

*Excerpt from Act XXXIII of 1995 on the protection of inventions by patents
as amended and valid as of 1 May 2007*

PART VI

PROVISIONS ON THE HUNGARIAN PATENT OFFICE

Chapter XIV/C

The Hungarian Patent Office

Legal status of the Hungarian Patent Office

Article 115/D

(1) The Hungarian Patent Office (hereinafter referred to in this Chapter as “the Office”) is the government office for the protection of intellectual property.

(2) The Office’s President is appointed and released by the Prime Minister; its two vice presidents are appointed and released – on the President’s proposal – by the Minister exercising the right of supervision (hereinafter referred to as “the Minister”).

(3) The employer’s rights over the vice presidents – except for the appointment and release – shall be exercised by the President of the Office.

(4) The seat of the Office is Budapest.

Management of the Office

Article 115/E

(1) The Office shall cover its operational costs from its own incomes.

(2) In industrial property procedures before the Office fees for administrative services laid down by special legislation shall be payable. Such fees shall be payable for copies prepared by the Office with or without legalization, extracts, translation as well as for legalization performed by the Office.

(3) The incomes of the Office shall consist of the fees for administrative services under paragraph (2), the fees and shares in consideration for administrative activities carried out by the Office on the basis of international treaties administered by the World Intellectual Property Organization, the income of services provided by the Office as well as other incomes. These incomes shall ensure the continuous and smooth operation of the Office.

(4) The Office shall be entitled to manage its incomes independently, to use them to cover its operational costs and these shall not be subject to a subsidy to the central budget, unless otherwise provided by the Act on Public Finance.

(5) The Office shall be entitled to form a financial reserve from its incomes to an extent not more than 10% of the actual income in the given year. The reserve so formed shall exclusively be used in consecutive years to cover the operational costs of the Office and cannot be a subsidy to the central budget for any other purposes.

(6) The Office shall publish annually – in its official journal – a report on its incomes and their use.

The Hungarian Council for the Protection of Intellectual Property

Article 115/F

(1) In the performance of tasks referred to in Articles 115/J to 115/L, the President of the Office shall be assisted by the Hungarian Council for the Protection of Intellectual Property (hereinafter referred to as “the Council”) as a professional advisory and opinion-giving body. At the request of the President of the Office, the Council shall give its opinion on the draft of comprehensive measures (programs, strategic plans, national and Community legal provisions, international agreements) concerning the protection of intellectual property.

(2) The Council is a body consisting of not more than fifteen members having industrial property and copyright expertise. The number of governmental representatives shall not surpass half of the number of the Council’s members.

(3) The appointment of Council members shall be proposed by the President of the Office. In order to make a proposal, the President of the Office shall ask for the opinion of the heads of central state administrative organs with intellectual property-related functions and competence, as well as of professional organisations and interest groups in the field of intellectual property protection.

(4) The members of the Council shall be appointed by the Minister for a period of five years. The appointment can be extended for further five-year-long periods.

(5) The membership shall terminate with

- a) the expiration of the defined time period;
- b) resignation;
- c) release;
- d) the expiration of the title which entitles to membership;
- e) the death of the member.

(6) The Council shall function according to the rules of procedure established by the President of the Office.

The functions and competence of the Office

Article 115/G

The HPO's functions and competence include

- a)* official examinations and procedures in the field of industrial property;
- b)* performance of certain tasks in connection with copyright and rights related to copyright;
- c)* central governmental information and documentation activities in the field of intellectual property;
- d)* participation in the preparation of intellectual property legislation;
- e)* preparation and implementation of the Government's strategy for the protection of intellectual property, initiation and execution of governmental measures required for this purpose;
- f)* performance of professional tasks of international and European co-operation in the field of intellectual property protection.

Article 115/H

(1) The HPO shall perform the following tasks of industrial property authority determined by this Act and by special legislation:

- a)* the examination of patent, plant variety, utility model, topography, design, trademark, and geographical indication applications and applications for a supplementary protection certificate, the grant and registration of protection resulting from these applications as well as the procedures related to the granted rights;
- b)* the examination and transmission of international applications for patents, industrial designs, trademarks and appellations of origin as well as the performance of search, examination, transmission, register-keeping and other procedural acts entrusted to a national industrial property authority and deriving from regional industrial property co-operation based on an international agreement, from other international treaties and from European Community law.

(2) At the request of the customs authorities, the Office shall furnish information about the holders of the industrial property rights for the purposes of customs proceedings initiated because of the infringement of intellectual property rights, and shall also fulfil all other official requests made in industrial property matters.

(3) On the basis of special legislation, the Office shall provide for the operation of the Body of Experts on Industrial Property.

(4) In connection with copyright and rights related to copyright, the Office shall perform – on the basis of special legislation – in particular the following tasks:

- a)* it shall keep the voluntary register of works;
- b)* prior to the ministerial approval it shall give its opinion on royalties determined by the organisations performing collective management of rights;

c) it shall provide for the operation of the Body of Experts on Copyright and the Mediation Board operating within that Body.

(5) On the basis of special legislation, the President of the Office shall exercise legality control over the activity of the Hungarian Chamber of Patent Attorneys.

Article 115/I

Within the scope of central governmental documentation and information activity in the field of intellectual property the HPO shall perform, in particular, the following tasks:

- a)* it shall publish an official journal on industrial property matters;
- b)* it shall publish the Hungarian patent specifications, utility model, industrial design and topography descriptions, and those provided for in international agreements;
- c)* it shall collect, process by using information technology tools and make accessible to the public the industrial property documents in its specialised public library;
- d)* it shall render information and documentation services concerning the protection of intellectual property.

Article 115/J

(1) In issues concerning intellectual property protection, the minister responsible for justice shall submit a proposal for the adoption Acts or Government decrees and shall represent the Office in these issues before the Government and the Parliament.

(2) The Office shall be involved in preparing, and giving an opinion of, draft legislation affecting the protection of intellectual property.

(3) The Office shall study and analyse the implementation of intellectual property legislation, it shall assess and evaluate the effects and experience concerning the application of that legislation.

(4) In order to improve the protection of intellectual property, the Office shall – in conformity with international and European Community obligations and the policy objectives of the Government in the fields of economic strategy, research and development, technology and innovation and culture – initiate the adoption of new industrial property and copyright legislation, as well as amendments to existing legal rules and shall participate in the preparation of these pieces of legislation.

Article 115/K

In order to develop and enforce the Government's strategy aimed at the protection of intellectual property as well as to initiate and implement governmental measures required for this purpose, the Office shall perform, in particular, the following tasks:

- a)* it shall contribute to the establishment, development and implementation of the Government's economic strategy as well as its research and development, innovation,

technology and cultural policies by means of the analysis of intellectual property protection-related domestic, foreign and international trends, the monitoring of the development of intellectual creative, innovative and industrial property activities, the preparation of a methodology to evaluate intellectual property and the making available of official experience;

b) it shall initiate, establish, execute, and participate in, programs for promoting intellectual creative and innovative activities;

c) it shall participate in the development of a system which serves the public recognition of intellectual creations and innovative results, and it shall launch, organise or promote competitions, exhibitions and other programs related to intellectual creative activity and intellectual property protection;

d) it shall disseminate knowledge related to intellectual property protection, develop industrial property culture, enrich industrial property and copyright knowledge of enterprises – in particular the small and medium-sized ones – by means of information, customer and advisory service, counselling and by other means, and it shall promote among them the respect for intellectual property rights;

e) it shall contribute to the establishment and development of a system of conditions required for the effective enforcement of intellectual property rights;

f) it shall professionally supervise intellectual property training outside public school system, operate its system, furthermore, it shall provide for the organisation of industrial property and patent attorney examinations;

g) it shall provide for the operation of the Hungarian Design Council and participate in the implementation of awarding national design prizes and scholarships.

Article 115/L

Within the framework of international and European co-operation in the field of intellectual property, the Office shall perform, in particular, the following representative and other professional tasks, in co-operation with the central state administrative organs concerned:

a) it shall participate in the activity of the governing and other bodies of the World Intellectual Property Organization, the European Patent Organisation, the Office for Harmonization in the Internal Market, the Community Plant Variety Office, of the Council for TRIPS of the World Trade Organization as well as, on the basis of a general or *ad hoc* authorisation of the minister responsible for the subject matter, of other international organisations;

b) it shall provide for the exercising of rights due to, and for the fulfilment of obligations incumbent on, the Member States of the European Patent Organisation and shall carry out the tasks falling upon the national patent authorities from the operation of the European patent system;

c) in the field of intellectual property protection it shall carry out the tasks deriving from Hungary being a Member State of the European Union, it shall participate in establishing the Government position to be represented in the decision-making processes of the European Union as well as in representing it in the expert bodies on intellectual property of the Council and Commission of the European Union, it shall perform the professional tasks of co-ordination involved, furthermore it shall co-operate with the industrial property authorities of the European Union;

d) it shall participate in the preparation and implementation of international agreements aimed at intellectual property protection and shall make proposals to conclude such agreements;

e) it shall maintain relations with intellectual property authorities of other countries and international organisations.