

Protection of industrial property and international law

The purpose of my thesis, which theme is “Protection of industrial property and international law”, is to describe and to analyse the industrial property protection from the international law perspective. The thesis consists of nine chapters, the introduction and the conclusion included, dealing with the issue of the industrial property protection, especially with the conception and historical development of international protection of industrial property and with current systems of this protection, focusing on weaknesses and strongnesses of current international legal protection of industrial property.

First of all, the thesis deals with a definition of the term “industrial property”. The “industrial property” is a complicated category, because there is no general legal definition of this term. As from the international treaties regarding industrial property outflows, the legal definition of this term is replaced by the list of intangibles which are included in this term. This chapter is concluded with the acceptance of this approach of “no general legal definition” stating that because of the technical development and connected development of industrial property items, a general legal definition of the term industrial property would have only limited use and so any of such definition is not required.

The thesis further deals with the fundamentals and conceptions of the international industrial property protection. Industrial property protection is generally based on the combination of these factors: specific intangible character of industrial property which enables its use (or disuse) at any time, any place and by anyone (potencial ubiquity), the need to motivate people to create industrial property items supporting technical, cultural and economic development and the willingness to made the industrial property items open to public or to public legal use. Industrial property protection is legal protection (when factual protection is not possible in this case) generally based on the registration principle, i.e. only registration in public registry assures the inventor or owner of industrial property item to have proper legal protection.

With regard to the theme of the thesis, it further concerns especially on the existing different international and regional systems of international protection of industrial property as generally as well as protection of specific industrial property, when the international intellectual property protection is in these days of developed international trade and

international communication and worldwide internet access more than needed. These systems are very well developed although the improvement consisting in the shortening of duration of granting procedure and maximum objections possibility before the granting of protection is required.

Finally, the thesis also deals with the problem of execution of internationally granted legal protection of industrial property. As the systems granting the protection are very well developed, current systems of execution of such granted rights, based on national legal proceeding systems where there are many differences between national legal proceedings systems causing long-term disputes resolution with unpredictable and may be different decisions on the same case are not really supporting the internationally granted rights. In the conclusion of the thesis there is suggested that one well developed international system of execution of granted industrial rights in frame of these systems should be implemented.