In Article 83, paragraph (1) after the word "in part," the words "taking into consideration the amendments of a patent made by the owner in the procedure concerning a proposal for the declaration of nullity of a patent," are added".

Article 30

A heading above Article 84 and Article 84 are deleted.

Article 31

After Article 87, a Title "Xa SUPPLEMENTARY PROTECTION CERTIFICATE", the headings and Articles 87a to 87n are added to read:

"MEANING OF TERMS

Article 87a

(1) In relation to Supplementary Protection Certificates granted for medicinal products intended for humans or animals (hereinafter: the Certificate), the following terms mean:

(a) „medicinal product" is any substance or combination of substances intended for treating or preventing disease in human beings or animals, and any substance or combination of substances, which may be administered to human beings or animals with a view to restoring, correcting or modifying physiological functions in humans or in animals, or to making a medicinal diagnosis;

(b) „product" is the active ingredient or combination of active ingredients of a medicinal product;

(c) „basic patent" is a patent which is designated by its owner for the purpose of the procedure for the grant of a Supplementary Protection Certificate, protecting a product as such, as defined in item (b) of this paragraph, or a process for obtaining a product or an application of a product;

(d) „first authorization to place on the market" is the first authorization to place a medicinal product intended for humans or animals on the market in the Republic of Croatia or in the European Union.

(2) In relation to Supplementary Protection Certificates, granted for plant protection products (hereinafter: the Certificate), the following terms mean:

(a) „plant protection product" is an active substance or a preparation containing one or more active substances, put up in the form in which they are supplied to the user, intended to:

- protect plants or plant products against harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not defined otherwise;

- influence the life processes of plants, other than as a nutrient (e.g. plant growth regulator);

- preserve plant products, in so far as such substances or products are not subject to special provisions on preservatives;

- destroy undesirable plants; or

- destroy parts of plants, check or prevent undesirable growth of plants;

(b) „substance" is a chemical element or its compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;

(c) „active substance" is a substance or a microorganism, including viruses, having general or specific action:

- against harmful organisms; or

- on plants, parts of plants or plant products;

(d) „preparation" is a mixture or a solution composed of two or more substances, of which at least one is an active substance, intended for use as a plant protection product;

(e) „plant" is a live plant and live part of plants, including fresh fruit and seeds;

(f) „plant product" is a product in the unprocessed state or having undergone only simple preparation such as milling, drying or pressing, derived from plants, but excluding plants themselves as defined in item (e) of this paragraph;

(g) harmful organisms" are pests of plants or plant products belonging to the animal or plant kingdom, such as viruses, bacteria and mycoplasmas and other pathogens;

(h) „product" is the active substance as defined in item (c) of this paragraph, or combination of active substances of a plant protection product;

(i) „basic patent" is a patent which is designated by its owner for the purpose of the procedure for the grant of a Supplementary Protection Certificate, protecting a product as such, as defined in item (h) of this paragraph, a preparation as defined in item (d) of this paragraph, or a process for obtaining a product or an application of a product;

(j) „first authorization to place on the market" is the first authorization to place plant protection products on the market in the Republic of Croatia or in the European Union.

DURATION OF THE CERTIFICATE

Article 87b

(1) The Certificate may be granted in accordance with the provisions of this Act in the cases where a basic patent has been granted for a medicinal product intended for humans or animals, or for a plant protection product, the placing on the market of which requires prior authorization by the competent State authority.

(2) The Certificate shall take effect promptly after the expiration of the lawful term of the basic patent.

(3) The rights conferred by the Certificate shall run for a period equal to the period which elapsed between the date of filing of the application for a basic patent, and the date of the first authorization to place the medicinal product intended for humans or animals, or the plant protection product protected by a patent on the market, reduced by a period of five years.

(4) The duration of the Certificate may not exceed five years from the date on which it takes effect.

(5) The duration of the Certificate shall be specified by a decision issued by the Office.

CONDITIONS FOR OBTAINING THE CERTIFICATE

Article 87c

The Certificate shall be granted upon a request of the owner of the basic patent, if the following conditions are met on the date of filing of the application for the Certificate:

1. the medicinal product intended for humans or animals, or the plant protection product, respectively, is protected by a basic patent in force;

2. authorization to place the medicinal product intended for humans or animals, or the plant protection product, respectively, on the market has been granted in the Republic of Croatia, and is in force;

3. the basic patent for the medicinal product intended for humans or animals, or the plant protection product, respectively, has not already been the subject of the Certificate;

4. the application for a basic patent is filed in the Republic of Croatia after 1 January 1993; and

5. the first authorization to place the medicinal product intended for humans or animals, or the plant protection product, respectively, on the market has been granted after 1 January 2005.

APPLICATION FOR THE CERTIFICATE

Article 87d

The application for the Certificate shall be filed with the Office within 6 months from the date of the grant of the authorization, referred to in Article 87c item 2 of this Act, to place the medicinal product intended for humans or animals, or the plant protection product, respectively, on the market, and if the authorization has been granted before the grant of the basic patent, within six months from the date of publication of the mention of the grant of the patent referred to in Article 51 of this Act.

CONTENT OF THE APPLICATION FOR THE CERTIFICATE

Article 87e

(1) The Certificate granting procedure shall be instituted by filing an application containing:

1. a request for the grant of the Certificate, stating in particular:

(a) an express indication of the fact that the Certificate is applied for;

(b) the name and address of the applicant;

(c) the name and address of the representative, if any;

(d) the number of the basic patent and the title of the invention;

2. the number and date of the first authorization to place the product on the market, or indication of the number and date of the first authorization, if the authorization as filed is not the first authorization to place the product on the market;

3. the authorization to place the product on the market, issued by the competent authority in the procedure prescribed by special regulation;

4. evidence showing the identity of the product, the content of the authorization procedure, and the gazette in which indication concerning the authorization was published, if the authorization referred to in item 2 is not the first authorization to place the product on the market;

5. evidence as to payment of the administrative fee and procedural charges for the grant of the Certificate.

(2) If the applicant for the Certificate is the owner of more than one patent for the same product, he shall be granted only one Certificate for that product.

(3) If two or more applications concern the same product, and are emanating from two or more owners of different patents, one Certificate for this product may be granted to each of these owners.

(4) The request referred to in paragraph (1), item 1 of this Article shall be filed on the form, the content of which shall be prescribed by the Ordinance.

FORMALITIES EXAMINATION PROCEDURE

Article 87f

(1) The Office shall carry out formalities examination procedure upon the application for the Certificate as filed.

(2) The formalities examination procedure shall establish whether:

1. the application is filed in the required form and contains all the indications prescribed by Article 87e, paragraph (1), item 1 of this Act;

2. the administrative fee and procedural charges are paid;

3. the application is filed within a period prescribed by Article 87d of this Act;

4. the application is accompanied by the evidence prescribed by Article 87e, paragraph (1), items 3 and 4 of this Act; and

5. the basic patent was in force at the time of filing of the application for the Certificate.

(3) If the application for the Certificate does not contain the elements prescribed by paragraph (2) of this Article, the Office shall invite the applicant to remedy the deficiencies indicated in the invitation within a period of 30 days from the receipt of the invitation.

(4) If the applicant fails to remedy the found deficiencies within a prescribed time limit, the Office shall issue a decision on the rejection of the application for the Certificate.

(5) If the applicant remedies the deficiencies within a period referred to in paragraph (2) of this Article, the Office shall carry out a substantive examination procedure.

SUBSTANTIVE EXAMINATION PROCEDURE

Article 87g

(1) In the course of a substantive examination procedure the Office shall examine whether:

1. the conditions for obtaining the Certificate laid down in Article 87c of this Act were met on the filing date of the application;

2. the product for which the Certificate is applied for is protected by the basic patent;

3. the authorization to place the product on the market has been granted in the manner as prescribed by special regulation;

4. the product has already been the subject of the Certificate.

(2) If, in the course of the examination procedure, the Office establishes that all of the prescribed conditions are met, it shall issue a decision on the grant of the Certificate. The decision shall also specify the duration of the Certificate.

(3) If, in the course of the examination procedure, the Office establishes that not all of the prescribed conditions are met, it shall refuse an application for the Certificate by a decision.

CONTENT OF THE CERTIFICATE

Article 87h

The Certificate shall contain:

(a) the name and address of the holder of the Certificate;

(b) the number of the basic patent;

(c) the title of the invention;

(d) the number and date of the authorization to place the product on the market, and the name of the product identified in that authorization;

(e) the number and date of the first authorization to place the product on the market, where necessary pursuant to the provisions of Article 87e, paragraph (1), item 2 of this Act;

(f) the duration of the Certificate.

ENTRY IN THE REGISTER

Article 87i

The indications concerning the procedure for the grant of the Certificate and the duration thereof shall be entered in the register of the Office pursuant to the provisions of the Ordinance.

SUBJECT MATTER AND EFFECTS OF PROTECTION

Article 87j

(1) Within the limits of the protection conferred by the basic patent, the protection conferred by the Certificate shall extend only to the medicinal product intended for humans or animals, or to the plant protection product, respectively, covered by the authorization to place it on the market, as well as for any use of the product as a medicinal product intended for humans or animals or as a plant protection product, respectively, that has been authorized before the expiry of the Certificate.

(2) The Certificate shall confer to the owner of the basic patent or to his successor in title the same rights as are conferred by the basic patent and shall be subject to the same limitations and the same obligations.

PUBLICATION

Article 87k

(1) In its official gazette, the Office shall publish data concerning the filing of an application for the Certificate, the issue of the decision on the grant of the Certificate, or the rejection of the application for the Certificate, respectively and the termination of the Certificate.

The data to be published shall be defined by the Ordinance.

EXPIRY OF THE CERTIFICATE

Article 87l

(1) The Certificate shall lapse at the expiry of the period for which it was granted.

(2) The Certificate shall lapse before the expiry of the period for which it was granted:

1. if the Certificate-holder surrenders it, on the day following the day on which a certified written declaration of surrender is furnished to the Office;

2. if the annual fee for the maintenance thereof is not paid within the prescribed time limit;

3. if the product for which the Certificate was granted may no longer be placed on the market as a result of the withdrawal of the authorization to place it on the market in accordance with a national regulation.

(3) The Office shall decide on the expiry of the Certificate ex officio, or at the request of an interested person.

DECLARATION OF NULLITY OF A SUPPLEMENTARY PROTECTION CERTIFICATE

Article 87m

(1) The Certificate shall be declared null and void in the procedure before the Office:

1. if it was granted contrary to the provisions of this Act;

2. if the basic patent has lapsed pursuant to the provisions of Articles 75, 76 and 85 of this Act;

3. if the basic patent is declared null and void in its entirety or in part, whereby the product for which the Certificate was granted would no longer be protected by the claims of the basic patent or, if, upon the expiry of the basic patent, grounds exist which would justify such a declaration of nullity.

(2) The provisions of this Act relating to the procedure concerning a proposal for the declaration of nullity of a patent shall apply mutatis mutandis to the procedure for the declaration of nullity of the Certificate.

RELATION TO A CONSENSUAL PATENT

Article 87n

The provisions concerning the Certificate shall not apply to a consensual patent."

Article 32

The Title "XI. ENFORCEMENT OF RIGHTS" is amended to read: "XI. APPEAL", and a subheading "1. Civil Protection" is amended to read "1. Appeal Procedure".

A heading above Article 88 is amended to read: "RIGHT OF APPEAL"

Article 88 is amended to read:

"(1) Any party entirely or partially adversely affected by the decisions of the Office issued in the first instance shall have the right to file an appeal within 30 days from the date of communication of the decision.

(2) Other parties to the procedure terminated by a decision appealed shall have the right to be parties to the appeal procedure."

Article 33

A heading above Article 89 is amended to read: "CONTENT OF AN APPEAL"

Article 89 is amended to read:

"In addition to the indications, which shall be contained in any communication, an appeal shall contain:

1. an indication of the decision appealed;

2. a statement defining whether the decision is contested in its entirety or in part;

3. the grounds for appeal;

4. a statement of reasons for appeal, and all the evidence supporting the appellant's allegations contained in the appeal;

5. the signature of the appellant

6. a power of attorney, if the appeal is filed through a representative."

Article 34

A heading above Article 90 is amended to read: "DECIDING ON AN APPEAL"

Article 90 is amended to read:

"(1) The Board of Appeal shall take decisions in sessions, by a majority vote.

(2) The Board of Appeal shall decide on the basis of communications filed by the parties, and if it considers it necessary, or upon the request of any party to the procedure, it may order oral proceedings. The parties shall be summoned to oral proceedings at least 45 days before it takes place.

(3) The provisions of Articles 47 and 48, or 81 and 83, respectively, of this Act shall apply mutatis mutandis to the decisions of the Board of Appeal on an appeal."

Article 35

After Article 90, a subheading is added to read "2. Composition and Organization of the Boards of Appeal"

Article 36

A heading above Article 91 is amended to read: "BOARDS OF APPEAL"

Article 91 is amended to read:

"(1) The Boards of Appeal for industrial property rights responsible for deciding on appeals against the decisions issued by the State Intellectual Property Office in the first instance (hereinafter:

the Boards of Appeal) shall be established as independent bodies responsible for deciding on appeals in accordance with the provisions of this Act.

(2) In their operations, the Boards of Appeals shall use a seal containing the coat-of-arms of the Republic of Croatia.

(3) The provisions regulating the content of the headings of official documents of the State administration bodies shall apply to the content of the headings of official documents of the Boards of Appeal.

(4) The Boards of Appeal shall have their seat at the Office. The Office shall place at the disposal of the Boards of Appeal such premises and equipment as necessary for the performance of their tasks.

(5) The Secretariat of the Boards of Appeal, organized as an organizational unit within the Office, shall perform clerical and other administrative tasks for the Boards of Appeal.

(6) The President of the Boards of Appeal (hereinafter: the President) shall administer the work of the Boards of Appeal.

(7) The President and members of the Boards of Appeal shall be independent, not bound by any instructions of the Director General of the Office, and shall perform their tasks impartially, in accordance with the law.

(8) The President and members of the Boards of Appeal shall have the status of independent experts, and shall be awarded remuneration for their work pursuant to the Ordinance on Remunerations for the Work of the Boards of Appeal for industrial property rights. They may, during their term of office in the Boards of Appeal, perform other tasks and duties, and may at the same time be officials and employees of the Office.

(9) The President shall, subject to approval by the Director General of the Office, enact the Rules of Procedure of the Boards of Appeal for industrial property rights."

Article 37

A heading above Article 92 is amended to read: "APPOINTMENT AND REMOVAL FROM OFFICE OF THE PRESIDENT AND MEMBERS OF THE BOARDS OF APPEAL"

Article 92 is amended to read:

"(1) The President, two Vice-Presidents and 14 members of the Boards of Appeal shall be appointed by the Government, upon a public invitation and a proposal from the Director General of the Office, for a term of 5 years, with a possibility to be re-appointed.

(2) The President may be any bachelor of laws who, after passing a bar examination, worked in the legal field related to intellectual property for 4 years, and is an expert in the field of industrial property law.

(3) The Vice-Presidents may be:

- any bachelor of engineering who, after passing the State vocational examination, worked in the field related to intellectual property for 4 years, and is an expert in the patent law; and

- any bachelor of laws, or a bachelor of economics, or a bachelor of arts in the French, English or Croatian languages, who, after passing the State vocational examination, worked in the field related to intellectual property for 4 years, and is an expert in the trademark and industrial design laws.

(4) The members of the Boards of Appeal shall be:

- two bachelors of law, who have passed the State vocational examination, and are experts in the patent and the topographies of semiconductor products law, having worked in the field related to intellectual property for 4 years;

- five bachelors of engineering, who have passed the State vocational examination, and are experts in the patent law, having worked in the field related to intellectual property for 4 years; and

- seven persons who are either bachelors of laws, or bachelors of economics, or bachelors of arts in the French, English or Croatian languages, and are experts in the trademark, industrial design and geographical indications laws, having worked in the field related to intellectual property for 4 years;

(5) The Government may, upon a reasoned request by the Director General of the Office, remove from office the President, the Vice-President or a member of the Boards of Appeal:

- on his own request;

- if he has permanently lost the capacity to perform his duties due to illness or the like reasons;

- if he has been convicted for a criminal act, making him unworthy of performing such a duty;

- if established that he has misused his position;
- if established that he has seriously violated the law or rules of profession, or has seriously neglected his duties causing thereby dysfunction of the Boards of Appeal and prejudicing the lawful and timely performance of their duties; or
- when he has reached seventy.

Article 38

A heading above Article 93 is amended to read: "BOARD OF APPEAL FOR EACH INDIVIDUAL CASE"

Article 93 is amended to read:

"(1) Taking into consideration the circumstances and nature of any individual case, the President

shall, from among the persons appointed in accordance with the provisions of Article 92 of this Act, constitute the Board of Appeal composed of three persons (hereinafter: the Board of Appeal), and a Chairman from among them to decide on an appeal.

(2) A person who has participated in taking the decision appealed may not be a member of the Board of Appeal referred to in paragraph 1 of this Article."

Article 39

A heading above Article 94 is amended to read: "EXCLUSION OF A MEMBER OF THE BOARD OF APPEAL"

Article 94 is amended to read:

"(1) A member of the Board of Appeal, referred to in Article 93 of this Act shall be excluded from taking part in decisions on appeals in the cases in which he has any personal interest, or has previously been involved as a representative, or authorized legal representative of one of the parties, or in which he participated in taking the decision appealed, or if there are other circumstances, likely to doubt his impartiality.

(2) The exclusion may be requested by a party to the procedure, or by a member as appointed. The Director General of the Office shall decide on the exclusion. He shall issue a decision within 15 days from the communication of the request for exclusion. Pending the decision of the Director General of the Office, a member whose exclusion is to be decided on shall refrain from any further activity in the case concerned. The decision of the Director General of the Office may not be appealed, but may be subject to the institution of an administrative dispute.

(3) The Director General of the Office shall inform without delay the President and the member of the Board of Appeal concerned of the request for exclusion as filed. If the Director General of the Office decides that the appointed member of the Board of Appeal shall be excluded, the President shall appoint, without delay, other member to take his place."

Article 40

After Article 94, a Title "XI.a PROTECTION OF RIGHTS IN THE CASE OF INFRINGEMENT" is added.

Article 41

A heading above Article 95 is amended to read: "PERSONS ENTITLED TO CLAIM THE PROTECTION OF RIGHTS"

Article 95 is amended to read:

"The protection of the rights under this Act may be claimed by a right holder, or a person authorized by her/him pursuant to the general provisions on representation, and, apart from her/him by the holder of the exclusive licence, to the extent that he has acquired the right of exploitation of an invention on the basis of a legal transaction or law."

Article 42

After Article 95, headings and Articles 95a to 95m are added to read:

"CLAIM TO ESTABLISH THE RIGHT TO THE GRANT OF A PATENT"

Article 95a

(1) If a patent application is filed by a person not entitled to the grant of a patent for an invention, the inventor or his successor in title, respectively, my institute a legal action claimimg establishment of his right to the grant of a patent for the invention.

(2) If a patent application is filed by a person who is not entitled to it and who is one of several persons having jointly created the invention, other inventors or their successors in title, respectively, may claim establishment of their rights to the grant of a joint patent.

(3) The legal actions referred to in paragraphs (1) and (2) of this Article may be filed up to the decision on the grant of a patent.

(4) The inventor or his successor in title, respectively, whose entitlement to the grant of a patent for an invention has been established by a final court decision may:

- resume the procedure for the grant of a patent within 3 months from the day on which the court decision becomes final, or

- file a new patent application for the same invention claiming the accordance of the filing date and priority date, if any, of the application filed by the person not entitled to it.

(5) The inventor whose entitlement to the grant of a patent for the invention has been established by a final court decision may, at any time, claim from the Office to enter his name into the patent application and all the documents issued for a patent, as well as into the appropriate Office registers. The entry of the inventor's name may also be claimed by his successor in title.

CLAIM DUE TO INFRINGEMENT OF THE RIGHT OF THE INVENTOR TO BE MENTIONED AS SUCH

Article 95b

(1) If the person who is not the inventor is mentioned as such in the patent application and/or documents relating to a patent and/or the registers of the Office, or if the inventor is not mentioned, the inventor may institute a legal action claiming the mention of his name.

(2) If the person who is not the inventor is mentioned as such in the patent application and/or documents relating to a patent and/or the registers of the Office, a legal action shall be instituted against such person, and if the inventor is not mentioned, a legal action shall be instituted against the Office.

(3) The right to the claim referred to in paragraph (1) of this Article shall also belong to the inventor of a joint invention.

(4) The claim referred to in paragraph (1) of this Article shall not be subject to the statute of limitations and shall not be inherited.

CLAIMS FOR ESTABLISHMENT AND TERMINATION OF INFRINGEMENT

Article 95c

(1) The patent owner may institute a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming establishment of the infringement.

(2) The patent owner may institute a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming termination of the infringement and prohibition of such and similar future infringements.

(3) The patent owner may institute a legal action against any person who has by performing any of the acts without authorization caused a serious threat that his patent might be infringed, claiming desistance from the act concerned and prohibition of the infringement of the patent.

(4) The claims referred to in paragraphs (1), (2) and (3) of this Article may also be made against a person who in the course of her/his economic activities renders services used in the acts infringing a patent or threatening to infringe it.

CLAIM FOR SEIZURE AND DESTRUCTION OF OBJECTS

Article 95d

(1) The patent owner may institute a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming that the products resulting from or acquired by the infringement of a patent, and the objects (implements and tools) predominantly used in the manufacture of the products infringing the patent be removed from the market, seized or destroyed at the expense of that person.

(2) The court shall order the measures referred to in paragraph (1) of this Article against the defendant, unless there are special reasons for not deciding so.

(3) When ordering the measure referred to in paragraph (1) of this Article, the court shall take due care that they are proportionate to the nature and seriousness of the infringement.

CLAIM FOR DAMAGES, USUAL COMPENSATION AND UNJUST ENRICHMENT

Article 95e

(1) The patent owner may take a legal action against any person who has caused him damage by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming damages pursuant to the general rules on legal redress laid down in the Obligations Act.

(2) The patent owner may institute a legal action against any person who has performed without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming payment of remuneration in the amount that he would have claimed, given the circumstances, in the licence agreement, if concluded.

(3) The patent owner may take a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, without having basis for it in any legal transaction, court decision or the law, and has benefited from it, claiming the recovery or compensation of such benefits pursuant to the general rules on unjust enrichment laid down in the Obligations Act.

(4) The claims referred to in paragraphs (1), (2) and (3) shall not be mutually excluding. When deciding on the claims referred to in paragraphs (1), (2) or (3), filed cumulatively, the court shall

observe the general principles laid down in the Obligations Act.

CLAIM FOR DAMAGES DUE TO INFRINGEMENT OF THE RIGHTS CONFERRED BY A PATENT APPLICATION OR A CONSENSUAL PATENT APPLICATION

Article 95f

(1) The patent applicant may institute a legal action against any person who has within the period from the date of publication of the patent application and the date of publication of the mention of the grant of the patent infringed the provisional rights conferred by a patent application by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming damages pursuant to the general rules on legal redress laid down in the Obligations Act.

(2) The right to the claim referred to in paragraph (1) of this Article shall also belong to the owner of a consensual patent, provided that he attaches to the notice of legal action evidence that he has filed with the Office a request for the grant of a patent on the basis of a substantive examination of the patent application.

(3) Upon the request of the court or any of the parties to the procedure, referred to in paragraphs (1) and (2) of this Article, the Office shall promptly accept the application concerned and shall subject it to expeditious proceedings.

CLAIM FOR PUBLICATION OF THE JUDGEMENT

Article 95g

The owner of a patent may claim that the final judgment even partially upholding the claim for protection of the patent in the case of infringement is published in the means of public communication at the expense of the defendant. The court shall decide, within the limits of the claim, on the means of public communication in which the judgment shall be published, and whether it shall be published entirely or partially. If the court decides that only a part of the judgment shall be published, it shall order, within the limits of the claim, that at least the dispositive part of it and, if necessary, the part of the judgement specifying the infringement concerned and the person having committed it is published.

BURDEN OF PROOF

Article 95h

In the civil proceedings concerning the infringement of the patent protected process for obtaining a new substance, any equal substance or any substance of equal composition shall be considered as resulting from the protected process, untill proven to the contrary by the person obtaining such a substance or composition.

CLAIM FOR PROVISION OF INFORMATION

Article 95i

(1) The owner of a patent who has instituted civil proceedings for the protection of the patent in the case of infringement may claim the provision of information on the origin and distribution channels of the goods infringing his patent.

(2) The claim referred to in Article 1 may be made in the form of a legal action or a provisional measure against:

- a person who has been sued in the civil proceedings referred to in paragraph (1) of this Article;

- a person who is within her/his economic activities in possession of the goods suspected of infringing a patent;

- a person who provides, within her/his economic activities, services suspected of infringing a patent;

- persons who provide, within their economic activities, services used in the activities suspected of infringing a patent;

- 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 a patent;

(3) The claim referred to in Article 1 may also be included in a gradual legal action as the first claim, provided that a person acting as a counter party to the defendant is also included in the main claim.

(4) The claim for information on the origin of the goods and distribution channels of the goods and services referred to in paragraph (1) of this Article may include in particular:

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

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

(5) The person required to provide the information referred to in this Article may refuse to provide such information on the same grounds as those allowing the refusal to present evidence as a witness pursuant to the provisions of the Act on Civil Proceedings. If the person concerned refuses to provide information without justified reasons, she/he shall be responsible for the damage

incurred, pursuant to the provisions of the Obligations Act.

(6) The provisions of this Article shall be without prejudice to the provisions on the manner of use of confidential information in civil and criminal proceedings, the provisions regulating the responsibility for misuse of the right to acquire information, and the provisions regulating the processing and protection of personal data.

(7) The provisions of this Article shall be without prejudice to the provisions of Article 91.l of this Act regulating the taking of evidence.

PROVISIONAL MEASURES DUE TO INFRINGEMENT OF A PATENT

Article 95j

(1) Upon the request of the owner of a patent who makes it likely that her/his patent has been infringed or threatened to be infringed, the court may order any provisional measure comprising termination or prevention of the infringement, and in particular:

- order the opposing party to cease or desist from, respectively, the acts infringing a patent; the court may also issue such order against an intermediary whose services are being used by a third party to infringe a patent;

- order the seizure or removal from the market of the goods resulted from or acquired by the infringement of a patent, and objects (implements and tools) predominantly used in the creation of the goods infringing a patent.

(2) Upon the request of the owner of a patent who makes it likely that his patent has been infringed on a commercial scale for the purpose of acquiring commercial or economic benefit, and that such infringement has threatened to cause him irreparable damage, the court may, in addition to the provisional measures referred to in paragraph (1) of this Article, order the seizure of the movable and immovable property of the opposing party, not directly related to the infringement, including the blocking of his bank accounts and other assets.

(3) For the purpose of ordering and enforcing the provisional measure referred to in paragraph (2) of this Article, the court may require from the opposing party or other relevant persons disposing with it, the communication of the banking, financial and other economic information, or the access to other relevant information and documents. The court shall ensure the protection of confidentiality of such information, and prohibit any misuse thereof.

(4) The provisional measure referred to in paragraph (1) of this Article may be ordered without informing the opposing party thereof, if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that irreparable damage is threatened to occur. The provisional measure referred to in paragraph (2) of this Article may be ordered without informing the opposing party thereof, if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that, taking into consideration a very serious circumstances of the infringement, this would be necessary. If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

(5) In the decision ordering a provisional measure the court shall specify the duration of such measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days, from the day of communication of the decision to the applicant for measures, whichever expires later.

(6) The provisions of the Execution Act shall apply to matters, not regulated by this Article.

(7) The provisions of this Article shall be without prejudice to the possibility to order provisional measures pursuant to other provisions of this Act, and the provisions of the Execution Act.

PROVISIONAL MEASURES COMPRISING THE PRESERVATION OF EVIDENCE

Article 95k

(1) Upon the request of the owner of a patent who makes it likely that his patent has been infringed, or threatened to be infringed, the court may order a provisional measure comprising the preservation of evidence.

(2) By the provisional measure referred to in paragraph (1) of this Article, the court may order in particular:

- preparation of a detailed description of the goods made likely to infringe a patent, with or without taking of samples;

- seizure of the goods made likely to infringe a patent;

- seizure of the materials and implements used in the production and distribution of the goods made likely to infringe a patent and the documentation relating thereto.

(3) The provisional measure referred to in this Article may be ordered even without informing the opposing party thereof, if the applicant for measures makes it likely that there is a risk of

evidence being destroyed or irreparable damage of incurring, or that otherwise the provisional measure would not be effective. If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

(4) In the decision ordering a provisional measure the court shall specify the duration of the measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days from the date of communication of the decision to the applicant for measures, whichever expires later.

(5) The provisions of the Execution Act shall apply to matters, not regulated by this Article.

(6) The provisions of this Article shall be without prejudice to the possibility of the court to order provisional measures comprising the preservation of evidence pursuant to the provisions of the Act on Civil Proceedings.

TAKING OF EVIDENCE IN THE COURSE OF THE CIVIL PROCEEDINGS

Article 95l

(1) Where a party to the civil proceedings invokes evidence claiming that it lies with the opposing party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.

(2) Where the owner of a patent as a plaintiff in a legal action claims that the infringement of a patent has been committed on a commercial scale for the purpose of acquiring commercial or economic benefit, and has made it likely during the proceedings, and where he invokes in the proceedings banking, financial or similar economic documents, papers or the like evidence, claiming that they lie with the opposing party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.

(3) Where the party, which is invited to present evidence, denies that the evidence lies with it or under its control, the court may take evidence to establish such a fact.

(4) The provisions of the Act on Civil Proceedings relating to the right of refusal to present evidence as a witness shall apply mutatis mutandis to the right of the party to refuse to present evidence.

(5) The court shall, taking into consideration all the circumstances of the case, decide at its own discretion, on the importance of the fact that the party having the evidence refuses to comply with the court's decision ordering it to present evidence, or denies, contrary to the court's opinion, that the evidence lies with it.

(6) Against the decision of the court referred to in paragraphs (1) and (2) of this Article a separate appeal shall not be allowed.

EXPEDITIOUS PROCEEDINGS AND APPLICATION OF THE PROVISIONS OF OTHER ACTS

Article 95m

(1) A procedure concerning the infringement of the rights under this Act shall be expeditious.

(2) The provisions of the Act on Civil Proceedings, and the Execution Act, respectively, shall apply to the procedures concerning the infringement of a patent.

(3) Upon the request of the court or any of the parties to the procedure concerning the infringement of a patent, the Office or the Board of Appeal, respectively, shall promptly accept a request for the declaration of nullity of the decision on the grant of a patent, filed before or during the civil action, and shall subject it to the expeditious proceedings. The court shall, taking into consideration the circumstances of the case, decide whether it shall stay the proceedings up to the final decision on the request for the declaration of nullity of the decision on the grant of a patent, or not."

Article 43

A heading above Article 96, and Article 96 are deleted.

Article 44

In Article 97 paragraph (1), item 4 is amended to read:

"4. offering or delivering a product which constitutes the essential element of the protected invention to persons not entitled to use such invention (Article 58, paragraph (3), and Article 59).

In paragraph (2), number "8,000" is replaced by number "10 000.00".

After paragraph (3), a new paragraph (4) is added to read:

"(4) A natural person – a craftsman or other self-employed person, respectively, shall be punished for the misdemeanor, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5 000.00 to 50 000.00, where the misdemeanor has been committed in the performance of her/his activities as a craftsman or other self-employed person, respectively."

In the former paragraph (4), which becomes paragraph (5), numbers “1, 2 and 3” are replaced by numbers “1, 2, 3 and 4”.

Article 45

Title “XII. EUROPEAN PATENT APPLICATION AND EUROPEAN PATENT” is amended to read: “XII. EXTENDED EUROPEAN PATENT”.

Article 46

A heading above Article 103 “EFFECTS OF EUROPEAN PATENTS” is amended to read: “EFFECTS OF EXTENDED EUROPEAN PATENTS”.

In Article 103, paragraph (2) is amended to read:

“(2) Within three months from the date on which the mention of the grant of the European patent has been published, the owner of the patent shall communicate to the Office a request for the entry of the extended European patent into the Register of Patents, a specification of the European patent as published in the Official Journal of EPO, a translation of such patent specification in the Croatian language, and shall pay the prescribed administrative fee and procedural charges for publication and printing of the translation of the specification of the European patent in the Croatian language, in accordance with special regulation.”

Article 47

After Article 108, a Title “XII.a EUROPEAN PATENT”, as well as headings and Articles 108a to 108o are added to read:

“EFFECT OF EUROPEAN PATENTS IN THE REPUBLIC OF CROATIA”

Article 108a

(1) A European patent application and a European patent shall, subject to the provisions of this Chapter, have the effect of and be subject to the same conditions as a national patent application and a national patent under this Act.

(2) Pursuant to this Act:

1. European patent application means an application for a European patent filed under the European Patent Convention (hereinafter: EPC), as well as an international patent application filed under the Patent Cooperation Treaty (hereinafter: PCT) for which the European Patent Office (hereinafter: EPO) acts as the designated or elected Office and in which the Republic of Croatia is designated;

2. European patent means a European patent granted by the EPO on a European patent application in accordance with EPC, and designating the Republic of Croatia;

3. national patent application means a patent application filed with the Office under this Act;

4. national patent means a patent granted on the basis of a national patent application.

FILING OF THE EUROPEAN PATENT APPLICATION

Article 108b

(1) A European patent application may be filed:

(a) with the European Patent Office or

(b) with the Office

(2) A European patent application filed with the Office shall have the same effect as if it has been filed on the same date with the European Patent Office, provided that it has been transmitted by the Office to the EPO in due time.

(3) A European divisional patent application shall be filed directly with the EPO.

(4) If the Office finds at first sight that a possible confidential invention of interest for the Republic of Croatia is concerned, it shall not transmit the European patent application to the EPO in accordance with paragraph (2) of this Article, but shall act in accordance with special regulations on confidential inventions.

(5) The European patent application, which is to be filed with the Office in accordance with the provisions of this Article, may be filed in any of the languages referred to in Article 14, paragraphs 1 and 2 EPC.

FEES AND PROCEDURAL CHARGES FOR EUROPEAN PATENT APPLICATIONS

Article 108c

The fees and procedural charges payable in respect of European patent applications shall be paid in accordance with the provisions of the EPC and regulations to the EPC.

EFFECTS OF EUROPEAN PATENT APPLICATIONS

Article 108d

A European patent application which has been accorded a filing date and designating the Republic of Croatia shall be equivalent to a regular national patent application, where appropriate, with the priority claimed for the European patent application, whatever its outcome may be.

A published European patent application shall provisionally confer protection as conferred by a published national patent application under Article 60 of this Act, from the date on which the applicant has communicated a translation of the claims of a published European patent application into the Croatian language to the person using the invention in the Republic of Croatia.

The European patent application shall be deemed not to have had ab initio the effects referred to in paragraph (2) of this Article, if it has been withdrawn, deemed to be withdrawn, finally refused or if the designation of the Republic of Croatia has been withdrawn or is deemed withdrawn.

EFFECTS OF EUROPEAN PATENTS

Article 108e

(1) A European patent designating the Republic of Croatia shall, subject to the conditions laid down in this Article, confer from the date of publication of the mention of its grant by the EPO the same rights as would be conferred by a national patent granted under this Act.

(2) Within three months from the date on which the mention of the grant of the European patent has been published, the owner of the patent shall furnish the Office with a request for entry of the European patent into the Register of Patents, a specification of the European patent as published in the Official Journal of EPO, a translation of such specification in the Croatian language and shall pay the administrative fee and procedural charges for publication and printing of the translation of the specification of the European patent in the Croatian language, in accordance with special regulation.

(3) The Office shall issue a decision on the entry of a European patent in the Register of Patents referred to in Article 49 of this Act.

(4) If, as a result of an opposition filed with the EPO, the European patent is maintained with the amended claims, or as a result of a request for limitation referred to in Article 105a EPC the European patent is limited by the amendment of the claims, the owner of the patent shall furnish the Office with a translation of the amended claims in the Croatian language, and shall pay the prescribed administrative fee and procedural charges for publication in the official gazette of the Office, within three months from the date of publication of the EPO decision concerned.

(5) Where the text of claims contains reference signs used in the drawings, such drawings shall be attached to the translation referred to in paragraphs (2) and (4) of this Article.

(6) The Office shall publish as soon as possible the mention of any translation duly filed under paragraph (2) or (4) of this Article in its official gazette. The content of the publication shall be prescribed by the Ordinance.

(7) If the translation referred to in paragraph (2) or (4) of this Article is not filed in the prescribed time-limit or the prescribed administrative fee and procedural charges for publication are not paid within the period referred to in paragraph (2) or (4) of this Article, the European patent shall be deemed to be void ab initio for the Republic of Croatia. Article 122 EPC relating to the restitutio in integrum shall apply mutatis mutandis.

(8) A European patent and the European patent application on which it is based shall be deemed not to have had ab initio the effects specified in paragraph (1) of this Article and Article 108d, paragraph (2) of this Act, to the extent that the patent has been revoked in the opposition proceedings, or revoked or limited in the procedure concerning the request referred to in Article 105a EPC before the EPO.

AUTHENTIC TEXT OF EUROPEAN PATENT APPLICATIONS OR EUROPEAN PATENTS

Article 108f

(1) The text of a European patent application or a European patent established in the language of the proceedings before the EPO shall be the authentic text in any proceedings in the Republic of Croatia.

(2) Where the translation in the Croatian language confers protection narrower than that conferred by a European patent application or a European patent, such translation shall be regarded as authentic, except in the procedures concerning the declaration of a patent null and void.

(3) An applicant for or the owner of a European patent may file a corrected translation at any time. The corrected translation of the claims of a published European patent application shall not have any legal effects in the Republic of Croatia until it has been communicated to the person using the invention in the Republic of Croatia. The corrected translation of the specification of a European patent designating the Republic of Croatia shall not have any legal effect, until the Office has published the mention of the correction, as soon as possible after payment of the administrative fee and procedural charges prescribed for the publication.

(4) Any person who, in good faith, uses or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of a European patent application or a European patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

RIGHTS OF EARLIER DATE

Article 108g

(1) In the Republic of Croatia, a European patent application and a European patent designating the

Republic of Croatia shall have, with regard to a national patent application and a national patent, the same state of the art effect as a national patent application and a national patent.

(2) In the Republic of Croatia, a national patent application and a national patent shall have, with regard to a European patent designating the Republic of Croatia, the same state of the art effect as they have with regard to a national patent.

SIMULTANEOUS PROTECTION

Article 108h

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

CONVERSION INTO A NATIONAL PATENT APPLICATION

Article 108i

(1) The Office shall carry out a procedure for the grant of a national patent upon the request of an applicant for or the owner of a European patent in the following cases:

(a) where the European patent application is deemed to be withdrawn under Article 77, paragraph 3 EPC, or

(b) where the translation of a European patent application has not been filed in due time in accordance with the provision of Article 14, paragraph 2 EPC and Article 90, paragraph 3 EPC.

(2) In the case referred to in paragraph (1) item (a) of this Article, a request for conversion shall be filed with the Office. The Office shall, subject to the provisions on national security, transmit the request directly to the central industrial property offices of the Contracting States specified therein.

(3) In the cases referred to in paragraph (1) item (b) of this Article, a request for conversion shall be filed with the EPO, which shall transmit it to the Office, if the Republic of Croatia is specified therein.

(4) The request shall be deemed as filed after the conversion fee and procedural charges have been paid. The effects of the European patent application referred to in Article 66 EPC shall lapse if the request for conversion is not filed in due time.

(5) Within two months from filing of the request for conversion of a European patent application to a national patent application, the applicant shall pay the prescribed administrative fee and procedural charges for conversion and publication in accordance with special regulations, and shall file with the Office the translation of the original text of the European patent application into the Croatian language. Mention of the conversion shall be published in the official gazette of the Office. If the administrative fee and procedural charges have not been paid in due time, or if the translation of the original text of the European patent application into the Croatian language is not filed in due time, the request for conversion shall be deemed not to be filed, concerning which the Office shall issue a corresponding decision.

RENEWAL FEES FOR EUROPEAN PATENTS

Article 108j

(1) Renewal fees for European patents shall be paid to the Office for the years following the year in which the mention of the grant of the European patent was published in accordance with special regulations.

(2) Article 141, paragraph 2 EPC shall apply mutatis mutandis.

DISPOSITIONS OF EUROPEAN PATENT APPLICATIONS AND EUROPEAN PATENTS

Article 108k

The provisions of this Act on the transfer, licence, right in rem, execution, bankruptcy and compulsory licences shall apply to European patent applications and European patents with effect in the territory of the Republic of Croatia.

PROTECTION AGAINST INFRINGEMENT

Article 108l

The provisions of this Act on the protection of patents in the case of infringement shall apply to European patent applications and European patents designating the Republic of Croatia.

DECLARATION OF NULLITY OF THE EUROPAN PATENT

Article 108m

(1) Subject to the provisions of Article 139 EPC, and Articles 78 and 79 of this Act, respectively, a European patent may be declared null and void in the procedure before the Office in accordance with the provisions of this Act, with the effect for the Republic of Croatia.

(2) If a request for the declaration of nullity of a European patent is filed with the Office after the initiation of the opposition procedure before the EPO referred to in Article 99 EPC or the procedure concerning a request for limitation or revocation referred to in Article 105a EPC, the Office shall stay the procedure concerning a request for the declaration of nullity up to the termination of the mentioned procedures before the EPO.

APPLICATION OF EPC

Article 108n

EPC shall apply to the European patent applications and European patents, which have, in accordance with the provisions of EPC and this Act, effect in the Republic of Croatia.

TRANSLATIONS IN ACCORDANCE WITH THE AGREEMENT ON THE APPLICATION OF ARTICLE 65 EPC

Article 108o

(1) The provisions of Article 108e, paragraphs (2), and (4) of this Act, providing for that the owner of a European patent shall furnish the Office with a translation of a patent specification and amended claims into the Croatian language, shall apply up to the entry into force of the Agreement on the application of Article 65 EPC of 17 October 2000.

(2) After the entry into force of the Agreement referred to in paragraph (1) of this Article, the owner of a patent shall furnish the Office with:

1. a patent specification in the English language, or a translation of such specification into the English language, if the patent has been granted in the language of the proceedings other than the English language, and a translation of the claims into the Croatian language filed in due time and subject to payment of the prescribed administrative fee and procedural charges for publication laid down in Article 108e, paragraph (2) of this Act;

2. a translation of the amended claims into the English and Croatian languages, if the European patent has been maintained with amended claims, filed in due time and subject to payment of the prescribed administrative fee and procedural charges for publication laid down in Article 108e, paragraph (3) of this Act.

(3) In the case of a dispute relating to a European patent, the patent owner, at his own expense, shall furnish, at the request of a person allegedly infringing a patent, or at the request of the competent court or quasi-judicial authority condicting a legal proceedings a full translation of a patent specification into the Croatian language.

(4) The translation referred to in paragraph (3) of this Act shall be considered as authentic text in any proceedings in the Republic of Croatia, except in the nullity proceedings, if the translation in the Croatian language confers protection narrower than that conferred by the European patent in the language of the proceedings."

TRANSITIONAL AND FINAL PROVISIONS

Article 48

(1) The administrative disputes instituted before the Administrative Court before 1 June 2008 shall be completed before the Administrative court in accordance with the provisions, which were in force up to that date.

(2) A party, which instituted a legal action before the Administrative Court before 1 June 2008, in accordance with the provisions which were in force up to that date, may require from the Administrative Court to stay the proceedings, provided that it has filed within 30 days from that date an appeal based on the same grounds and with the same statement of reasons as are those contained in the legal action, where an appeal against such administrative decision is admissible pursuant to the provisions of this Act. The administrative decision issued on such appeal in the second instance, may be subject to an administrative dispute pursuant to the provisions of the Act on Administrative Disputes."

SPECIAL PROTECTION CONFERRED BY A PATENT OR A SUPPLEMENTARY PROTECTION CERTIFICATE IN A MEMBER STATE OF THE EUROPEAN UNION

Article 49

(1) If, before the day of the accession of the Republic of Croatia into the full membership of the European Union, a patent or a Supplementary Protection Certificate for a medicinal product intended for humans or animals has been acquired in any of the Member States of the European Union, at the time when a patent or a Supplementary Protection Certificate could not be acquired for such medicinal product in the Republic of Croatia, the owner of such a patent or a Supplementary Protection Certificate may prohibit export from the Republic of Croatia for the purpose of offering for sale, selling, using, or stocking for such purposes, of the product carried out according to such a patent, to the Member States of the

European Union in which the patent or the Supplementary Protection Certificate concerned is in force, even if such a product is manufactured or placed on the market for the first time in the territory of the Republic of Croatia by the owner of the patent or the holder of the Supplementary Protection Certificate acquired in the Member State of the European Union concerned before the accession of the Republic of Croatia to the European Union, or with his/her express authorization.

(2) The manner of information of the competent customs authorities concerning the intended export referred to in paragraph (1) of this Article shall be regulated by special regulation.

DEFERRED APPLICATION OF THE PROVISIONS ON A SUPPLEMENTARY PROTECTION CERTIFICATE AND SPECIAL RIGHTS IN THE TRANSITIONAL PERIOD

Article 50

The owner of the basic patent in the Republic of Croatia, granted for a medicinal product intended for humans or animals or a plant protection product, respectively, for which the authorization to place it on the market is granted by a competent authority in any of the States of the European Union, on the day of the accession of the Republic of Croatia into the full membership of the European Union, or, in the Republic of Croatia, after 1 January 2008, may apply for a Supplementary Protection Certificate in the Republic of Croatia, within 6 months as of the day of the accession of the Republic of Croatia into the full membership of the European Union.

Article 51

On the date of the entry into force of Article 47 of this Act, the provisions of Articles 99 to 108 of the Patent Act (Official Gazette 173/2003 and 87/2005) shall cease to have effect. All the procedures instituted in accordance with such provisions shall be completed in accordance with them.

Article 52

(1) The procedures concerning the protection of a patent in the case of infringement, pending on the day of the entry into force of this Act, shall be completed in accordance with the provisions, which were in force up to the entry into force of this Act.

(2) The provisions of Articles 10 to 14 of this Act shall not apply to any procedures relating to the grant of a patent, declaration of a patent null and void, and revocation of the decision on the grant of a patent, which have been instituted and not completed up to the entry into force of this Act.

Article 53

(1) The Ordinance referred to in Article 115 of the Patent Act (Official Gazette 173/2003 and 87/2005) shall be aligned with the provisions of this Act, on a proposal given by the Director General of the Office, by the Minister responsible for the work of the Office, not later than within 3 months from the entry into force of this Act.

(2) The Ordinance referred to in Article 36 of this Act shall be enacted, on a proposal given by the Director General of the Office, by the Minister responsible for the work of the Office, not later than up to 1 June 2008.

(3) The Rules of Procedure referred to in Article 36 of this Act shall be enacted not later than up to 1 June 2008.

Article 54

The Legislation Committee of the Croatian Parliament shall hereby be authorized to prepare and publish a revised version of the Patent Act.

Article 55

This Act shall enter into force on the eight day following the day of its publication in the Official Gazette, with the exception of Article 4, and Articles 32 to 39 thereof, which shall enter into force on 1 June 2008, Articles 31 and 49 thereof, which shall enter into force on the day of the acceptance of the Republic of Croatia into the European Union, and Article 47 thereof, which shall enter into force on the day of the entry into force of the EPC in the Republic of Croatia.

THE ACT
ON AMENDMENTS TO THE PATENT ACT***

Article 1

In the Patent Act (OG Nos. 173/03, 87/05 and 76/07), in Article 4, paragraph (1) is amended to read:

(1) A legal or a natural person not having a principle place of business, a domicile or a habitual residence in the territory of the Republic of Croatia, must be represented in the proceedings before the State Intellectual Property Office (hereinafter: the Office) by an authorized patent representative, pursuant to the provisions of this Act and special regulations.

Article 2

In Article 29, paragraph (1), item 5, the Croatian words translated as: “a patent representative entered in the Register of Representatives kept by the Office” are replaced by the Croatian words translated as: “an authorized patent representative”.

Article 3

In Article 57, paragraph (5), after item 8, item 9 is added to read:

“9. filing of the appeal referred to in Article 88 of this Act and taking other actions in the procedure before the Board of Appeal”.

Article 4

In Article 57a, paragraph (4), a new item 4 is added to read:

“4. For filing the appeal referred to in Article 88 of this Act and taking other actions in the procedure before the Board of Appeal”.

The former item 4 becomes item 5.

Article 5

In Article 65, paragraph (1), after the words: “of the Republic of Croatia” a comma is inserted and is followed by the words: “or upon the accession of the Republic of Croatia to the European Union respectively, on the market of any of the States of the European Union, or States Parties to the Agreement Creating the European Economic Area”.

Article 6

In Article 69a, paragraph (2), the words: “by exerting a pharmacological, immunological or metabolic action” are deleted.

Article 7

In Article 69b, paragraph (6), the Croatian words translated as: “those countries have issued”, are replaced by the Croatian words translated as: “this country has issued”.

Article 8

In Article 69f, paragraph (1), the Croatian word translated as: “re-import”, is replaced by the Croatian word translated as: “re-export”.

Article 9

In article 87a, paragraph (1), item d), after the words: “is the first authorisation to place”, the words “a product as” are inserted.

In paragraph (2), item i), a spelling error of the Croatian word translated as “grant” is corrected.

In item j), the words: “plant protection products” are replaced by the words: “the products as plant protection products”.

Article 10

In Article 87b, paragraph (1) is amended to read:

“(1) The Certificate may be granted in accordance with the provisions of this Act in the cases where a basic patent has been granted for a product which is a component part of a medicinal product intended for humans or animals, or for a plant protection product, the placing on the market of which requires prior authorisation by the competent State authority.”

Paragraph (3) is amended to read:

“(3) The rights conferred by the Certificate shall run for a period equal to the period which elapsed between the date of filing of the application for a basic patent and the date of the first authorisation to place the product protected by auch a patent on the market, reduced by a period of five years.”

Article 11

Article 87c is amended to read:

“The Certificate shall be granted upon a request of the owner of the basic patent, if the following conditions are met on the date of filing of the application for the Certificate:

1. that the product is protected by a basic patent in force,

2. that an authorisation to place the product on the market as a medicinal product intended for humans or animals, or a plant protection product respectively, which is in force, has been granted in accordance with special regulations,

3. that the product has not already been the subject of the Certificate,

4. that the authorisation referred to in item 2 of this Article, is the first authorisation to place the product on the market as a medicinal product intended for humans or animals, or a plant protection product, respectively."

Article 12

Article 87d is amended to read:

"The application for the Certificate shall be filed with the Office within six months from the date of the grant of the authorisation, referred to in Article 87c, item 2 of this Act, and if the authorisation has been granted before the grant of the basic patent, within six months from the date of publication of the mention of the grant of the patent, referred to in Article 51 of this Act."

Article 13

In Article 87f, paragraph (4), the word: "decision" is replaced by the word: "conclusion".

Article 14

In Article 87j, paragraph (1) is amended to read:

"(1) Within the limits of the protection conferred by the basic patent, the protection conferred by the Certificate shall extend only to the product covered by the authorisation to place on the market a medicinal product intended for humans or animals, or a plant protection product respectively, as well as for any use of the product as a medicinal product intended for humans or animals, or a plant protection product, respectively, that has been authorized before the expiry of the Certificate.

Article 15

In Article 108o, paragraph (1), the words: "and 4", are replaced by the words: "to 5".

In paragraph (2), item 1, twice repeated words in the Croatian version of the text are deleted with no relevance to the English translation.

TRANSITIONAL AND FINAL PROVISIONS

SPECIAL RIGHTS IN TRANSITIONAL PERIOD

Article 16

The owner of the basic patent in the Republic of Croatia, granted for the product as a medicinal product intended for humans or animals, or the product as a plant protection product, respectively, for which the authorization to place it on the market is granted by a competent authority in any of the Member States of the European Union, on the day of the accession of the Republic of Croatia to the European Union, or, in the Republic of Croatia, after 1 January 2003, may apply for a Supplementary Protection Certificate in the Republic of Croatia, within 6 months as of the day of the accession of the Republic of Croatia to the European Union.

Article 17

The Agreement on the application of Article 65 EPC (London Agreement) shall apply to all European patents and extended European patents granted after 1 May 2008, irrespective of whether they have been granted after the first instance procedure or opposition procedure or appeal procedure, and the mention of the grant or amendment of which have been published by the EPO.

Article 18

In the Act on Amendments to the Patent Act (OG 76/07), Article 50 and the heading above it shall cease to have effect.

Article 19

This Act shall enter into force on the eighth day following the day of its publication in the "Official Gazette".

THE ACT
ON AMENDMENTS TO THE PATENT ACT****

Article 1

In the Patent Act (Official Gazette 173/03, 87/05, 76/07 and 30/09), in Article 87a, paragraph (1), item (e) is added to read:

(e) "request for an extension of the duration" means a request for an extension of the duration of the Certificate granted for the protection of medicinal products for paediatric use."

Article 2

In Article 87.b a new paragraph (5) is added to read:

"(5) The duration of the Certificate according to paragraphs (3) and (4) shall be extended by six months in the cases where a patent has been granted for a medicinal product for paedriatic use, if the medicinal product has been granted the authorization for placing it on the market in all the Member States of the European Union. In such a case the duration of the period referred to in paragraph (3) of this Article may be extended only once. An extension of the duration of the Certificate shall not be granted for a medicinal product to which a one-year extension of a ten-year period of protection applies in accordance with Article 15a paragraph (3) of the Medicinal Products Act, and for orphan medicinal products within the meaning of the Medicinal Products Act."

The former paragraph (5) becomes paragraph (6).

Article 3

In Article 87d paragraphs (2) and (3) are added to read:

"(2) The request for an extension of the duration of the Certificate referred to in Article 87a paragraph (1) item (e) of this Act may be filed when filing the application for the Certificate or when the application for the Certificate is pending and the appropriate conditions referred to in Article 87e paragraphs (4) and (5) of this Act are met.

(3) The request for an extension of the duration of a Certificate already granted shall be filed not later than two years before the expiry of the Certificate."

Article 4

In Article 87e paragraph (1) item 1a, after the word "Certificate", the words "or an extension of the duration of the Certificate, respectively, are added."

In item 5, after the word "Certificate", a full stop is replaced by a comma and is followed by the words "and an extension of the duration of the Certificate."

After paragraph (3), a new paragraph (4) and paragraphs (5) and (6) are added to read:

"(4) Where the application for a Certificate includes a request for an extension of the duration, it shall be accompanied by:

1. a copy of the statement indicating compliance with an agreed completed paedriatic investigation plan, as prescribed by a special regulation,

2. where necessary, in addition to the copy of the authorization to place the product on the market as referred to in Article 87c paragraph (1) item 1 of this Act, a proof of possession of authorizations to place the product on the market of all Member States, as prescribed by a special regulation.

(5) Where an application for a Certificate is pending, a request for an expended duration in accordance with 87d paragraph (2) of this Act shall include the particulars referred to in paragraph (4) of this Article and a reference to the application for a Certificate already filed.

(6) The application for an extension of the duration of a Certificate already granted shall contain the particulars referred to in paragraph (4) of this Article and a copy of the Certificate already granted.

The former paragraph (4) becomes paragraph (7).

Article 5

In Article 87f, paragraph (6) is added to read:

"(6) The provisions of this Article shall apply *mutatis mutandis* to a request for an extension of the duration of the Certificate."

Article 6

In Article 87g, paragraph (4) is added to read:

"(4) The provisions of this Article shall apply *mutatis mutandis* to a request for an extension of the duration of the Certificate."

Article 7

In Article 87k paragraph (1), after the words "termination of the Certificate", a full stop is replaced by a comma and is followed by the words "as well as the indication of the fact that an extension of the duration of the Certificate has been granted or the fact that a request for an extension has been refused."

Article 8

In Article 87m, paragraph (2) is amended to read:

"(2) An extension of the duration of the Certificate may be revoked if it was granted contrary to the provision of Article 87b paragraph (5).

After paragraph (2), paragraph (3) is added to read:

"(3) The provisions of this Act relating to the procedure concerning a proposal for the declaration of a patent null and void shall apply mutatis mutandis to the procedure for the declaration of invalidity of the Certificate or the procedure for the revocation of an extension of its duration, respectively."

Article 9

This Act shall enter into force on the eight day following the day of its publication in the Official Gazette.

ACT ON AMENDMENTS TO THE PATENT ACT*****

Article 1

In the Patent Act ("Official Gazette" Nos. 173/03, 87/05, 76/07, and 128/10), in Article 4, paragraphs (4) and (5) are amended to read:

„ (4) If a foreign legal or natural person fails to appoint a representative, or to communicate the address for correspondence to the Office, in accordance with the provision set out in paragraph (3) of this Article, the Office shall order it by a conclusion to appoint a representative or to communicate the address for correspondence within a period of three months.

(5) If a foreign legal or natural person fails to comply with the conclusion of the Office referred to in paragraph (4) of this Article, the Office shall reject its communication and shall provide for the legal service to be made by public announcement).

Article 2

In Article 15 paragraph (2), the words "administrative decisions" are replaced by the word "decisions"

Paragraph (3) is deleted.

In the former paragraph (4), which becomes paragraph (3), the words "administrative decisions" are replaced by the word "decisions"

Article 3

In Article 16, paragraph (1) is amended to read:

"(1) The procedures provided for by this Act and the filing of an appeal shall be subject to payment of the fees and procedural charges in accordance with special regulations."

Paragraphs (2) and (3) are deleted.

Article 4

In Article 17, a new paragraph (2) is added to read:

"(2) A patent application may be filed directly in writing, by post, or by electronic means."

The former paragraph (2) becomes paragraph (3).

Article 5

In Article 23, paragraph (1), the words "In accordance with the provisions of Article 4 of the Paris Convention for the Protection of Industrial Property (hereinafter: the Paris Convention") are deleted, and the word "any" begins with a capital letter.

Article 6

In Article 24, paragraph (2), after the words "of this Act expired" the words "but within a period of two months from the date of expiration of the priority right," are added.

Paragraph 5 is amended to read:

"(5) The Office shall previously notify the applicant of the reasons for which it intends to refuse a request for the restoration of the priority right, and shall invite him to file observations on such reasons within a period of two months from the day of receipt of the notification. On the reasoned request of the applicant, the Office may extend the time limit for filing observations for one month"

Article 7

In Article 24.a paragraph (2), the Croatian word translated as "by a decision" is replaced by another Croatian words translated "by a decision".

Article 8

Article 29 is amended to read:

"(1) Upon receipt of a patent application, the Office shall examine whether:

1. the application complies with the requirements for the accordance of the filing date referred to in Article 21 of this Act,
2. the administrative fee and procedural charges for filing the application have been paid in compliance with Article 16 of this Act,
3. the translation of the application in the Croatian language is filed, if the application has been drafted in a foreign language,
4. the drawings referred to in Article 20, paragraph (1), item 4, of this Act have been filed,
5. the applicant, referred to in Article 4 of this Act, who is a natural or a legal person not having a principal place of business, a domicile or a habitual residence in the territory of the Republic of Croatia is represented by an authorized patent representative.

(2) If the application does not comply with the requirements for the accordance of the filing date referred to in Article 21 of this Act, the Office shall order the applicant by a conclusion to correct the deficiencies expressly indicated in it, within a period of two months from the day of receipt of the conclusion.

(3) If the applicant does not comply with the conclusion of the Office within the time limit referred to in paragraph (2) of this Article, the patent application shall be rejected by a decision.

(4) If the applicant corrects the deficiencies within the time limit referred to in paragraph (2) of this Article, the Office shall inform him that the date of receipt of the required corrections shall be accorded as the filing date of the patent application.

(5) Where a patent application refers to drawings not included in the application, the Office shall order the applicant by a conclusion to file the drawings within a period of two months from the day of receipt of the conclusion, and if the applicant complies with the conclusion of the Office, it shall be considered that the filing date of the application is the date of receipt of the drawings by the Office. If the drawings are not filed, it shall be considered that the applicant did not refer to them.

(6) The Office shall order by a written conclusion the applicant who has not paid the administrative fee and procedural charges or has not filed the translation of the patent application into the Croatian language, to correct the respective deficiencies within a period of two months from the day of receipt of the conclusion.

(7) At a reasoned request of the applicant, the Office may extend the time limits set out in this Article for a period considered to be justified, but not exceeding three months.

(8) It the applicant does not comply with the conclusion of the Office referred to in paragraph (6) of this Article, the patent application having been accorded the filing date shall be considered withdrawn, and the Office shall issue a decision on the suspension of the patent granting procedure.

Article 9

In Article 30 paragraph (1), the Croatian word translated as “by a decision” are deleted.

Article 10

In Article 34, paragraph (2) is amended to read:

“(2) If such examination establishes that the requirements referred to in paragraph (1) of this Article are not complied with, the Office shall order the applicant by a conclusion to correct the deficiencies, expressly indicated in it, within an appropriate time limit. This time limit shall not be less than two months and not more than three months from the day of receipt of the conclusion.”

In paragraph (4), the Croatian word translated as “a decision” is replaced by another Croatian word translated as “a decision”.

In paragraph (5), the words “with the invitation” are replaced by the words “with the conclusion”

Article 11

In Article 36 paragraph (2), the Croatian word translated as “a decision” is replaced by another Croatian word translated as “a decision”.

Article 12

In Article 42 paragraph (1), number “3” is replaced by number “2”.

Article 13

In Article 43, paragraph (3) is amended to read:

“(3) An opposition to the grant of a consensual patent shall contain:

1. an express indication of an opposition to the grant of a consensual patent,
2. indications concerning the person filling the opposition, namely his family name, given name and domicile, if a natural person is concerned, or a company name and its principle place of business, if a legal person is concerned,
3. the number of the consensual patent application,
4. reasons for the opposition,
5. indications concerning the applicant for a consensual patent,
6. the title of the invention,
7. indications concerning a representative, namely his family name, given name and domicile, if a natural person is concerned, or a company name and its principle place of business, if a legal person is concerned, if the opposition is filed through a representative, and a dully filed power of attorney,
8. the signature of the person filing the opposition or of a representative.”.

Article 14

In Article 45 paragraph 2, the Croatian word translated as “by a decision” are replaced by another Croatian word translated as “by a decision”.

Article 15

In Article 47, paragraph (1) is amended to read:

"(1) If it has been established that a patent application:

1. does not comply with all the requirements for the grant of a patent referred to in Article 37, paragraph (1) of this Act, or
2. does not comply with the requirements for the grant of a consensual patent referred to in Article 41 of this Act,

the Office shall, prior to issuing a decision on the refusal of a patent, notify the applicant in writing of the reasons for which the patent shall not be granted, and shall invite him to comment in writing on the specified reasons within a time limit which shall not be less than two months or more than four months from the day of receipt of the notification.".

In paragraph (3) the word "invitation" is replaced by the word "notification".

Article 16

In Article 48, paragraph (2) is amended to read:

"(2) The Office shall notify the applicant of the content of the patent application on the basis of which it intends to grant a patent, and shall invite him to submit a written approval of the text provided within a period of two months from the day of receipt of the notification.".

Paragraph (3) is amended to read:

"(3) If the applicant fails to comply with paragraph (2) of this Article, the Office shall issue a decision on the grant of a patent, as though the approval had been submitted.".

Article 17

Article 56 is amended to read:

"(1) Mistakes made in names or numbers, typing errors, linguistic errors and other obvious mistakes in documents, registers or publications shall be corrected at a request of the applicant or patent owner or ex officio.

(2) A request for the correction of the mistakes referred to in paragraph (1) of this Article shall be subject to payment of the administrative fee and procedural charges in cases where a mistake is not attributable to the Office.

(3) If a patent application has been published, all the amendments referred to in paragraph (1) shall be published in the official gazette of the Office.

(4) The manner of filing a request for the correction of mistakes shall be defined by the Regulations.".

Article 18

Article 57 shall be amended to read:

"(1) If the applicant or the owner of a patent has, despite due care required by the circumstances, failed to perform an act in the course of the procedure before the Office within the time limit prescribed by this Act or the regulation enacted by virtue of this Act, the direct result of which is a loss of rights conferred by the patent application or the patent, the Office shall authorize the restitutio in integrum, provided that the applicant:

1. files a proposal for the restitutio in integrum and completes the omitted acts within the prescribed time limit;
2. indicates the circumstances that prevented him from performing the omitted act in time;
3. pays the administrative fee and procedural charges in compliance with Article 16 of this Act.

(2) A proposal for the restitutio in integrum shall be filed within three months from the day on which the reason of failure ceased to exist. The proposal shall not be filed after the expiration of a period of one year from the date of failing to comply with a time limit.

(3) After the expiration of a period of one year from the date of failing to comply with the time limit, the proposal referred to in paragraph (1) of this Article shall not be filed. In the case of failing to comply with a time limit for payment of a renewal fee for the maintenance of a patent, the time limit laid down in Article 74, paragraph (3) of this Act shall be included in the one-year period.

(4) If a proposal for the restitutio in integrum does not meet the conditions referred to in paragraph (1) of this Article, the Office shall order the applicant by a conclusion to rectify the proposal within a period of two months from the receipt of the conclusion. If the applicant fails to comply with the conclusion within the prescribed time limit, and if a proposal for the restitutio in integrum is not filed in the prescribed time limit, the Office shall issue a decision on the rejection of the request for the restitutio in integrum.

(5) The Office shall, prior to issuing a decision on the proposal for the restitutio in integrum, notify the person filing the proposal of the reasons for which it intends to refuse the proposal, entirely or in part, and shall invite him to comment on those reasons within two months from the day of receipt of the notification.

(6) A proposal for the restitutio in integrum shall not be filed in connection with the failure to comply with a time limit for the following acts:

1. filing of the proposal referred to in paragraph (1) of this Article,
2. filing of the request for the extension of a time limit,
3. filing of the request referred to in Articles 24 and 24a of this Act,
4. filing of one of the requests referred to in Article 36 of this Act,
5. filing of the opposition referred to in Article 43, paragraph (1) of this Act,
6. filing of the request referred to in Article 57a of this Act,
7. furnishing of the translation referred to in Article 29, paragraph (1), item 3 and Article 103, paragraphs (2) and (3) of this Act, and Article 108e, paragraphs (2) and (4) of this Act
8. all the acts in the procedures before the Office, involving several parties,
9. filing of the appeal referred to in Article 88 of this Act, and performing of other acts in the procedure before the Board of Appeal.

(7) Any person who has in good faith exploited an invention or has made real and serious preparations for exploiting the invention which is the subject-matter of a published application may, in the period between the loss of rights referred to in paragraph (1) of this Article, and the publication of the fact concerning the acceptance of the proposal for the reinstatement of rights, continue such exploitation, without compensation for damages, for the purposes of his own business and needs related to it.

(8) The contents of the publication of indications concerning the restitutio in integrum shall be specified by the Regulations.”.

Article 19

In Article 57a, paragraph (3) is amended to read:

“(3) If the omitted acts have not been performed within the time limit referred to in paragraph (2) of this Article, the Office shall issue a decision on the rejection of a request for the continued processing.”.

Paragraph (5) is amended to read:

“(5) If the Office complied with the request referred to in paragraph (1) of this Article, the provisions of Article 57, paragraphs (7) and (8) of this Act shall apply mutatis mutandis.”.

Article 20

In Article 81, paragraph (1), the words “the Office shall invite the applicant to correct the deficiencies within 30 days from the day of receipt of the invitation.” shall be replaced by the words “the Office shall order the applicant by a conclusion to correct such deficiencies within a period of two months from the day of receipt of the conclusion.”.

In paragraph (2), the Croatian word translated as “by a decision” is replaced by another Croatian word translated as “by a decision”.

In paragraph (6), the words “shall invite the owner of the patent to…within a period of 60 days from the receipt of the invitation” are replaced by the words “shall order the owner of the patent by a conclusion to…within a period of two months from the receipt of the conclusion”.

Article 21

In Article 87f, paragraph (3), the words “shall invite the applicant to remedy the deficiencies indicated in the invitation within a period of 30 days from the receipt of the invitation.” are replaced by the words “shall order the applicant by a conclusion to remedy the indicated deficiencies within a period of two months from the receipt of the conclusion.”.

In paragraph (4), the Croatian word translated as “a decision” is replaced by another Croatian word translated as “a decision”.

Article 22

In Article 88, the Croatian word translated as “a decision” in the appropriate grammatical number and case is replaced by another Croatian word translated as “a decision” in the appropriate grammatical number and case.

Article 23

In Article 91, after paragraph (9), paragraph (10) is added to read:

“(10) The chosen parts of the decisions issued by the Boards of Appeal shall be published on the web site of the Boards of Appeal.”.

Article 24

The Minister responsible for the work of the Office shall, on a proposal given by the Director General of the Office, harmonize the Regulations referred to in Article 115 of the Patent Act (“Official Gazette” Nos. 173/03, 87/05, 76/07 and 128/10) with the provisions of this Act not later than within a period of two months from the day of the entry into force of this Act.

Article 25

This Act shall enter into force on the eight day following the day of the publication thereof in the “Official Gazette”.

ACT ON AMENDMENTS TO THE PATENT ACT******

Article 1

In the Patent Act ("Official Gazette" Nos. 173/2003, 87/2005, 76/2007, 30/2009, 128/10 and 49/2011), after Article 1, Articles 1.a and 1.b are added to read:

"Article 1.a

This Act establishes a competent body and the tasks thereof relating to the implementation of the Regulation (EC) No. 469/09 of the European Parliament and of the Council of 6 May 2009, concerning the supplementary protection certificate for medicinal products intended for humans or animals, as amended (OJ L 152, 16.6.2009, containing all the amendments – hereinafter: the Regulation (EC) no. 469/2009), the Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996, concerning the creation of a supplementary protection certificate for plant protection products, as amended (OJ L 198, 8.8.1996, containing all the amendments – hereinafter: the Regulation (EC) No. 1610/1996), as well as the Regulation (EC) No. 816/2006 of the European Parliament and of the Council of 17 May 2006, on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems, as amended (OJ L 157, 9.6.2006, containing all the amendments – hereinafter: the Regulation (EC) No. 816/2006.".

Article 1.b

The expressions used in this Act, having a gender meaning, irrespective of whether they are used in the male or female gender, shall include equally the male and female gender.".

Article 2

In Article 8, after paragraph (4), paragraph (5) is added to read:

"(5) The provisions laid down in paragraphs (1) to (3) of this Article shall not exclude the possibility for patent protection of a substance or a composition as referred to in paragraph (4) of this Article, for a special use in the processes referred to in Article 6 paragraph (3) of this Act, provided that such use thereof does not form part of the state of the art.".

Article 3

Article 69.a is amended to read:

"Article 69.a

(1) The court referred to in Article 67a paragraph 1 of this Act may grant, to any person instituting a legal action claiming the grant of a compulsory license in accordance with the provisions of the Regulation (EC) No. 816/2006, a compulsory license for a patent or a Supplementary Protection Certificate, required for the manufacture and sale of a pharmaceutical product, where such a product is intended for export to importing countries with public health problems.

(2) In relation to compulsory licenses relating to the manufacture of pharmaceutical products for export to countries with public health problems, the terms within the meaning of this Act shall have the same meaning as those used in the Regulation (EC) No. 816/2006.

(3) With an application for the grant of a compulsory license referred to in paragraph (1) of this Article, the applicant shall communicate the number of the granted patent or the Supplementary Protection Certificate for the invention which is the subject matter of the compulsory license, and the website address referred to in Article 10.6 of the Regulation (EC) No. 816/2006.

(4) The provisions of this Act relating to compulsory licenses and the provisions of the Act on Civil Proceedings shall apply mutatis mutandis to particular matters relating to the procedure for the grant of a compulsory license, not regulated by the Regulation (EC) No. 816/2006.".

Article 4

The heading above Article 69b and Article 69b are amended to read:

"Adoption of an Application for the Grant of a Compulsory License

Article 69b

(1) If in the examination procedure concerning an application for the grant of a compulsory license it has been established that the application complies with all the requirements prescribed by the Regulation (EC) No. 816/2006, and the requirements prescribed by this Act and the Act on Civil Proceedings, the court shall issue a decision on the adoption of the application.

(2) In its decision, the court shall indicate in detail specific conditions set out in Article 10 paragraphs 2 to 9 of the Regulation (EC) No. 818/2006, to be fulfilled by the licensee.

(3) Indication of the grant of a compulsory license shall be entered in the Register of Patents or the

Register of Supplementary Protection Certificates and published in the official gazette of the Office.

(4) The court shall notify the Council for TRIPS through the intermediary of the Office of its final decisions relating to the grant of a compulsory license, the conditions under which it was granted, as well as of its termination and review, indicating the data prescribed by Article 12 of the Regulation (EC) No. 816/2006. A copy of this notification shall be communicated by the Office to customs authorities and to the authority competent for medicines and medicinal products in the Republic of Croatia.".

Article 5

Article 69c is amended to read:

"Article 69c

The court referred to in Article 67a paragraph (1) of this Act shall refuse an application for the grant of a compulsory license by a decision, if it fails to comply with the requirements set out in the Regulation (EC) No. 816/2006, and the requirements prescribed by this Act.".

Article 6

The headings above Articles 69e to 69g and Articles 69e to 69h are deleted.

Article 7

The heading above Article 87a and Article 87a are amended to read:

"Common Provisions on the Procedure for the Grant of a Supplementary Protection Certificate

Article 87a

(1) If a basic patent has been granted for a product which is a component part of a medicine intended for humans or animals, the Office may grant a Supplementary Protection Certificate in accordance with the Regulation (EC) No. 469/2009.

(2) If a basic patent has been granted for a product which is a component part of a plant protection product, the Office may grant a Supplementary Protection Certificate in accordance with the Regulation (EC) No. 1610/1996.

(3) In relation to Supplementary Protection Certificates, the terms within the meaning of this Act shall have the same meaning as those used in the Regulations (EC) No. 469/2009 and 1610/1996.

(4) The provisions of this Act, with the exception of Articles 57 and 57a in the case of failing to comply with the time limits provided for in Article 7 of the Regulation (EC) No. 469/2009 and Article 7 of the Regulation (EC) No. 1610/1996, shall apply mutatis mutandis to particular matters of the procedure relating to Supplementary Protection Certificates, not regulated by the Regulations (EC) No. 469/2009 and No. 1610/1996.

Article 8

The heading above Article 87b and Article 87b are amended to read:

"A Register

Article 87b

(1) The Office shall keep a Register of Applications for Supplementary Protection Certificates, which shall also include requests for an extension of the duration of Certificates and the Register of Supplementary Protection Certificates.

(2) The content and the manner of keeping the Registers referred to in paragraph (1) of this Article shall be defined in more detail by the Ordinance (Regulations).

(3) The provisions of this Act relating to the Register of Patents and the Register of Patent Applications shall apply mutatis mutandis to the Registers referred to in paragraph (1) of this Article.".

Article 9

The heading above Article 87c and Article 87c are amended to read:

"An Application for a Supplementary Protection Certificate

Article 87c

(1) An application for a Supplementary Protection Certificate shall be filed with the Office in accordance with the provisions of Article 7 paragraphs (1) and (2) of the Regulation (EC) No. 469/2009 and Article 7 of the Regulation (EC) No. 1610/96.

(2) In addition to the content prescribed by Article 8 paragraph (1) of the Regulation (EC) No. 469/2009 and Article 8 paragraph (1) of the Regulation (EC) No. 1610/96, an application for a Supplementary Protection Certificate shall also contain the name of the product for which the grant of the Certificate has been applied for.

(3) With an application for a Supplementary Protection Certificate the applicant shall file evidence as to payment of the administrative fee and procedural charges for the grant of the Certificate.

(4) The application referred to in paragraph (1) of this Article shall be filed on the form, the content of which shall be defined in more detail by the Ordinance.

Article 10

The heading above Article 87d and Article 87d are amended to read:

"Content of an Application for a Supplementary Protection Certificate Required for the Accordance of the Filing Date

Article 87d

(1) The accordance of the filing date of the application for a Supplementary Protection Certificate shall require that on that date the application contains at least:

1. an express indication of the fact that the Certificate is applied for;
2. data on the identity of the applicant;
3. the number of the basic patent and the title of the invention;
4. the number and date of the first authorization to place the product on the market, in accordance with Article 3 item (b) of the Regulation (EC) No. 469/2009 and Article 3 item 1(b) of the Regulation (EC) No. 1610/96, and indication of the number and date of the first authorization, if the authorization as filed is not the first authorization to place the product on the market.

(2) The application which is accorded a filing date shall be entered in the Register of Applications for Supplementary Protection Certificates and shall be available to the public.".

Article 11

The heading above Article 87e and Article 87e are amended to read:

"Examination of the Application for the Supplementary Protection Certificate upon Its Receipt

Article 87e

(1) In the examination procedure carried out upon the application for a Certificate the Office shall establish:

1. whether the application complies with the requirements for the accordance of the filing date referred to in Article 87d of this Act;
2. whether the administrative fee and procedural charges for filing the application have been paid.

(2) If the application fails to comply with the requirements referred to in Article 87d of this Act, the Office shall order the applicant by a conclusion to correct the deficiencies as indicated in it, within a period of two months from the day of receipt of the conclusion.

(3) If the applicant fails to comply with the conclusion of the Office within the time limit referred to in paragraph (2) of this Article, the application shall be rejected by a decision.

(4) If the applicant corrects the deficiencies within the time limit referred to in paragraph (2) of this Article, the Office shall inform him that the date of receipt of the required corrections shall be accorded as the filing date of the correct application for a Certificate.

(5) The Office shall order by a written conclusion the applicant who has not paid the administrative fee and procedural charges to do this within a period of two months from the day of receipt of the conclusion. If the applicant fails to pay the fees and procedural charges within a prescribed time limit, the application shall be rejected by a decision.

(6) Upon a reasoned request of the applicant, the Office may extend the time limits prescribed by this Article for a period which it considers to be justified, but not exceeding three months.

(7) The application for a Certificate which complies with the requirements referred to in paragraph (1) of this Article shall be published in the official gazette of the Office in accordance with the provisions of Article 9 paragraph (2) of the Regulation (EC) No. 469/2009 and Article 9 paragraph (2) of the Regulation (EC) No. 1610/96.".

Article 12

The heading above Article 87f and Article 87f are amended to read:

"A Decision on an Application for a Supplementary Protection Certificate

Article 87f

(1) If, in the further course of the examination procedure, it has been established that the application complies with all the requirements prescribed by the Regulations (EC) No. 469/2009 and No. 1610/96, and the requirements prescribed by this Act, the Office shall issue a decision on the grant of a Certificate, also specifying the duration of the Certificate.

(2) The Office shall issue the decision referred to in paragraph (2) of this Article provided that the administrative fees and procedural charges for the maintenance, printing and publication of a Certificate have been paid.

(3) If in the examination procedure it has been established that the application fails to comply with the requirements referred to in paragraph (1) of this Article, the Office shall issue a decision on the refusal of the application for a Certificate.

(4) Prior to issuing a decision on the refusal of the application for a Certificate, the Office shall inform the applicant of the reasons for which it shall not grant the Certificate, and shall invite him to file observations on such reasons in writing within two months from the day of receipt of the information.

(5) Upon a reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article for a period which it considers to be justified, but not exceeding three months.

(6) The indications contained in a decision on the grant of a certificate shall be entered in the Register of Supplementary Protection Certificates and published in the official gazette of the Office in accordance with the provisions of Article 9 of the Regulation (EC) No. 469/2009 and Article 9 of the Regulation (EC) No. 1610/96.

(7) The indications concerning the grant of a Supplementary Protection Certificate as well as indications concerning its refusal shall be published in the official gazette of the Office in accordance with the provisions of Article 11 of the Regulation (EC) No. 469/2009 and Article 11 of the Regulation (EC) No. 1610/96.".

Article 13

The heading above Article 87g and Article 87g are amended to read:

"Content of the Certificate

Article 87g

The Certificate shall contain the following indications:

1. the number of the Certificate,
2. the name and address of the holder of the Certificate ,
3. the name of the product for which the Certificate is granted
4. the number of the basic patent
5. the title of the invention
6. the number and date of the first authorization to place the product on the market in accordance with Article 3 item (b) of the Regulation (EC) No. 469/2009 and Article 3 item 1(b) of the Regulation (EC) No. 1610/96,
7. the number and date of the first authorization, if the authorization as filed is not the first authorization to place the product on the market,
8. the duration of the Certificate.".

Article 14

The heading above Article 87h and Article 87h are amended to read:

"A Request for an Extension of the Duration of a Supplementary Protection Certificate

Article 87h

(1) A request for an extension of the duration of a Supplementary Protection Certificate shall be filed with the Office in accordance with the provisions of Article 7 paragraphs (3) to (5) of the Regulation (EC) No. 469/2009.

(2) With the request referred to in paragraph (1) of this Article the applicant shall file evidence as to payment of the administrative fee and procedural charges for the extension of the duration of the Certificate. If the applicant fails to pay the fees and procedural charges, the request shall be rejected by a decision.

(3) The request referred to in paragraph (1) of this Article shall be filed on the form the content of which shall be defined in more detail by the Ordinance.

Article 15

The heading above Article 87i and Article 87i are amended to read:

"Examination of a Request for an Extension of the Duration of a Certificate

(1) If, in the course of the examination procedure concerning a request for an extension of the duration of a Certificate it has been established that the request complies with all the requirements prescribed by the Regulation (EC) No. 469/2009 and the requirements prescribed by this Act, the Office shall issue a decision on the extension of the Certificate in accordance with the provision of Article 13 paragraph (3) of the Regulation (EC) No. 469/2009.

(2) If the request fails to comply with the requirements referred to in paragraph (1) of this Article, the Office shall order the applicant by a

conclusion to correct the deficiencies as indicated in it, within a period of two months from the day of receipt of the conclusion.

(3) If the applicant fails to comply with the conclusion, the request shall be rejected by a decision.

(4) Upon a reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article for a period which it considers to be justified, but not exceeding three months.

(5) If a request for an extension of a Certificate has been filed simultaneously with an application for a Supplementary Protection Certificate or in the course of the Certificate granting procedure, the Office shall decide on the request for an extension by a decision concerning an application for a Supplementary Protection Certificate.

(6) If a request for an extension of an already granted Certificate has been filed, and the procedure for the declaration of invalidity of the Certificate or for the lapse thereof have been initiated, the Office shall stay the procedure until a decision on the proposal for the declaration of invalidity of a Supplementary Protection Certificate, or a decision on the lapse thereof becomes final, respectively. In the case where the mentioned decisions become final, the request for an extension of a Certificate shall be considered withdrawn.

(7) The data on the extension of a Certificate shall be entered in the Register of Supplementary Protection Certificates.

(8) The data on the extension of a Supplementary Protection Certificate as well as the data on the refusal thereof shall be published in the official gazette of the Office in accordance with the provisions of Article 11 of the Regulation (EC) No. 469/2009 and Article 11 of the Regulation (EC) No. 1610/96.”.

Article 16

The heading above Article 87j and Article 87j are amended to read:

“Publication

Article 87j

The content of the publication of data relating to the granting procedure and the duration of a Supplementary Protection Certificate, as prescribed by the Regulations (EC) Nos. 469/2009 and 1610/96 shall be defined in more detail by the Ordinance.”.

Article 17

The heading above Article 87k and Article 87k are amended to read:

“Maintenance of a Supplementary Protection Certificate

Article 87k

(1) The annual fee for the maintenance of the Certificate shall be paid to the Office for each year of its duration.

(2) The annual fee referred to in paragraph (1) of this Article shall cover a 12 month period, starting to run on the date of expiration of the basic patent and shall be paid for each year separately.

(3) If the last period of the duration of the Certificate is shorter than twelve months, the annual fee shall be paid in advance in the amount which is proportionate to the duration of the Certificate, together with the payment of the total amount of the annual fee for the last complete year.

(4) If the holder of the Certificate fails to pay the annual fee in accordance with paragraphs (2) and (3) of this Article, he may pay it in the grace period of six months, provided that he also pays administrative and procedural surcharges.

(5) The Office shall inform the holder of the failure to pay the annual fee for the maintenance of the Certificate and of the consequences of the failure to pay them, as well as of the payment possibility referred to in paragraph (4) of this Article.

Article 18

The heading above Article 87l and Article 87l are amended to read:

“Relation to a Consensual Patent

Article 87l

The provisions of Articles 87a to 87k shall not apply to a consensual patent.”.

Article 19

The headings above Articles 87m and 87n and Articles 87m and 87n are deleted.

Article 20

In Article 91 paragraph (5) is amended to read:

(5) Clerical and other administrative tasks for the Boards of Appeal shall be carried out by the Office.

Article 21

In Article 92 paragraph (1) the word “the Government” is replaced by the words “the Minister competent for the work of the Office.”.

TRANSITIONAL AND FINAL PROVISIONS

Article 22

The Minister competent for the work of the Office shall, on a proposal given by the Director General of the Office, harmonize the Ordinance referred to in Article 115 of the Patent Act (Official Gazette Nos. 173/2003, 87/2005, 76/2007, 30/2009, 128/10 and 49/2011) with the provisions of this Act, within a period of eight days from the date of its entry into force.

Article 23

“This Act shall enter into force on the eight day of its publication in the “Official Gazette”, with the exception of the provisions of Articles 1, 4, 5 to 20 and Article 23, which shall enter into force on the day of the accession of the Republic of Croatia to the European Union.”

ACT ON AMENDMENTS TO THE PATENT ACT*******

Article 1

In the Patent Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13), in Article 15 paragraphs (2) and (3) shall be amended to read:

»(2) The decisions issued by the Office cannot be appealed, but an administrative dispute can be instituted before the Administrative Court in Zagreb.

(3) The procedure referred to in paragraph (2) of this Article is urgent.«.

Article 2

After the words: »by the Act« in Article 16, the words: »and the filing of an appeal« shall be deleted.

Article 3

In Article 57 paragraph (6), point 9 shall be deleted.

Article 4

In Article 57a paragraph (4), point 4 shall be deleted.

Former point 5 shall become point 4.

Article 5

The heading of Title XI: »Appeal«, subheadings and headings above Articles and Articles 88 to 94 shall be deleted.

Article 6

After the words: »the Office« in Article 95m paragraph (3), the commas and the words: »or the Board of Appeal, respectively,« shall be deleted.

TRANSITIONAL AND FINAL PROVISIONS

Article 7

The Minister responsible for supervision of the work of the State Intellectual Property Office shall harmonise the Patent Regulations (»Official Gazette«, No. 117/07, 3/11, 66/11, 145/12, 85/13 and 43/17) with the provisions of this Act within 30 days from the day of the entry into force of this Act.

Article 8

(1) Administrative procedures instituted by the provisions of the Patent Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13) where the State Intellectual Property Office as the first instance authority issued the decision until the day of the entry into force of this Act shall be completed in accordance with the provisions of that Act and the regulations issued pursuant to that Act.

(2) Boards of Appeal in the field of industrial property rights established and appointed on the basis of the Patents Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13) shall continue to operate in accordance with the provisions of that Act and the regulations issued pursuant to that Act until all the administrative procedures referred to in paragraph (1) of this Article are completed by reaching final decisions, after which they shall cease to operate.

(3) If, because of dismissal of the president or members of the Boards of Appeal referred to in paragraph (2) of this Article, it is not possible to determine the Board of Appeal to decide on an appeal, the procedure of electing or appointing the president or necessary number of members of the Boards of Appeal can exceptionally be conducted in accordance with the provisions of the Patents Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13), for the needs of resolving the case referred to in paragraph (1) of this Article.

Article 9

This Act shall enter into force on the eighth day following the day of its publication in the »Official Gazette«.