

Medical devices as an object of industrial property rights

Abstract

The aim of this thesis was to present selected national and EU industrial property rights governed by the registration principle, as well as the European patent, the conditions for obtaining them, a comparison of these rights, an assessment of possible overlaps, as well as their subsequent placement in the context of the protection of intangible assets in the field of medical devices within the meaning of Section 2(1) of Act No. 375/2022 Coll.

The thesis is divided into four main chapters. The first chapter is mainly devoted to the introduction of the theoretical background, which is mainly the terms medical device and industrial property rights, as well as an introduction to their specifics. It then goes on to introduce the objects of industrial property rights and, last but not least, to outline the basics of national legislation and a brief introduction to the system of EU forms of protection with uniform effect.

The second chapter introduces selected national industrial property rights. More specifically, patent, utility model, trademark and design, including their definition, conditions for registrability, as well as other specifics and providing examples from the field of medical devices. The last part of the chapter includes a comparison of the different rights presented.

The third chapter introduces the European patent and briefly outlines recent developments regarding the unitary patent, followed by an outline of EU trade marks and designs, again including examples from the field of medical devices. Furthermore, the chapter mentions the forthcoming amendments to the legal regulation of design protection in the field of EU legislation, together with a presumption of possible effects in the context of industrial protection of intangible assets in the field of medical devices. The chapter concludes with a comparison of the different rights presented.

Finally, in the fourth and final chapter, the thesis provides more context on the field of medical devices and outlines their life cycle, including a proposal for a possible timeline for filing applications for each right. It also provides an overview of the main strengths and weaknesses of each right in the context of medical devices identified in the thesis. The chapter also highlights a potentially problematic aspect of the current legislation and case law concerning designs. These *de lege lata* considerations are also subsequently supplemented by a brief *de lege ferenda* consideration. Finally, the chapter also discusses the exclusion from patentability of

therapeutic methods and diagnostic methods on the human body, which may play an important role in the field of medical devices.

Key words: Medical devices, industrial property rights, comparison