

METHODOLOGY PART

This publication contains the comprehensive results of an annual statistical survey **Lic 5-01**. The main focus of this survey is to monitor the number of valid license agreements (now only sold, purchased licences only by 2010) in order to protect industrial property, as well as, the value of license fees (paid and received) in the Czech Republic in the respective year. Apart from the total number of valid license agreements, the survey also inquires about newly concluded license agreements, type of license agreements (license for patent, utility model etc.), country of the contracting partner and production.

The Czech Statistical Office collected data on license agreements by means of an exhaustive survey VTR 5-01¹ in years 1995–2002. As a result of improved data collection process, the survey was divided into two separate questionnaires in 2003. License indicators have therefore been collected annually by means of the aforementioned Lic 5-01 since 2003, which is part of a Statistical Survey Program. Reporting units represent all legal entities that acquired or sold a license for any form of intellectual property.

Survey Lic 5-01 is a mandatory survey as it is included in the Statistical surveys program by Act. No. 89/1995 Coll. on State Statistical Service, in a valid version.

DEFINITIONS AND CHARACTERISTICS OF INDICATORS

License agreement generally represents one of the options for intellectual rights protection in the commercial context. There are several criteria for distinguishing types of license agreements. The basic division follows the provision (**active license**) or acquirement (**passive license**) of the license subject.

Depending on the extent of granted rights, we also distinguish between **exclusive license agreements** (the licensee is a sole owner of rights in the agreed territory and the licensor is not entitled to enter any other license agreements, which could violate the right of the licensee); and **non-exclusive license agreements** (the licensor reserves the right to enter a license agreement with another partner in the given territory). The license subject will thus be used by other licensees whereby such act prevents each sole licensee from gaining a monopolist advantage, as is the case with the exclusive license agreement.

In terms of license subject, we can distinguish **patent licenses** (where the subject of a license is an invention protected by patent, **design licenses** (including license agreements for utility models and industrial designs), **trademark licenses** (a provision of right to use a trademark); **know-how licenses** (a variety of technical and technological improvements and production processes, which could not qualify as subjects of patent protection); and **combined agreements** (subject of the license is a combination of patent rights and production know-how, which actually enable the licensee to use the patent and/or trademark provided by the licensor).

In a **license agreement**, the licensor thus grants a right to use the subject of license (a form of intellectual property) to the licensee in the agreed extent and territory, and the licensee is obliged to pay royalties (license fee) in exchange for this right. License agreements assigned to intellectual property rights (patent, utility model, know-how, industrial design, topography of semiconductor products, new plant varieties and breeds of animals or trademarks) must be in writing. The license agreement takes effect upon the registration with the Czech Industrial Property Office (IPO).

Patent is a set of exclusive rights granted for an invention, i.e. a product or a process that is new, inventive and useful, or offers a new technical solution to a problem. The applicant must disclose in sufficient detail the functionality of his/her invention. When a patent is granted, the applicant becomes the owner of the patent (patentee). A patent, issued by the IPO or some other national or international patent office, provides protection for the invention to the patentee for up to 20 years (effective from the date of public notice in the IPO bulletin). Like any other form of property, a patent can be bought, sold, licensed or mortgaged.

Utility model protects particularly technical solutions, which do not comply with strict requirements for granting patent but its technical level exceeds the scope of a mere professional skill. The patentability requirements are therefore less stringent (quicker and cheaper protection) and the protection term shorter (often 6 to 10 years).

¹ "Annual Questionnaire on Research and Development 2002" (VTR5-01) addresses all legal and natural persons who carry out R&D (or their local units, i.e. work stations devoted to R&D) as their primary or secondary activity. This survey constitutes a basis for research and development indicators in the Czech Republic.

Know-how (unpatented inventions) is knowledge, experience or piece of knowledge from areas production, business, services or economies that are not protected some of the industrial property protection. As “know-how” is possible consider further information that has been obtained with the view of facilitation definite business activities. Some from sign know-how is usefulness for its user. The user reaches to positive produce by dispose and uses it that would no-reached without knowledge know-how. Holder know-how bottle up, to not become in universal general knowledge and not come to accessible, which would be negative on its value. Substantial characteristic know-how is usable by stranger.

Industrial design intends to protect the ornamental or aesthetic aspect of products (not their functionality). The design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colour. Industrial designs are applied to a wide variety of products of industry (technical and medical instruments, electrical appliances etc.). Formal and factual consideration including the requirement of novelty is in competence of the IPO (protection effective from the date of public notice in the IPO bulletin).

New plant varieties and animal breeds are protected by a breeding certificate issued by the Ministry of Agriculture, provided they are new, distinct, homogenous (identical in their basic features) and stable (after multiple reproduction). The authorship certificate grants an exclusive right to the owner to use the aforementioned in commerce.

Basic classification of reporting units that concluded a license agreement

The survey Lic 5-01 monitors and classifies the concluded license agreements and the volume of license fees paid or received according to:

- **Type of license agreement** (patent, utility model, know-how, industrial design, topography of semiconductor products, new plant varieties and breeds of animals).
- **Country of contracting partner**, both, as licensor and licensee
- **The production**, which is the subject of a license agreement. For production can be considered not only tangible products, waste and other secondary raw materials, parts, industrial products, finishing products and accessories for industrial products but also industrial and non-industrial work, services and activities that do not lead to the creation of new tangible products.

Basic classification of reporting units that concluded a license agreement is available by:

- **Type of licensors** defined on the basis of classifications listed in RES (legal form of organization, institutional sector (SECTOR) and principal economic activity (NACE)). We distinguish the following types of applicants: public universities, public research institutions, businesses, individuals, government and other public organizations, hospitals, associations and nonprofit organizations.
- **Regional sorting**, sorting by CZ-NUTS 3 (14 higher territorial administrative units)
- **Categories of organizations according to number of employees**: 0–9 employees, 10–49 employees, 50–249 employees, 250 and more employees.
- **Classification by main activity of economic subjects** (CZ–NACE is General Industrial Classification of Economic Activities).