

**ACT**  
from 10 June 2004

**on Patent Attorneys and on Modification of the Act on Measures for Protection of  
Industrial Property**

The Parliament has enacted this Act of the Czech Republic:

**PART ONE**  
**PATENT ATTORNEYS**

**Chapter I**  
**Introductory Provisions**

**Section 1**  
**Subject of the Act**

(1) The Act regulates the status and activity of patent attorneys, patent attorney societies, foreign organizational forms, patent attorneys' assistants, conditions under which patent attorney's services may be provided as well as origination, status and competence of self-governing vocational association of patent attorneys.

(2) Services of patent attorneys shall mean professional assistance to natural and legal persons in the matters concerning industrial property, in particular their representation before administration bodies and in the trial by courts<sup>1)</sup> under the conditions and to the extent stated by law on court proceedings, as well as provision of independent consulting and other services related to the protection of industrial property.

**Section 2**  
**Authorization**

(1) In the territory of the Czech Republic under conditions stated in this Act and in the manner stated therein the services of patent attorney may be provided by:

- a) patent attorneys,
- b) natural persons that are nationals or that are settled in other member state of the European Union, in a member state of the European Economic Area or in the Swiss Confederation (hereinafter referred to as the "state of origin") and that in any member state of the European Union, other state of the European Economic Area or in the Swiss Confederation obtained the authority to provide services of patent attorney (hereinafter referred to as the "foreign patent attorney"),
- c) patent attorney societies (Section 10),
- d) foreign organizational forms (Section 29).

(2) A patent attorney and patent attorney society may provide services under Section 1 only to the extent of their authority, or as the case may be to the extent of authority of their associates or shareholders, namely under conditions stated by this Act and by special legal regulations.

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<sup>1)</sup> Section 35 paragraph 2 of the Act No. 150/2002 Coll., Administrative Rules of Court  
Section 25b of the Act No. 99/1963 Coll., Civil Procedure Code, as subsequently amended.

(3) The extent of authority to the activity is given by the extent of the passed professional examination (Section 11 paragraph 2) or by the extent of authorization for providing of regulated activity in decision on recognition of professional qualification according to Act on Recognition of Professional qualification<sup>1a)</sup>.

- (4) The provision of paragraph 1 does not affect the authority of
- a) attorney-at-law, whom the special legal regulation<sup>2)</sup> entrusts to provide legal services,
  - b) employees of the legal or natural person, or as the case may be cooperative members, who are employed by them or who are in other analogous relationship, to perform for these persons activity that by its nature corresponds with provision of services of patent attorney under provisions of Section 1 paragraph 2, if the performance of this activity is a part of duties arising from this relationship.

### Section 3 **Chamber of Patent Attorneys of the Czech Republic**

(1) The Chamber of Patent Attorneys of the Czech Republic (hereinafter referred to as the “Chamber”) with its registered office in Brno has been established; the Chamber is a legal person.

(2) The Chamber is a self-governing vocational association of all patent attorneys.

### **Chapter II Patent Attorneys Register**

#### Section 4

(1) The Chamber keeps Patent Attorneys Register (hereinafter referred to as the “Register”) that contains Lists of

- a) patent attorneys, including those deleted (Section 7),
- b) settled foreign patent attorneys (Section 27),
- c) assistants to patent attorneys, including those deleted (Section 46),
- d) patent attorney associations (Section 23),
- e) patent attorney societies (Section 7 paragraph 2),
- f) settled foreign organizational forms (Section 29).

(2) The List of patent attorneys contains

- a) name, surname and degree of a patent attorney, date of birth, place of business,
- b) date of passing and extent of a professional examination,
- c) date of registration in the List and number of the Certificate of Registration in the List,
- d) extent of authorization to perform the activity of a patent attorney,
- e) possible imposition of disciplinary measure (Section 49), suspension of activity of a patent attorney (Sections 14 and 15) and deleted from the List (Sections 18 and 19).

(3) The List of settled foreign patent attorneys contains

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<sup>1a)</sup> Act No. 18/2004 Coll., on Recognition of Professional Qualification and other abilities of citizens of member states of European Union and some citizens of others states

<sup>2</sup> Act No. 85/1996 Coll., on Advocacy, as subsequently amended.

- a) name, surname and degree of a patent attorney, date of birth, place of business, license, whereupon the applicant runs a business in the state of settlement,
- b) data on residence or registered office in the country of origin,
- c) delivery address in the territory of the Czech Republic, unless he has his registered office in the territory of the Czech Republic,
- d) date of passing differential examination, if carried out,
- e) date of registration in the List, or as the case may be number of Certificate of Registration in the List,
- f) extent of authorization to perform the activity of a patent attorney,
- g) possible imposition of disciplinary measure (Section 49), suspension (Sections 14 and 15), and deletion from the List (Sections 18 and 19).

(4) The List of assistants to patent attorneys (hereinafter referred to as the “assistant”) contains

- a) name, surname and degree of the assistant, date of birth and place of his residence,
- b) data on the employer, his name and surname, or as the case may be name of the association or business name of a patent attorney society or foreign organizational form, place of business, registered office and identification number, if assigned,
- c) date of registration in the List, number of Certificate of Registration in the List,
- d) period of time that is not considered as a performance of practice under Section 47 paragraph 3,
- e) possible imposition of disciplinary measure (Section 49), suspension (Sections 47) and deletion of the assistant from the List (Section 47).

(5) The List of patent attorney associations (hereinafter referred to as the “association”) contains

- a) name of association,
- b) name, surname and degree, or as the case may be business name of parties of the association
- c) date of registration in the List,
- d) possible deletion from the List.

(6) The List of patent attorney societies contains

- a) business name, registered office and identification number,
- b) data on registration in the Companies Register,
- c) date of registration in the List, number of Certificate of Registration in the List,
- d) name, surname, date of birth of patent attorneys providing services of a patent attorney on behalf of a patent attorney society; by patent attorneys that are associates of the patent attorney society the extent of their voting rights, by the joint-stock company List of shareholders who are patent attorneys,
- e) data on suspension of authorization to perform of patent attorney’s services by the patent attorney society, about deletion from the List of patent attorney societies and about imposition of a measure under Section 49 paragraph 5.

(7) The List of settled foreign organizational forms contains

- a) business name or other name,
- b) authorization, whereupon the foreign organizational form provides services of the patent attorney in the country of origin,
- c) data on the registered office of the subsidiary, should it be established in the Czech Republic,

- d) data on registration of foreign organizational form or its organizational branch in the Commercial Register,
- e) data on settlement in the state of origin,
- f) date of registration in the List, number of the Certificate of Registration in the List,
- g) data on suspension of authorization to perform services of a patent attorney by the foreign organizational form, about deletion from the List of foreign organizational forms and about imposition of measures under Section 55.

#### Section 5

(1) Patent attorney, assistant to association and patent attorney society are obliged to notify the Chamber

- a) without undue delay, however at the latest within 15 days after the commencement of activity performance, his registered office, place of permanent residence, or as the case may be service address, manner of provision of patent attorney's services, data on registration in the Companies Register, as well as other data necessary for keeping particular Lists,
- b) modification of data stated under letter a), at the latest within 15 days after it occurred,
- c) all facts, which could be the reason for the suspension of the authorization to provide services of a patent attorney or for deletion from the List, at the latest within 15 days after they occurred.

(2) Foreign organizational form (Section 29) is obliged to notify the Chamber except for data stated in paragraph 1

- a) at the latest within 15 days after the commencement of the activity in the territory of the Czech Republic data stated in Section 4 paragraph 7,
- b) modification of data stated under letter a), at the latest within 15 days after it occurred.

#### Section 6

(1) The Register is publicly accessible. Everybody has the right to inspect it in the seat of the Chamber and to make free of charge extracts or make copies thereof.

(2) The Chamber publicizes the Lists registered in the Register in the manner that enables long distance access with the aim to provide public with information about persons that provide services of patent attorneys.

### **Chapter III Patent Attorney**

#### *Unit 1*

#### *Conditions for performance of the activity*

#### Section 7

(1) Patent attorney is the person who is registered in the List of patent attorneys (Section 4 paragraph 1 letter a)) kept by the Chamber.

(2) Settled foreign patent attorney is the person who is registered in the List of settled foreign patent attorneys (Section 4 paragraph 1 letter b)) kept by the Chamber.

(3) Assistant to a patent attorney is the person who is registered in the List of assistants to patent attorneys (Section 4 paragraph 1 letter c)) kept by the Chamber.

(4) Patent attorney association is the association that is registered in the List of patent attorney associations (Section 4 paragraph 1 letter d)) kept by the Chamber.

(5) Patent attorney society is the society that is registered in the List of patent attorney societies (Section 4 paragraph 1 letter e)) kept by the Chamber.

(6) Settled foreign organizational form is the person that is registered in the List of settled organizational forms (Section 4 paragraph 1 letter f)) kept by the Chamber.

## Section 8

(1) Upon application the Chamber shall register into the Register of patent attorneys everybody who

- a) is fully capable to enter into legal acts
- b) is impeccable,
- c) obtained university education,
- d) obtained appropriate professional practice by systematic and regular performance of the activity in the field of industrial rights (hereinafter referred to as the “professional practice”) for the duration of at least 3 years,
- e) was not disciplinarily penalized by deletion from the List or who is regarded as not being imposed such disciplinary measure on,
- f) was not deleted from the List for the reason of bankruptcy order on his property or on the property of a patent attorney society where he is an associate or shareholder, or for the reason of rejection of the proposal for bankruptcy proceedings for lack of property, or for the reason that bankruptcy was deleted because property of debtor is completely deficient unless the period of 5 years passed since the deletion,
- g) passed the professional examination of patent attorney, and
- h) took in front of the chairman of the Chamber this oath: “I promise on my conscience and civic honor that I shall observe the Constitution of the Czech Republic and other laws, conscientiously fulfill duties of patent attorney and maintain confidentiality about all facts, which I learn in relation to the performance of this activity”.

(2) The Chamber enables to take the oath within 1 month from the day of delivery of the application for registration in the List of patent attorneys substantiated with documents under which on the date of taking the oath the applicant fulfills the conditions for registration in the List in accordance with paragraph 1 or Section 9.

(3) The person who was lawfully condemned

- a) for a criminal act committed intentionally or
- b) for a criminal act committed negligently and its merits is in relation with provision of services of patent attorney, is not considered impeccable for purposes of this Act if the condemnation was not annulled or if he is not regarded as not condemned.

(4) Impeccability is substantiated with the Extract from the Criminal Register or appropriate document issued by the relevant body of the state of origin, which substantiate that impeccability conditions for the performance of regulated activity are fulfilled.

## Section 9

(1) Upon application the Chamber shall register in the List of settled foreign patent attorneys the person who fulfills conditions under Section 8 excluding letters c), d) and g) and whose professional qualification or other qualification was, by the Chamber under special legal regulation<sup>1a</sup>, acknowledged as sufficient for performance of profession of a patent attorney and who passed the differential examination (Section 12). Professional regulation that is issued by the Chamber specifies the details of the proceedings on acknowledgement of the professional qualification and other qualifications.

(2) The fee 2.000 crowns for filing of the application for recognition of professional qualification is the income of the Chamber.

## Section 10

(1) Upon application the Chamber shall register in the List of patent attorney societies a society

- a) where at least one associate, shareholder or employee is a patent attorney; if it is a joint-stock company, the registered capital of the company must constitute of registered shares, and
- b) where a patent attorney is represented in the statutory and supervisory body; if the statutory or supervisory body constitutes of one person, it must be a patent attorney; if it constitutes of two natural persons, one of them must be a patent attorney.

(2) A business company shall submit its memorandum of association, memorandum of foundation or establishment deed, articles if issued, and a document about its registration in the Companies Register<sup>4)</sup> if it is registered in the Companies Register as of the day of submission of the application, together with the application for registration in the List of patent attorney societies. Documents must be submitted as originals or as certified copies.

(3) The Chamber shall without delay, however at the latest within 15 days from registration in the relevant List, issue for a patent attorney society the Certificate of Registration in the List of patent attorney societies. In the Certificate the Chamber shall state the extent of the authorization to perform services of patent attorney.

(4) The patent attorney society shall submit document on the registration in the Companies Register to the Chamber at the latest within 15 days from its administration.

## *Unit 2*

### *Professional and Differential Examinations*

## Section 11

### **Professional examination**

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<sup>4)</sup> Act No. 513/1991 Coll., Commercial Code, as subsequently amended.

(1) The level of theoretical and practical knowledge necessary for the performance of the profession of a patent attorney, knowledge of legal regulations and international treaties applicable in the territory of the Czech Republic applying to the protection of industrial property and ability of their use in practice is verified by professional examination.

(2) The extent of the professional examination is optional. The applicant may either choose separate examination in the field of the protection of rights to the results of technical creative activity or separate examination in the field of the protection of rights of marking or complete examination in both fields. The professional examination has a written and oral part and it is being taken at the Industrial Property Office (hereinafter referred to as the "Office") in front of an examination board. Professional examinations take place in principle twice a year and they are public.

(3) After the negotiation with the Chamber the Chairman of the Office shall appoint 10 examination commissioners, five of them from employees of the Office, or as the case may be from distinguished experts in the field of industrial rights and five of them from patent attorneys.

(4) The examination board is appointed from the examination commissioners for each of the professional examinations. The examination board consists of a chairman and three members. Two examination commissioners are from employees of the Office, or as the case may be from distinguished experts in the field of industrial rights and two examination commissioners are from patent attorneys.

(5) The right to take the professional examination has every applicant who at the Office submitted an application to take the professional examination, fulfills conditions stated in Section 8 letter c), and who paid a fee for the professional examination. The fee for the professional examination is CZK 5,000 for the collective examination, or as the case may be CZK 2,500 for each partial examination. The applicant for taking the professional examination is in the application obliged to define the extent in accordance with paragraph 2, in which he intends to take the professional examination.

(6) There is a vote about the result of the examination, in which the applicant is evaluated by words "succeeded" or "did not succeed". Each of the board members has one vote. In case of equality of votes of the board members, the vote of the board chairman shall be decisive.

(7) The chairman of examination board elaborates without undue delay after the end of the examination a record about course of the examination and about its result with specification of names and surnames of the examination commissioners. The chairman of examination board shall notify after elaboration and signing of the record orally the applicant about the examination result. The chairman shall hand over to the applicant copy of the record.

(8) The Office shall issue an examination certificate to the applicant within 15 days from passing the professional examination, which contains name, surname and degree of the applicant, place and date of birth, date of taking the examination, its result and its extent. The certificate shall be signed by the chairman of examination board.

(9) The person who did not succeed at the professional examination may apply at the Office to repeat it. The Office shall not enable repetition of the professional examination before passing of 3 months from the day when the unsuccessful examination took place.

(10) The applicant who did not succeed at the first repeated professional examination may apply at the Office to repeat it for the second time. The Office shall not enable repetition before passing of 1 year from the day when the unsuccessful first repeated professional examination took place; the same applies also for the next repetition of professional examinations.

(11) The applicant who did not succeed at the professional examination in one of the separate fields may apply to repeat only this part of the examination under conditions stated in paragraph 9 or 10.

## Section 12

### **Differential examination**

(1) The level of theoretical and practical knowledge necessary in particular for performance of the profession of a patent attorney, knowledge of the legal order of the Czech Republic and international treaties applicable in the territory of the Czech Republic applying to the protection of industrial property and ability of their use in practice is verified by differential examination in accordance with special legal regulation<sup>1a)</sup>. The level of theoretical and practical knowledge necessary for performance of the profession of patent attorney is verified only in such extent in which was in compliance with documents on adjusted qualification of applicant found out substantial difference in contents of education and training according to Act on Recognition of Professional Qualification<sup>1a)</sup>

(2) Provision of Section 11 shall be likewise used for differential examination.

## Section 13

(1) The Chamber shall without undue delay, at the latest within 15 days from registration in the relevant List, issue to the patent attorney the Certificate of Registration in the List of patent attorneys and an identity card. In the Certificate and identity card the Chamber shall state the extent of authorization to provide services of patent attorney.

(2) Details about examinations shall be stipulated by the Examination Procedure Code, which shall be issued by the Chamber after agreement with the Office.

## *Unit 3*

### *Suspension of authorization to perform services of Patent Attorney*

## Section 14

- (1) The authorization to perform services of patent attorney is suspended
- a) if he was taken into custody, namely on the day when this decision became executable,
  - b) at the beginning of imprisonment; provisions of Section 18 paragraph 2 letter d) and Section 19 paragraph 1 letter a) are not hereby affected,

- c) during the time of punishment of ban of activity<sup>5)</sup> of patent attorney, namely on the day when decision, by which this punishment was inflicted, came into force; provision of Section 18 paragraph 2 letter d) and Section 19 paragraph 1 letter a) are not hereby affected,
- d) as of the day of commencement of employment or other analogous relationship to the administrative body, which decides about industrial rights, and entering into office of a cabinet member, member of parliament or senator, judge, or as the case may be if any other obstacle obstructs the performance of activity of the patent attorney,
- e) if a disciplinary measure of ban of activity was imposed on him, namely as of the day of legal power of decision of the Chamber about this disciplinary measure,
- f) if bankruptcy order was declared against his property, namely on the day when decision about the bankruptcy order came into force,
- g) if he is an associate or shareholder of a patent attorney society (Section 10), against which the bankruptcy was ordered, namely on the day of effectiveness of the bankruptcy order.

(2) The Chamber suspends the authority to provide services of patent attorney of a patent attorney or of a patent attorney society for a fixed period stated in the written justified application.

(3) The authorization of a patent attorney society to provide services of patent attorney shall be suspended if there was imposed measure resting in suspension of the authorization to provide services of the patent attorney. This authorization is suspended on the day when decision on the imposition of this measure comes into force.

(4) The Chamber shall record the suspension of the authorization to provide services in the List without undue delay, at the latest within 1 month from the day when it learned about reasons of suspension of the activity. The Chamber shall notify the patent attorney and patent attorney society about the record.

## Section 15

(1) The Chamber may suspend to the patent attorney the authorization to provide services in accordance with this Act

- a) in case an action for a willful crime is filed against him, at the latest by the day of the legitimate decision on conclusion of the criminal proceeding,
- b) in case proceedings on competence to take legal acts have been commenced, at the latest by the day of legitimate decision on the termination of the criminal proceedings,
- c) in case proceedings on declaration of bankruptcy or permission of a settlement have been commenced against him or against the patent attorney society, in which his is an associate or shareholder.

(2) Suspension of the authorization to provide services of patent attorney in accordance with paragraph 1 shall be recorded by the Chamber in the List without undue delay, however at the latest within 1 month after the decision on suspension of the performance of the activity becomes enforceable. The Chamber shall notify the patent attorney on this record in writing.

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<sup>5)</sup> Section 49 of the Act No. 140/1961 Coll., Criminal Code, as subsequently amended.

## Section 16

(1) Suspension of the authorization to provide the services of patent attorney shall expire

- a) by the day on which the circumstance which was the reason for suspension of the performance of the activity expires and in cases in accordance with Section 15 paragraph 1 letter a) or b) by the day on which the period for which the performance of the activity was suspended expired,
- b) by the day of legal power of the decision by which the decision on suspension of the activity is cancelled or modified.

(2) Expiry of the suspension of authorization to provide the services of patent attorney shall be recorded by the Chamber in the List without delay, however at the latest within 1 month after he learns about it. The Chamber shall notify the patent attorney or the patent attorney society on this record in writing.

## Section 17

- For the period of suspension of authorization to provide the services of patent attorney
- a) a patent attorney or a patent attorney society are not entitled to provide the services in accordance with this Act,
  - b) membership of a patent attorney in the elective bodies of the Chamber is determined and the patent attorney shall not be elected to these bodies,
  - c) membership of the patent attorney in the association (Section 23) or in the patent attorney society (Section 22) is not determined,
  - d) the duty of the patent attorney to pay contributions for the activity of the Chamber does not become extinct, unless the board of directors of the Chamber decides otherwise upon a reasoned request of the patent attorney,
- the disciplinary liability of the patent attorney or the patent attorney society shall not be affected, not even as regards the disciplinary misconducts which took place during the period of suspension of the performance of the activity.

## Section 18

(1) The authorization to provide services of patent attorney or patent attorney society shall expire by deletion from the List.

(2) The Chamber shall delete from the list the patent attorney

- a) who died, as of the day of his death,
- b) who was declared dead, as of the day of legal power of the court decision on declaration death,
- c) who was deprived of the capacity to enter into legal acts or the capacity to enter into legal acts of which was limited, as of the day of legal power of the court decision on his capacity,
- d) who was lawfully given an unsuspended sentence of imprisonment for a willful crime committed in connection with performance of the activity of patent attorney, as of the day of legal power of the judgment,
- e) who was registered in the List, although he does not meet one of the conditions for registration in the List mentioned in this Act.

(3) the Chamber shall delete from the List the patent attorney or the patent attorney society

- a) on which a disciplinary punishment of deletion from the List was imposed, as of the day of legal power of the decision of the Chamber on this disciplinary punishment,
- b) against which property a bankruptcy was declared, namely to the day of legal power of the decision,
- c) which submitted to the Chamber a written request for deletion from the List bearing an officially authenticated signature, by expiration of the calendar month in which the request for deletion was delivered to the Chamber.

(4) The Chamber is entitled to decide on deletion of the patent attorney in accordance with paragraph 2 letter e) only within 1 year from the day on which it learnt about the failure to meet the condition for registration in the List; this shall not apply in case it affects the conditions mentioned in Section 8 paragraph 1 letters a) to c) and g) and Section 9.

(5) The Chamber shall record the deletion in accordance with paragraphs 2 and 3 in the List without delay, however at the latest within 1 month after it learns about the facts which establish the deletion. The Chamber shall notify in writing the person which is affected by the record on deletion from the List for the reasons mentioned in paragraph 3; in other cases the Chamber shall notify in writing the close persons in case they are known to it.

## Section 19

(1) The Chamber may delete from the list also

- a) the patent attorney who was lawfully sentenced for another willful crime than the crime mentioned in Section 18 paragraph 2 letter d), in case the Chamber found that this criminal activity of the patent attorney threatens confidence in due performance of the activities of the patent attorney,
- b) the patent attorney or the patent attorney society which are in delay with the settlement of a contribution for the activity of the Chamber of more than 6 months and failed to settle the contribution even within 1 month after having been invited to it with the advice on consequences of non-settlement,
- c) the patent attorney or the patent attorney society who are not insured for liability for damages (Section 42) and failed to conclude a respective insurance contract even within 1 month after they have been notified of this default in writing, with the exception mentioned in Section 42 paragraph 2,
- d) the patent attorney society which has been modified in accordance with a special legal regulation;<sup>6)</sup> this does not apply in case of change in the legal form of the patent attorney society,
- e) the patent attorney society which ceased to meet the conditions stipulated in Section 10.

(2) The Chamber shall immediately record in the List the deletion of the patent attorney or the patent attorney society in accordance with paragraph 1, however at the latest within 1 month after the decision on deletion becomes enforceable.

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<sup>6)</sup> Section 69 et seq. Act No. 513/1991 Coll., as subsequently amended.

(3) A legal remedy to a court may be lodged against the decision which is not in legal power and by which the Chamber decided in accordance with paragraph 1 on deletion of the patent attorney or the patent attorney society from the respective List.<sup>7)</sup>

## Section 20

In case the authority to provide the services of a patent attorney in the country of origin is suspended or expires in case of a foreign patent attorney or a foreign organizational form registered in the List, the Chamber may, in accordance with the case circumstances, suspend authorization to provide the services of a patent attorney in accordance with this Act, as the case may be, delete them from the List. Provisions of Sections 14 to 19 shall be applied similarly.

## Section 21

The Chamber shall immediately inform to required extent the respective body of the country of origin on imposition of a disciplinary punishment of suspension of performance of the activity, as the case may be, on deletion of a foreign patent attorney or a foreign organizational form from the List.

### *Unit 5*

#### *Method of provision of patent attorney services*

## Section 22

The patent attorney may provide services of a patent attorney on his own behalf and at his own expense or as an associate or employee of a patent attorney society on its behalf and at its expense or as an employee of a patent attorney on his behalf and at his expense.

## Section 23

### **Association**

(1) In case patent attorneys perform their activities jointly, they shall regulate their interrelations by a written contract. The parties to the association may be only patent attorneys.

(2) Provision of the previous paragraph shall not apply, in case the patent attorneys agree on a temporary joint provision of the services of patent attorneys in cases defined in advance.

### *Unit 6*

#### *Foreign patent attorney and foreign organizational form*

### **Guest foreign patent attorney**

## Section 24

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<sup>7)</sup> Act No. 150/2002 Coll., Administrative Rules of Court, as subsequently amended.

(1) Guest foreign patent attorney is a patent attorney registered in state of origin who performs the services of a patent attorney in the territory of the Czech Republic sporadically or temporarily.

(2) The guest foreign patent attorney may not be a member of the Association or an associate or a shareholder of a patent attorney society in accordance with this Act.

(3) The guest foreign patent attorney is entitled to participate in the conference of the Chamber (Section 57) without voting and electoral right.

(4) The guest foreign patent attorney is obliged to notify in advance the Chamber in writing sporadically or temporarily performance of services of patent attorneys. To notification he encloses documents according to the Act on Recognition of Professional Qualification<sup>1a)</sup>.

(5) The guest foreign patent attorney is exempted from the obligation to pay contributions in accordance with Section 44.

(6) The guest foreign patent attorney is entitled in the territory of the Czech Republic to provide the services of patent attorney in the extent in which he is entitled to provide those services in his state of origin.

#### Section 25

(1) While providing the services of a patent attorney consisting in representation in proceedings at administrative bodies and at courts, the guest foreign patent attorney is obliged to meet the obligations which are stipulated by the legal or for patent attorneys' professional regulation. In case these regulations do not govern any of the issues, the guest foreign patent attorney is obliged to meet the obligations which are stipulated in the legal, professional or other regulations on provision of services of a patent attorney in the country of origin, while he provides the services of a patent attorney on the basis of a permission of this country of origin.

(2) The Chamber keeps on file the notifications of the guest foreign patent attorneys and guest foreign organizational forms.

#### Section 26

Canceled.

### **Settled foreign patent attorney**

#### Section 27

(1) The settled foreign patent attorney is a physical entity which is registered in the List in accordance with Section 9.

(2) The settled foreign patent attorney is entitled to provide services of a patent attorney in the territory of the Czech Republic continuously.

(3) If the settled foreign patent attorney was ordered to compensatory measure by the decision on recognition of professional qualification, than the only form of this measure is the differential examination<sup>1b)</sup>.

## Section 28

Unless stipulated otherwise, provision of this Act shall appropriately apply to the settled foreign patent attorney in case it stipulates the rights and duties of patent attorneys in connection with provision of services of a patent attorney, including professional regulations and provisions of special legal regulations, and rights of participation in the conference of the Chamber (Section 57) with a voting and electoral right.

## **Foreign organizational form**

### Section 29

A foreign organizational form is considered as

- a) a legal entity providing services of a patent attorney in state of origin or
- b) another organizational form providing services of a patent attorney on his own behalf in state of origin, which performs the activity of a patent attorney on the basis of an authority of a respective body in the country of origin.

### Section 30

(1) A foreign organizational form, which is settled in the territory of the Czech Republic and which provides the services of a patent attorney, is a settled foreign organizational form and shall be registered in the List.

(2) In case the foreign organizational form intends to provide the services of a patent attorney in the territory of the Czech Republic only sporadically or temporarily as a guest foreign organizational form, it is obliged to notify the Chamber in writing on this fact in advance. To the notification it encloses documents according to Act on Recognition of Professional Qualification.

### Section 31

(1) The foreign organizational form providing the services of patent attorneys which is entitled to conduct business in the territory of the Czech Republic, is obliged to immediately inform the Chamber on changes of all facts which it mentioned or which were the content of the documents submitted along with the request for registration in the List.

(2) Unless stipulated otherwise, provisions of this Act shall appropriately apply to the foreign organizational form providing the services of patent attorneys systemically in case it stipulates the rights and duties of patent attorneys in connection with provision of services of a patent attorney, including professional regulations and provisions of special legal regulations

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<sup>1b)</sup> Article 14 paragraph 3 of the Directive of European Parliament and Council 2005/36/ES of September 7, 2007 on Recognition of Professional Qualification

(3) Unless stipulated otherwise, the foreign organizational form providing the services of patent attorneys sporadically in the occasion of providing services of patent attorneys grounded in representation in proceedings before administrative bodies and before courts is obliged to respect duties which are stipulated by legal or professional rules for patent attorneys.

#### *Unit 7*

#### *Joint provisions on method of provision of patent attorney services*

#### Section 32

Provisions of Sections 33 to 43 and Section 45 shall adequately apply to the patent attorney society and the foreign organizational form.

#### Section 33

While providing the services, the patent attorney and the settled foreign patent attorney is obliged to use the title “patent attorney”. The patent attorney society is obliged to use the title “patent attorney society”. The patent attorney, settled patent attorney and patent attorney society may use also other titles, which are the information on the place of business, as the case may be on work places, on performance of expert or interpreter’s activity, as well as a trademark or another mark, unless these complements raise doubts on the method of the activity performance.

#### *Unit 8*

#### *Rights and duties of patent attorneys*

#### Section 34

(1) The patent attorney is bound by legal regulations and within their limits by the client’s instructions; in case the client’s instructions are in contradiction with legal or professional regulations, the patent attorney is obliged to instruct the client on it.

(2) The patent attorney is obliged to protect the rights and justified interests of the client; while he is obliged to act honestly and dutifully, consistently utilize all legal means and do anything that in his opinion and under the client’s instructions he considers as beneficial for the client.

#### Section 35

During performance of the activity, the patent attorney is obliged to follow the rules of professional ethics, competition rules and other professional regulations issued by the Chamber in order not to worsen the professional dignity.

#### Section 36

(1) The patent attorney is obliged to maintain confidence on all facts about which he learnt in connection with provision of the services of a patent attorney. It may be relieved

from this duty only by the client on the basis of a written statement and after the client's death or dissolution by the legal successor.

(2) The duty of confidentiality applies also to those deleted from the List or those whose performance of activity was suspended.

(3) The patent attorney is not obliged to maintain confidentiality in relation to the person which he authorized to make the individual acts of the services of a patent attorney, in case this person is himself obliged to maintain confidentiality.

(4) The patent attorney is not bound by the duty of confidentiality to the extent necessary for hearing at a court or another body, in case the subject of the hearing is a dispute between the patent attorney and the client or his legal successor; the patent attorney is also not bound by the duty of confidentiality in the disciplinary proceedings (Section 49). The patent attorney may not invoke the duty of confidentiality in disciplinary proceedings also against the chairman and members of the supervisory committee who inquire into the disciplinary misconduct of the patent attorney.

- (5) The duty of confidentiality similarly applies to
- a) the persons employed in labor or another similar relation by the patent attorney or the society,
  - b) the members of bodies of the Chamber and its employers, as well as to all persons who participate in the disciplinary proceedings, including the chairman and members of the supervisory committee authorized to prepare the acts for the disciplinary proceedings and for inquiry whether a disciplinary misconduct took place; this does not apply to action at a court in the mentioned cases.

### Section 37

The patent attorney is obliged to refuse the provision of the services of a patent attorney in case

- a) a crime would be committed by provision of the services of a patent attorney,
- b) he has provided the services of a patent attorney in the same case or in a related case to another person, whose interests are in contradiction with the interest of the person requesting the provision of the services of a patent attorney,
- c) the patent attorney with whom he performs the activity of patent attorneys in an association or in a patent attorney society has already provided the services of a patent attorney in the same case or in a related case to a person, whose interests are in contradiction with the interests of the person requesting the services of a patent attorney,
- d) the information which he has about another client or a former client could unjustifiably privilege the person requesting the provision of the services of a patent attorney,
- e) the interests of the person requesting the provision of the services of a patent attorney are in contradiction with the interests of the patent attorney or a person close to the patent attorney.

## Section 38

(1) The patent attorney is obliged to withdraw from the contract on provision of services of patent attorney, in case he subsequently finds out the facts mentioned in Section 37.

(2) The patent attorney is entitled to withdraw from the contract on provision of services of patent attorney in case the necessary confidence between the patent attorney and the client is breached, in case the client fails to provide the necessary assistance or in case he fails to settle without material reason the adequate advance payment for the remuneration for representation and provision of the services of a patent attorney, although he was requested to do so by the patent attorney (Section 40).

(3) In case the patent attorney does not agree with the client otherwise or in case the client does not take any other measure, the patent attorney is obliged to make all urgent acts so that the client does not suffer a damage to his rights or authorized interests during the period of 15 days from the day on which he terminated the representation in accordance with paragraphs 1 or 2, as the case may be, withdrew from the contract on provision of services of patent attorney. This shall not apply in case the client informs the patent attorney that he does not insist on meeting of this duty.

## Section 39

(1) Within the authorization to the same extent, the patent attorney may be represented by another patent attorney (hereinafter referred to as the “proxy”); the representation by proxy shall not be possible against the client’s will.

(2) Unless a special legal regulation stipulates otherwise, the patent attorney may authorize his assistant or his employee for the individual acts.

(3) In case any obstacle impedes the patent attorney who performs the activity independently in performance of the activity and unless he takes another measure to protect the rights or law-protected interests of his clients, he is obliged to appoint immediately, however at the latest within 1 month from the day on which this obstacle arose, a proxy, in an agreement with him; he shall notify the clients on it immediately and in writing. In case the patent attorney breaches this obligation, the proxy shall be appointed by the Chamber whereas in accordance with the circumstances of the case it shall also stipulate the amount of the compensation which the patent attorney is obliged to provide to the proxy.

(4) Unless the proxy appointed by the Chamber in accordance with paragraph 3 second sentence agrees with the client within 1 month from the day on which the client is notified on his appointment otherwise, or in case the client does not take any other measure, the rights and duties of the original patent attorney pass to the proxy in relation to the client. The Chamber shall certify this transfer of rights and duties at the proxy’s request.

(5) The subject of the transfer of rights and duties in accordance with paragraph 4 does not affect the duty of the original patent attorney of a compensation of damages (Section 41), as well as the duty of a return of things including financial means provided by the client. Also the rights and duties arising from the original contracting relation between the patent attorney and the client do not pass to the proxy in case the proxy would be unreasonably privileged or

disadvantaged against the original attorney in case of their transfer or, in case it would be rightfully impossible to require meeting of these obligations on the proxy.

(6) In case the original patent attorney who performed the activity independently is deleted from the List and in case it is required with respect to the circumstances of the case, the Chamber shall take suitable measures for protection of the rights and law-protected interests of his clients, particularly he may appoint a proxy. The Chamber shall notify the clients immediately on the adopted measures in writing. Provisions of paragraphs 4 and 5 shall apply similarly.

(7) In case the patent attorney who performed the activity independently dies, the court shall appoint another patent attorney to become personal representative of a part of inheritance which the deceased patent attorney used for performance of his activity in accordance with a special legal regulation<sup>8)</sup> upon the proposal of the Chamber, in case this patent attorney agrees with this appointment.

#### Section 40

The patent attorney performs his activity for remuneration and he is entitled to require from the client an adequate advance payment.

#### Section 41

(1) The patent attorney is liable to the client for damages which he may inflict in connection with performance of the activity of a patent attorney.

(2) In case a damage arises while providing the services of a patent attorney by the patent attorney society, the patent attorney society is liable for it to the injured person.

(3) The patent attorney shall be relieved from the liability in accordance with paragraph 1, in case he proves that he could not prevent the damage even while exerting all effort which may be required on him.

#### Section 42

(1) The patent attorney and the patent attorney society shall, prior to commencement of the activity, conclude a contract on liability insurance for damage inflicted by provision of the services of a patent attorney (hereinafter referred to as the "insurance"), to the extent to which it may be reasonably assumed that such liability could affect him.

(2) The insurance shall be effective for the entire period for which the patent attorney is registered in the List, with the exception of the period when performance of the activity in accordance with Section 14 paragraph 1 letters d) and e) and in accordance with Section 14 paragraph 2 was suspended to him.

(3) The amount of minimal insurance is stipulated by the Chamber in a professional regulation.

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<sup>8)</sup> Section 175e, Civil Procedure Code.

### Section 43

(1) The patent attorney and the patent attorney society are obliged to keep records on provision of the services of a patent attorney, the extent of which shall be stipulated by the Chamber in a professional regulation.

(2) The provision of paragraph 1 does not affect the special legal regulations on accounting and on keeping of recording duty.<sup>9)</sup>

### Section 44

(1) The patent attorney registered in the List is obliged to pay contributions for settlement of expenses of the Chamber activities at the amount stipulated by the conference (Section 58 letter c)).

(2) In cases deserving consideration, the board of directors of the Chamber may decrease or excuse the contribution upon a reasoned request (Section 59 paragraph 3 letter d)).

### Section 45

(1) The patent attorney or his assistant are, in the interest of honor and seriousness of their profession, prior to commencement of a court or other proceedings against another patent attorney or an assistant in a case connected with performance of the activity of a patent attorney, obliged to utilize an arbitration at the bodies of the Chamber.

(2) The arbitration is usually held by the chairman of the Chamber or another member of its board of directors; the purpose of the arbitration is to lead the parties to the dispute for its settlement by conciliation.

## **Chapter IV Assistant**

### Section 46

(1) The assistant is the person who is registered in the List kept at the Chamber.

(2) The assistant conducts a practice at the patent attorney, in the patent attorney society or in a foreign organizational form, the target of which is to acquire knowledge and gain experience necessary for performance of the activity of a patent attorney under the leadership and supervision of the patent attorney.

(3) During performance of the practice, the assistant is obliged to proceed in accordance with this Act and with professional regulations.

(4) The provisions of Sections 34 to 36 shall adequately apply to the assistant.

(5) The assistant is entitled to participate in a conference of the Chamber (Section 57) without a voting and electoral right.

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<sup>9)</sup> For example the Act No. 563/1991 Coll., on Accountancy, as subsequently amended. Act No. 586/1992 Coll., on Income Taxes, as subsequently amended.

## Section 47

- (1) The Chamber shall register in the List of assistant everyone who
- a) is fully capable to enter into legal acts,
  - b) is impeccable; while assessing impeccability, Section 8 paragraphs 3 and 4 shall be similarly applied,
  - c) gained a university degree,<sup>10)</sup>
  - d) was not disciplinary punished by deletion from the List or who is considered as if such disciplinary punishment was not imposed on him,
  - e) is employed at the patent attorney or the society.

(2) For the purposes stipulated in Section 8 letter d) the period of performance of the practice shall be calculated from the day of registration in the List; this period does not include the period of military service or alternative military service,<sup>11)</sup> the period of exercise of civilian service,<sup>12)</sup> period of maternity or parent leave, time off without compensation for salary provided by the employer and period of incapacity to work to the extent of more than 3 months for the period of performance of the practice.

(3) In case the applicant meets the conditions mentioned in paragraph 1, the Chamber shall register him into the List on the basis of a written application substantiated by documents, at the latest within 2 months from delivery of the application or as of a later date mentioned in the application. After registration in the List, the Chamber shall give to the assistant the assistant's pass.

(4) The Chamber shall suspend the assistant's performance of practice on the basis of his written request. The assistant's performance of practice is suspended, in case that he commences imprisonment or in case a ban on activity is imposed on him consisting in the ban of performance of the assistant's practice, as the case may be, it may suspend his performance of practice for the reasons mentioned in Section 15.

(5) The Chamber shall delete the assistant from the List in case it discovers that it does not meet any of the conditions mentioned in the paragraphs 1 and 2.

- (6) Deleted from the List shall also be the assistant
- a) on whom a disciplinary punishment of deletion from the List was imposed as of the day of legal power of the decision on imposition of this disciplinary punishment,
  - b) who submitted to the Chamber a written request for deletion from the List bearing an officially authenticated signature, by expiration of the calendar month in which the request for deletion was delivered to the Chamber.

(7) In case of deletion from the List or suspension of the performance of practice, the provision of Section 14 paragraph 4, Section 15 paragraph 2, Section 16, Section 17 letter e), Section 18 paragraph 2 and Section 19 paragraph 2 shall similarly apply.

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<sup>10)</sup> Act No. 111/1998 Coll., on Universities and on the Modification of Other Acts, as subsequently amended (Act on Universities), as subsequently amended.

<sup>11)</sup> Section 16 paragraph 2 Act No. 218/1999 Coll., on Extent of Military Service And on Military Administrative Bodies (Defense Act), as amended by Act No. 238/2000 Coll.

<sup>12)</sup> Act No. 18/1992 Coll., on Civilian Service, as subsequently amended.

## Section 48

The patent attorney or the society which employs the assistant performing the assistant's practice, shall create to the assistant working conditions which allow him a due preparation for the profession of a patent attorney; the assistant shall be allowed particularly to take part in trainings in the area of industrial law, due preparation for an professional examination of a patent attorney, as well as a participation in the professional expert examination.

## **Chapter V** **Disciplinary liability and disciplinary proceedings**

### Section 49

(1) The patent attorney, the patent attorney society and the assistant are disciplinary liable for disciplinary misconduct.

(2) A disciplinary misconduct is a material or repeated culpable breach of the duties stipulated for the patent attorney, patent attorney society or the assistant by the Act or by a professional regulation.

(3) One of the following disciplinary punishments may be imposed on the patent attorney for disciplinary misconduct:

- a) written admonition,
- b) public admonition,
- c) penalty up to the amount of CZK 100,000,
- d) suspension of the authority for the provision of the services of a patent attorney up to the period of 3 years,
- e) deletion from the List of patent attorneys.

(4) One of the following disciplinary punishments may be imposed on the assistant for disciplinary misconduct:

- a) written admonition,
- b) public admonition,
- c) penalty up to the amount of CZK 50,000,
- d) deletion from the List of assistants.

(5) One of the following disciplinary punishments may be imposed on the patent attorney society for disciplinary misconduct:

- a) written admonition,
- b) public admonition,
- c) penalty up to the amount of CZK 1,000,000,
- d) suspension of the authority for the provision of the services of a patent attorney up to the period of 3 years,
- e) deletion from the List of patent attorney societies.

(6) While imposing the disciplinary punishments, gravity of unlawful acting, particularly the method of its commitment and its consequences and the circumstances under which it was committed shall be taken into consideration.

(7) The yield of penalties is the income of the Chamber which collects them and levies them.

(8) In case it regards a less material breach of obligations, imposition of a disciplinary punishment to the patent attorney or the assistant or the patent attorney society may be abandoned, in case the hearing itself of the disciplinary misconduct may be considered as sufficient.

#### Section 50

(1) A disciplinary commission shall decide on the fact whether the patent attorney or an assistant or patent attorney society committed disciplinary misconduct and on imposition of a disciplinary punishment in proceedings commenced upon the proposal of the chairman of the supervisory committee or a supervisory committee member appointed by the chairman (hereinafter referred to as the “disciplinary prosecutor”). The parties to the disciplinary proceedings are the disciplinary prosecutor and the patent attorney or the assistant or the patent attorney society, against which the disciplinary proceedings is commenced (hereinafter referred to as the “the disciplinarily accused”).

(2) A proposal for commencement of the disciplinary proceedings shall be submitted by the disciplinary prosecutor in writing within 6 months from the day when he learns about the disciplinary misconduct. The disciplinary punishment may be imposed at the latest within 3 years from the moment on which the disciplinary misconduct took place.

#### Section 51

(1) For the decision in the disciplinary proceedings, the issue of facts and the legal situation at the moment on which the disciplinary misconduct took place is decisive; later legal regulations shall be applied in case it is more favorable for the disciplinarily accused.

(2) The decision in the disciplinary proceedings shall be in writing, it shall include a verdict, grounds and advice on remedy and it shall be delivered to the participants.

(3) In case the decision in the disciplinary proceedings is not delivered to the disciplinarily accused for the reasons which are on his part, it shall be deemed that it was delivered after the lapse of 3 days from the repeated vain delivery.

#### Section 52

(1) A party to the disciplinary proceedings may lodge an appeal against the decision of the disciplinary commission of the Chamber within 15 days from delivery of the appeal; the appeal has a suspensory effect.

(2) The board of the directors of the Chamber decides on the appeal and it shall either confirm the contested decision or invalidate it (Section 59 paragraph 3 letter c)). In case the board of directors of the Chamber invalidates the contested decision, it shall return the case to the disciplinary commission of the Chamber for further proceedings; the commission is in this case bound by the legal opinion of the board of directors of the Chamber.

#### Section 53

The patent attorney or the assistant or the patent attorney society and the applicant for registration in the List are for the purposes of other disciplinary proceedings considered as if no disciplinary punishment was imposed

- a) on the day of legal power of the decision by which the disciplinary punishment was withdrawn,
- b) on the day on which the decision on imposition of the disciplinary punishment of a written admonition or public admonition was executed,
- c) in case the period of 1 year lapsed from the day on which the decision on imposition of the disciplinary punishment of a penalty or suspension of performance of the activity was executed,
- d) in case the period of 5 years lapsed from the day on which the decision on imposition of the disciplinary punishment of deletion from the List was executed,
- e) in case the period of 3 years lapsed from the day on which the decision on deletion of the assistant from the List was executed.

#### Section 54

Details on the disciplinary proceedings are stipulated by the disciplinary code issued by the Chamber.

#### Section 55

Provisions of Sections 49 to 53 shall similarly apply to foreign patent attorney and the foreign organizational form.

### **Chapter VI Bodies of the Chamber**

#### Section 56

(1) The Chamber has these bodies:

- a) conference,
- b) board of directors,
- c) chairman,
- d) vice-chairman,
- e) supervisory commission,
- f) disciplinary commission.

(2) The Chamber may establish consulting bodies.

#### Section 57

#### **Conference**

(1) The supreme body of the Chamber is the conference. All patent attorneys registered in the List of patent attorneys (Section 4 paragraph 1 letters a) and b)) have the right to participate in the conference with a voting and electoral right. A patent attorney may be represented at the conference by another patent attorney who performs with him the activity jointly in an association or in a society. The represented patent attorney is considered as present at the conference.

(2) The conference is summoned by the board of directors at least once in 3 years by a written invitation addressed provably to all patent attorneys. The board of directors is obliged to summon the conference always in case at least one third of all patent attorneys requires it in writing or in case a supervisory commission requests it, at the latest within 2 months; in case the board of directors fails to do this, the supervisory commission is entitled to summon the conference. The conference shall be summoned so that it meets not before a lapse of 1 month and at the latest within 3 months from the day of the calling.

(3) The conference has a quorum regardless the number of present patent attorneys. A resolution of the conference is adopted in case a absolute majority of the present patent attorneys votes. In case of election of members and substitutes of the bodies of the Chamber, the number of votes cast by the present patent attorneys to the individual candidates decides, while the candidate has to win at least one third of the present patent attorneys' votes. Consent of at least one third of the present patent attorneys is required for the proposal to recall a member or a substitute of a body of the Chamber.

#### Section 58

The conference

- a) elects the chairman, vice-chairman, members and substitutes of the board of directors, supervisory commission and disciplinary commission from the patent attorneys by a direct and secret vote for the period of 3 years; it also recalls the members of these bodies by a secret vote,
- b) accepts and modifies professional regulations, particularly the organizational code, disciplinary code, electoral code, rules of procedure of the board of directors and the commissions, professional ethics rules,
- c) stipulates the amount of the contribution of the patent attorneys for the activity of the Chamber, as well as the amount of the charge for the registration in the List, as the case may be, it adopts the principles for stipulation of their amount by the board of directors,
- d) discusses and adopts the report on activity of other bodies of the Chamber,
- e) may make void or modify decisions of the board of directors, except for the decision in accordance with Section 59 paragraph 3; however the rights which arise to the patent attorneys or to other persons from the discharged decision of the board of directors may not be affected,
- f) decides in all other matters which it reserves, with the exception of decision-making in a disciplinary proceedings,
- g) approves budget and annual financial statements.

#### Section 59

##### **Board of directors**

(1) The board of directors is an executive body of the Chamber.

(2) Including the chairman and the vice-chairman, the board of directors has 7 members and 3 substitutes; in case the number of the members of the board of directors falls below 7, the board of directors is entitled to complete the number of members from the group of substitutes.

- (3) The board of directors decides on
- a) deletion from the List in accordance with Section 19 and Section 47 paragraph 7, unless it regards a deletion upon one's own request,
  - b) suspension of authorization to provide the services in accordance with Section 15 and on suspension of the assistant's practice, unless it regards a suspension of the performance of a patent attorney's activity or an assistant's practice at their own request,
  - c) remedies in accordance with provision of Section 52,
  - d) decrease or excuse of contributions for the activity of the Chamber,
  - e) in all matters entrusted to the Chamber, unless other bodies of the Chamber decide on them in accordance with this Act.

- (4) The board of directors further
- a) summons the conference,
  - b) nominates an examination commissioner,
  - c) administers the property of the Chamber,
  - d) protects and enforces the interests of the patent attorneys,
  - e) regularly informs the patent attorneys on the activity of the Chamber,
  - f) takes all measures necessary for the activity of the Chamber,
  - g) keeps the Register,
  - h) carries out other activities, unless they appertain to other bodies of the Chamber in accordance with this Act.

(5) The board of directors usually meets once in 3 months; meeting of the board of directors is summoned by the chairman of the Chamber.

#### Section 60 **Chairman of the Chamber**

(1) The chairman is a statutory body who acts on behalf of the Chamber in all matters. In case of his absence or upon the authority of him, he is represented by a vice-chairman.

- (2) The chairman of the Chamber
- a) decides on appointment of the patent attorney's proxy in accordance with Section 39 paragraph 3 and 7,
  - b) marks suspension of authorization to provide the services of a patent attorney in the List on the basis of his request,
  - c) marks suspension of performance of the assistant's practice in the List on the basis of his request.

(3) The chairman of the Chamber is entitled to take other measures or make decisions which are entrusted to his competence by this Act or by professional regulations.

#### Section 61 **Supervisory Commission**

(1) Supervisory commission is a control body of the Chamber.

(2) The number of members and substitutes of the supervisory board is stipulated by the organizational code; in case the number of the members of the supervisory commission

falls below the number stipulated in this way, the supervisory board shall replenish it from the group of substitutes.

- (3) The supervisory commission
- a) checks fulfillment of the resolution of the conference and activity of the board of directors; for this purpose, access to all documents of the Chamber shall be allowed to the supervisory commission,
  - b) supervises the due performance of the activity of the patent attorneys,
  - c) elects from its members and removes a chairman who governs the activity of the commission and files a proposal for commencement of disciplinary proceedings,
  - d) checks keeping of documentation in accordance with Section 43.

(4) In case the supervisory commission considers the resolution or another measure of the board of directors as contradictory with the legal regulation, professional regulation or resolution of the conference, it is obliged to suspend its performance; however the suspension becomes invalid in case the conference confirms the suspended resolution or another measure.

#### Section 62

### **Disciplinary commission**

(1) The disciplinary commission is a body which performs disciplinary competence stipulated by this Act, disciplinary code and other regulations, particularly the professional ethics rules.

(2) The number of members and substitutes of the disciplinary commission is stipulated by the disciplinary code of the Chamber; in case the number of the members of the disciplinary commission falls below the number stipulated in this way, the disciplinary commission shall be completed from the group of substitutes.

- (3) The disciplinary commission
- a) carries out disciplinary proceedings and decides on disciplinary punishments in accordance with law,
  - b) elects from its members and recalls a chairman who governs its activity

#### Section 63

### **Joint provisions on bodies of the Chamber**

(1) The positions in the bodies of the Chamber are honorary; only compensation of out-of-pocket expenses shall be paid for their performance.

(2) A more detailed organization of the Chamber, its bodies and competence of these bodies is stipulated by the organizational code of the Chamber.

## **Chapter VII Competence of the Office**

#### Section 64

(1) The chairman of the Office is entitled to file to the Chamber a proposal for commencement of disciplinary proceedings.

(2) The Chamber is obliged to submit to the Office the professional regulations accepted by its bodies within 30 days.

(3) In case the chairman of the Office considers the professional regulation of the Chamber as in contradiction with law or rule of European Union, it is entitled to file an action at a respective court<sup>7)</sup> within the period of 2 months from its adoption. In these proceedings it shall be proceeded adequately in accordance with the provision on the action proceeding against the resolution of the administrative body.

## **Chapter VIII**

### **Joint, temporary and final provisions**

#### **Joint provisions**

##### Section 65

(1) The Chamber shall issue the professional regulations on rights and duties of the patent attorneys as members of the professional association; the day of their declaration is the day of their approval by the conference. The professional regulation, which is declared in accordance with this Act, comes into effect on the sixtieth day after its declaration, unless the conference stipulates otherwise, however not before the day of its declaration.

- (2) The Chamber shall stipulate in the professional regulations
- a) the details on rights and duties of the patent attorneys and assistants,
  - b) the details on payment of contributions for settlement of costs of the Chamber activities,
  - c) the details on keeping of documentation in accordance with Section 43 and limits of their inspection by the Chamber,
  - d) the details on the disciplinary proceedings,
  - e) minimal amount of the insurance (Section 42).

(3) The Chamber, upon agreement with the Office, shall stipulate the extent of examination questions, conditions of providing and details on the course of professional and differential examinations.

##### Section 66

Administrative procedure code applies to the proceedings in accordance with this Act unless this Act stipulates otherwise.

##### Section 67

- Everyone
- a) who was not registered in the List within the terms stipulated by this Act,
  - b) to whom a certificate on registration in the List was not issued,
  - c) who was not allowed to take the professional and differential examination within the term stipulated by this Act,

- d) who was not allowed to make a promise within the term stipulated by this Act,
  - e) who was deleted from the List or whose performance of activity was suspended,
- is entitled to refer to the court <sup>7)</sup> which shall decide on his right.

### **Temporary provisions**

#### **Section 68**

(1) The patent attorneys registered in the Patent Attorneys Register kept in accordance with the existing legal regulation with the day of effectiveness of this Act become the patent attorneys with the authority to the extent in accordance with passing of the professional examination. The information on the passed professional examinations necessary for registration of the extent of the authority in the Lists shall be announced to the Chamber by the Office in accordance with reports on their execution as of the day on which this Act comes into effect.

(2) Confirmations on registration in the Register issued in accordance with the existing regulation become invalid by issue of the certificate in accordance with this Act.

(3) The Chamber shall issue the certificates on registration in the List and a patent attorney's identity card in accordance with Section 13 paragraph 1 with the extent of the authority for performance of the activity of a patent attorney marked.

#### **Section 69**

(1) The proceedings on a disciplinary punishment against a patent attorney commenced before the day on which this Act comes into effect shall be finished in accordance with this Act; when stipulating the disciplinary punishment, the existing legal regulation shall be applied in case it is more favorable for the disciplinary accused. The procedure in the proceedings on appeal and reopening of the proceedings is similar.

(2) The proceedings on suspension or deletion from the Register commenced before the day on which this Act comes into effect, shall be finished in accordance with this Act.

(3) The proceedings on registration in the Register and on registration of modifications in the Register commenced before the day on which this Act shall come into effect, shall be finished in accordance with this Act.

#### **Section 70**

(1) Professional examinations passed in accordance with the existing legal regulation shall be recognized as the professional examinations in accordance with Section 11 paragraph 2 of this Act and to the extent stipulated by it.

(2) The patent attorneys registered in the Register in accordance with the existing Act No. 237/1991 Coll., as amended, are the patent attorneys in accordance with this Act and to the extent of the authority in accordance with Section 2 paragraph 3.

## Section 71

(1) The Chamber of patent attorneys established by Act No. 237/1991 Coll., on patent attorneys is dissolved.

(2) On the day on which this Act comes into effect, the rights and duties of the Chamber of patent attorneys identity card to the Chamber.

(3) The bodies and consulting bodies of the Chamber of patent attorneys elected in accordance with the existing legal regulation shall perform the activity as the bodies and consulting bodies of the Chamber in accordance with this Act until the end of their term of office.

(4) The professional regulations adopted by the Chamber of patent attorneys in accordance with the existing legal regulation remain valid until the moment of adoption of the professional regulations in accordance with this Act, however at the latest 1 year from the day on which this Act comes into effect.

## Section 72

### **Abrogating provision**

The following is abrogated

1. Act No. 237/1991 Coll., on Patent Attorneys, as amended by Act No. 151/2002 Coll.
2. Decree No. 350/1991 Coll., on Remuneration of Patent Attorneys.

## *PART TWO*

### **Modification of Act on Measures for Protection of Industrial Property**

## Section 73

In the Act No. 14/1993 Coll., on Measures for Protection of Industrial Property, Section 6 is abrogated.

## *PART THREE*

### **EFFECTIVENESS**

## Section 74

This Act becomes effective on the day of its promulgation.

**Zaorálek** autograph.

**Klaus** autograph

**Špidla** autograph