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Legal Aspects of Innovations in Croatia – Practical Guide and Highlights

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Abstract

Innovation is the key term of development in the modern world. Although it is of the utmost importance, there is still a lot to be done to popularize the idea of innovation, to ensure a common approach to the necessity of providing incentives, and of tightening the relevant legislation ensuring the protection of innovations and innovators. In the last decades, the legislation on innovations in Croatia has changed and improved remarkably. As a direct result of great social and legal efforts, the innovative environment flourishes, influencing directly the economic and social growth of the country. Through a review of the Croatian legislation, this paper shows the dynamics of the development of legislation in the field of innovations. The very term "innovation" has been reassessed as there was a very common misunderstanding of the difference between invention and innovation. Croatian innovators are more and more successful at global level and this has been confirmed by recent awards.

Keywords: innovations, legislation, intellectual property rights, Croatia

JEL classification: K11

Introduction

Human development roots are interwoven with numerous innovations and make a solid base for human progress in all aspects of life. According to the BusinessDictionary.com definition claiming innovation is the process of translating an idea or invention into a good or service that creates value or for which customers will pay, (BusinessDictionary.com, 2015) the most important aspect of innovation is – its transferability to money value. In the same way, Scott Berkun defines the term innovation – as a significant positive change (2013). The part of the definition based on the economic aspect establishes the difference between invention and innovation. Such difference is still not recognized among all theorists, but there is need to affirm the different values of the concepts of these terms.

Since there is common agreement on the great importance of the term and phenomenon of innovation as the key factor in the competitiveness of organizations and nations, one should also agree on the importance of its proper legal regulation. The goal of this paper is to give an overview of the Croatian legal system and the provisions regulating innovations, as well as some highlights of the contemporary Croatian innovations in practice.

The idea, the invention, at the basis of each innovation is, under some conditions, the property of the inventor, and is, thus, regulated by the intellectual property right. However, not every idea giving new value to a good or service can be termed innovation. And, at the same time, not every innovation has an adequate pattern of legal protection. This paper aims to provide information and guidelines on the practical use of legal provisions regulating innovations in Croatia.

The applicable law in Croatia - historical overview and the law in force

The applicable law on innovations in Croatia is related to a division in Croatian legal theory. The division of intellectual property rights prevails: copyright and copyright-related rights on the one hand, and industrial property rights on the other (Katulić, 2006).

The first regulatory act in the field of innovations was enacted in the mid-nineteenth century. It shows signs of early comprehension of the importance and relevance of regulating the field of innovation at the highest level of intellectual property right.

Following are the regulatory acts regarding the topic of the paper:

- (1846, 1853) Imperial Patent on the Protection of Literary and Artistic Property
- (1884) Copyright Law–OG No. 7/1884
- (1895) Copyright Law on Literary, Artistic and Photographic Work– OG No. 197/1895
- (1929) Copyright Law - OG No. 304/1929
- (1946, 1957, 1968, 1978, 1986, 1990) Copyright Law - OG No. 45/1946, 36/1957, 30/1968, 19/1978, 24/1986 i 21/1990
- (1991) Law on Accepting the Federal Laws in the area of education and culture to be implemented as republic laws in the Republic of Croatia
 - OG No. 53/1991
- (1993) Law on Amendments to the Copyright Law - OG No. 58/1993
- (1999) Copyright Law - revised text - OG No. 9/1999
- (1999, 2001) Law on Amendments to the Copyright Law - OG No. 76/1999, 127/1999, 67/2001
- (1999) Law on Trademarks - OG No. 78/1999
- (1999, 2002) Patent Law and Law on Amendments to the Patent Law - OG No. 78/1999, 32/2002
- (2003) Patent Law and Law on Amendments to the Patent Law - OG No. 173/2003, 87/2005, 76/2007, 30/2009, 128/2010, 49/2011, 76/2013)
- (2003, 2007, 20011, 2013, 2014) Copyright and Related Rights Law and Law on Amendments to the Copyright and Related Rights Law - OG No. 167/2003, 79/2007, 80/2011, 141/2013, 127/2014
- (2003, 2007, 2009, 2011) Law on Trademarks and Law on Amendments to the Law on Trademarks – OG No. 173/2003, 76/2007, 30/2009, 49/2011
- (2003, 2007, 2009, 2011) Law on Industrial Design and Law on Amendments to the Law on Industrial Design OG No. 173/2003, 76/2007, 30/2009, 49/2011.

This review shows the complexity and liveliness of the regulatory substance of innovations. It is visible that a lot of law changes happened in the last decade. There were slight, but also significant changes in the provisions regulating intellectual property rights. The legislator was sensitive to the obvious necessity of regulating numerous new ideas in all fields of life. It was necessary to regulate the acquisition of intellectual property, as well as the ways of protecting its unauthorized use.

The contemporary Croatian Copyright Law provides copyright protection during the life of the author and seventy years after his death. A special category of protection applies to artists-performers: their rights expire fifty years after the performance. Database producers are protected for fifteen years from the finalization of the database.

Under the provisions of the Croatian Patent Law currently in force, the protection for a patent granted on the basis of results of substantial examinations shall last 20 years from the filing date of a patent application, and for a consensual patent it shall last 10 years.

Trademark protection is regulated in the current Law on Trademarks and it shall last 10 years from the application date. The period of protection may be renewed an indefinite number of times for periods of 10 years each. The term of protection for an industrial design is 5 years from the filing date of the industrial design application. The term of protection may be renewed, by filing a timely request (before the expiration of the preceding 5-year period) for periods of five years each, up to the total term of 25 years. More details on procedures are available on the web site of SIPO, the State Intellectual Property Office of the Republic of Croatia (<http://www.dziv.hr/en/intellectual-property-protection/>)

When deciding on the type of protection, the inventor should specify the nature of his invention, the range of protection needed or desired, as available according to the applicable laws, and the possible economic use of his invention.

To ease the process of legal protection of inventions in Croatia, the SIPO gives some guidelines: "Copyright does not protect an idea but a work expressing the idea of a human mind, irrespective of the form or quality of its expression. Copyright of a work is conferred to its author by the mere act of creation of this work and, contrary to the majority of other forms of intellectual property, it is not subject to any administrative or registration procedure." (<http://www.dziv.hr/en/intellectual-property-protection/copyright/>)

Following Art. 2. of the Patent Law: "A patent is the exclusive right protecting a patent owner in respect of the economic exploitation of an invention." It can be concluded that there is no need for any formal registration of some new idea/invention if no economic exploitation is envisaged, and, of course if this new idea cannot be recognized as an invention through a strict procedure, in which case the author will have copyright. But, this will not be an innovation as it is an idea with no transferability to money value, as mentioned at the beginning of this paper. It will remain an invention, protected by Copyright Law, with no need to start any protection procedure.

The three steps leading from a new idea to a form of registered intellectual property right:

1. INVENTION – new idea, protected from the moment of its creation by Copyright Law. From Latin *invention(n-)*, from *invenire* "discover"- finding out, discover rather than creating is the base sense of invention (*Oxford Dictionaries at oxforddictionaries.com*)
2. INNOVATION - invention that has the ability and potential of transferability to money value; the inventor's aim is to transfer the idea/invention to money value through economic exploitation. From Latin *innovat* - 'renewed, altered', from the verb *innovare*, from *in-* 'into' + *novare* 'make new' (from *novus* 'new') (*Oxford Dictionaries at oxforddictionaries.com*)
3. PATENT, TRADEMARK, INDUSTRIAL DESIGN – government authority or licence conferring a right or title for a set period, especially the sole right to exclude others from making, using, or selling an invention, from using a symbol of a company or a product or from copying a design (*Oxford Dictionaries at oxforddictionaries.com*). The Innovator secures protection to his right to the economic yield of his invention. This utmost level of protection is secured by several laws that are under great influence of constant social and economic changes representing the most varying legal branch.

It is obvious that the terms in these three steps are related to the economic and legal basis. Therefore, an invention changes its economic basis when becoming an innovation as it obtains transferability, obtains economical meaning. An innovation has to be recognized by a government authority to obtain legal protection, and at the moment of recognition it grows to a patent, trademark, or some other form of registered intellectual property right. The key terms displayed above seem to be very easy to understand, but in practice it is not that easy. The problem often derives from the fact that the public is not informed enough of the need that an invention has to have the capacity of economic exploitation and, at the same time, to be of a quality that distinguishes it enough from other similar ideas. This lack of public awareness leads to the necessity of multiplying dissemination of information on innovations, on benefits for the individual and society, on their importance for development as well as for the financial well-being of the individual and society. There is still a lot to be done to popularise innovations, and to motivate a professional approach to the subject.

Conclusion

The regulatory framework of innovation in Croatia gives a lot of opportunities to inventors (authors) to establish their rights on inventions to be commercialised and transferred to innovations. It is a great incentive, and a driving force for the development of innovations. As a result, there are many successful innovators in Croatia, bearers of distinguished prizes for their innovations. The latest example is a big success of the Croatian innovators at INPEX, the Invention & New Product Exposition (16-18 June 2015, Pittsburgh) where 7 out of 8 presented innovations were highly awarded: 5 gold medals, the prestigious award Best Invention of Europe for the invention of "C@N eMotion"- recognition of facial expressions and emotions and two special awards. (HSI – Croatian Association of Innovators, <http://www.inovator.hr/>) It is to be pointed out that among the bearers of the gold medal there is a young innovator, Robert Sigurnjak, only 17 years old, who invented the fast wireless charging of electric cars, and who has already attracted business interest and been offered to establish permanent business co-operation with a firm from US.

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Appendix

Table 1

List of Croatian exhibitors and awards at 30th INPEX 2015, America's largest invention trade show

	AUTHOR	INNOVATION	AWARD
1.	Mag. Pharm. MIRJANA BRLEČIĆ PRIRODA LIJEČI d.o.o., Zagreb	Nikel innovative travel set of cosmetics	GOLD MEDAL
2.	DAVOR CAFUTA, IVICA DODIG, JANA ŽILJAK VUJIĆ, VILKO ŽILJAK, IVANA STANIMIROVIĆ ŽILJAK, KLAUDIO PAP, IGOR DŽANKO Tehničko veleučilište u Zagrebu, Zagreb FOTOSOFT d.o.o. Zagreb	MEX-IRDM	-
3.	Tomislav Bronzin Citius d.o.o. Zagreb	C@N eMotion– RECOGNITION OF FACIAL EXPRESSIONS AND EMOTIONS	BEST INVENTION OF EUROPE, GOLD MEDAL
4.	Anita Bušić, Tomislav Bronzin „Live good“, j.d.o.o. Zagreb, Citius d.o.o. Zagreb	BODY RECOG-FITNESS	GOLD MEDAL
5.	Author: ROBERT SIGURNJAK Mentor: Milan Korać Tehnička škola Ruđera Boškovića, Zagreb	FAST WIRELESS CHARGING OF ELECTRIC CARS	GOLD MEDAL
6.	Ivan Krunić, Tomislav Krunić, Roman Krunić ROTO KRUNA d.o.o., V.Gorica	ROTATION GRINDING DISC	GOLD MEDAL
7.	ROSA FERINČEVIĆ Marina Lab Opus d.o.o. , Kupinečki Kraljevec	Acidosalus® baby	SPECIAL AWARDEUROBUSINESS HALLER
8.	MARKO KRAVAR Termist d.o.o., Zagreb	PROLIPS	SPECIAL AWARD INST, Taiwan

Source: HSI – Croatian Association of Innovators, <http://www.inovator.hr/>

About the author

Dijana Zoričić is attorney at law in Zagreb, Croatia, where she established the Zoričić Law Office in 1992. Her office employs law and economy experts and interpreters for German and English, provides counselling and legal representation of natural and legal persons, especially in the field of trade, commerce, real estate and tax law, mandatory and proprietary rights, and co-operates with domestic and international consultants and law offices. The author can be contacted at: dzoricic@ou-dvzoricic.hr