

IRAN PATENTS LAW

Article 1 – An invention is the outcome of an individual or a group's mentality that offers a certain product or a process for the first time and provides a solution to a specific problem in a certain line of specialty, technique, technology, industry and the like.

Article 2 – An invention shall be patentable if it includes a new innovation, and is industrially applicable. An innovation includes anything that has not been anticipated by prior art and would not be obvious to a person having ordinary skills in the art. An invention shall be considered industrially applicable if it may be made or used in a given line of industry. "Industry" is to be construed in the broadest meaning of the word and shall include handicrafts, agriculture, fishery and services as well.

Article 3 – A "Letters Patent" is a document issued by the Industrial Property Office for the protection of an invention and the holder thereof may enjoy exclusive rights of the same.

Article 4 – The following shall be excluded from the scope of the protection of a patent:

- a) Discoveries, scientific theories, mathematical methods and works of art;
- b) Schemes, rules or methods for doing business, performing mental or social acts;
- c) Methods for treatment or diagnosis of human or animal diseases;

This subsection shall not include products falling within the scope of definition of the patent and those used in the said methods.

d) Genetic resources and genetic components comprising them, as well as biological processes for their production

e) Anything that has been already anticipated in industries and techniques.

Prior art is everything disclosed to the public, anywhere in the world, through written or oral publication, by practical use or in any other way, prior to the filing or, where appropriate, the priority date, of the application submission claiming the invention.

Disclosure of the invention within a six-month period before the filing date or, where appropriate, before invention application's priority date shall not prevent the grant of the patent.

f) Those inventions the commercial exploitation of which would be contrary to Sharia Rules, public order or morality shall not be patentable.

Article 5 – Naming the inventor in the Letters Patent and the right to Patent shall be as follows:

a) The right to patent shall exclusively belong to the inventor.

b) If two or more parties have jointly made an invention, the right to patent shall belong to them jointly.

c) Where two or more entities have made the same invention independently of one another, the person whose application has been filed earlier or, if priority is claimed, the person who can prove that they have validly filed his application earlier than other(s), shall have the right to register his invention provided that their application has not been withdrawn, abandoned or rejected.

d) The right to a granted patent may be assigned and in case of death of the person holding the right, it shall be transferred to his/her heirs.

e) Where an invention has been made in execution of an employment contract, the economic rights to the patent shall belong to the employer unless agreed otherwise in the respective contractual agreement.

f) The inventor's name shall be indicated in the Letters Patent, unless in a written declaration addressed to the Industrial Property Office, he/she indicates that he/she does not wish his/her name to be reflected therein. Any kind of statement or undertaking presented by the inventor to the effect that someone else's name shall be indicated as the inventor shall have no legal effect.

Article 6 – The application for registration of a patent which is submitted to the Industrial Property Office shall be made in Persian, shall specify the subject for which protection is sought, and shall be duly signed and dated. It shall contain a request, a description, claims, an abstract, drawing(s), if required. The applicant will be charged by the prescribed fees for filing the application.

The following points shall be observed for the purpose of preparation and submission of the application.

a) Name and other required particulars of the applicant, inventor and his/her legal representative, if any, and the title of the invention shall be indicated in the application;

b) Where the applicant is not the inventor, documents evidencing his legal capacity shall be submitted together with the application;

c) The claims indicated in the application shall be clear and concise and shall be accompanied by a description in a manner that is sufficiently clear and complete for a person having ordinary skills in the art and shall indicate, at least, one method for carrying out the invention. The abstract shall merely be for provision of technical information and it shall not be used to interpret the invention.

Article 7 – Until such a time that the application is not approved for grant, the applicant may withdraw his/her application.

Article 8 – The application shall consist in only one invention or a group of inventions that are linked in a manner that they form a single general invention. Failure to indicate the links between the parts thereof in the general invention shall not cause loss of effect of the Letters Patent. The applicant may, until the application is not accepted to be granted:

a) Amend the application, provided that the amendment does not exceed the scope of the description of the initial application;

b) Divide the application into two or more applications. The Divisional Application shall bear the same filing date, and where applicable, the same priority date of the initial application is valid.

Article 9 – The applicant may, along with his application and through a declaration, claim priority as prescribed by the Paris Convention for Protection of Industrial Property dated 20 March 1883 and its subsequent revisions. The priority right may be based on one or more national or regional or

international applications filed in any country or for a member state in Convention. If a priority is claimed:

- a) The Industrial Property Office shall request the applicant to furnish the said Office, within the prescribed time limit, with a copy of the earlier application certified by the Industrial Property Office with which it was filed.
- b) Once the request is accepted, it shall be subject to the protection as prescribed by the Paris Convention.

If the requirements of this Article and the Regulations pertaining to it are not duly complied with, the said declaration shall be considered as null and void.

Article 10 – At the request of the Industrial Property Office, the applicant must furnish the said Office with the number and date of any application for a patent filed by the applicant abroad, which identically and essentially relate to the same invention claimed in the application submitted to the Industrial Property Office. In addition, at the request of the Industrial Property Office, the applicant shall furnish the said Office with the following documents:

- a) A copy of any communication or notice relating to the results of any examination conducted in respect of the foreign applications that the applicant has received;
- b) A copy of the Letters Patent granted on the basis of the foreign applications;
- c) A copy of any final decision rejecting the foreign application or refusing the grant of the invention claimed in the foreign application.
- d) A copy of any final decision invalidating the Letters Patent issued on the basis of the foreign application.

Article 11 – The Industrial Property Office considers the date of receipt of the application as the filing date provided that at the time of its receipt the application contains the following:

- a) An express or implicit indication of the fact that granting of a patent is requested.
- b) Indications allowing the identity of the applicant to be established.
- c) A brief description of the invention.

If the Industrial Property Office finds that, at the time of filing, the application did not fulfill the above requirements, the said Office shall invite the applicant to file the required correction within a period of thirty days from the date on which the matter is communicated to the applicant. In this case, the filing date shall be accorded the same date of receipt of the said correction. However, if the required corrections are not made within the prescribed period, the application shall be considered as null and void.

Article 12 – Where the application refers to drawings which in fact are not included in or attached to the application, The Industrial Property Office shall invite the applicant to furnish the missing drawings. If the applicant complies with the said invitation and submits the required drawings, the said Office shall accord the filing date as the date of receipt of the missing drawings. Otherwise, the

Industrial Property Office shall accord as the filing date the date of receipt of the application and shall treat any reference to the drawings as non-existent.

Article 13 – After according the filing date, the Industrial Property Office shall examine whether the application complies with the requirements of this Act and the Regulations pertaining thereto and if it finds that the said conditions and requirements are duly fulfilled, it shall proceed to grant the patent. Otherwise, the said Office shall refuse the application and notify the applicant of that decision.

Article 14 – After granting the patent, the Industrial Property Office shall:

- a) Publish a reference to the grant of the patent;
- b) Issue the Letters Patent;
- c) Shall retain a copy of the Letters Patent in its files and, after the payment of the required fees, shall submit the original one to the applicant;
- d) Upon request of the holder of the Letters Patent, the Industrial Property Office shall make changes in the text or drawings of the patent in order to determine the extent of the protection conferred thereby, provided that the change would not result in the disclosure contained in the patent going beyond the disclosure contained in the initial application on the basis of which the patent was granted.

Article 15 – Rights Conferred by Patent shall be as follows:

a) The exploitation of the patented invention in Iran by persons other than the owner of the patent shall require the agreement of the latter. "Exploitation" of a patented invention includes any of the following acts:

(1)- If the patent has been granted for a product:

- (i) – making, exporting and importing, offering for sale, selling and using the product;
- (ii) – stocking such product for the purpose of offering for sale, selling or using;

(2)- If the patent has been granted concerning a process:

- (i) – using the process;
- (ii) – doing any of the acts referred to in paragraph (a) (1) of the present Article in respect of a product obtained directly by means of the process.

b) The owner of the patent shall, subject to subsection (c) hereof and Article (17), have the right to institute court proceedings against any person who performs any of the acts referred to in paragraph (a) above and infringes the patent rights or performs any other acts which will result in the infringement of their rights.

c) The rights under the patent shall not include the following:

1. The use of articles which have been put on market in Iran by the owner of the patent or with his consent.
2. The use of articles on aircrafts, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Iran.
3. Use conducted for experimental purposes relating to a patented invention.

4. The use by any person who in good faith, before the filing or, where priority is claimed, before the priority date of the same, was using the invention or was making effective and serious preparations for such use in Iran.

d) The right of the prior user referred to in paragraph (c)(4) may be transferred or devolve only together with the enterprise or business, or with that part of business or enterprise, in which the use have been made.

Article 16 – Subject to the present Article, Letters Patent shall expire 20 years after filing date of the application for patent. In order to maintain the Letters Patent or the patent application, an annual fee, which shall be fixed in the Regulations, shall be paid by the applicant to the Industrial Property Office for each year beginning a year after the filing date of the application and before the beginning of the next year. A grace period of six months shall be allowed for late payment of the annual fee on payment of the prescribed surcharge.

If the said annual fee is not duly paid, the patent application shall be deemed to have been withdrawn or the patent shall lapse.

Article 17 – The Government, or the person authorized by the Government, subject to following arrangements, may use the patent,

a) Where, in view of the respective Minister or the highest authority of the competent organization the public interest, including national security, nutrition, health or the development of other vital sectors of the national economy requires that the Government, or any person exploit the invention, and or the manner of exploitation, by the owner of the patent or his licensee, is anti-competitive and the concerned authority is satisfied that the exploitation of the invention would remedy such problem, the matter will be discussed in a Committee comprising of Head of the State Organization for Registration of Deeds and Properties, one of the Judges of the Supreme Court as nominated by the Head of the Judiciary, the Attorney General, representative of the President of I.R. of Iran and the Minister or the highest authority of the concerned organization. If approved a government agency or a third party, designated by the said Committee, may exploit the invention without the consent of the owner.

b) The exploitation of a patent shall be limited to the purpose for which it was authorized and shall be subject to payment to the said owner of an adequate remuneration thereof, taking into account the economic value of the decision. If the owner or any other interested party wishes to be heard, the Commission shall render its decision after having heard their statements and taking into consideration the exploitation in anti-competitive practices. The Commission may, upon request of the owner of the patent, or the Government agency or the third party authorized to exploit the patented invention, after hearing both or either of the parties as appropriate and necessary, proceed to make a fresh decision.

c) If the holder of the patent claims that, the circumstances that led to making the decision have ceased to exist and are unlikely to recur or if he claims that the Government agency or third party

designated by Committee has failed to comply with the terms of the decision, the matter shall be discussed and examined by the Committee and after hearing the patent owner, the Minister or the highest authority of the concerned organization and the exploiter, the exploitation permit shall be terminated and, as the case may be, the authorization shall be issued for the owner or another exploiter. However, the authorization shall not be terminated if, subject to the provisions of the present paragraph, the Committee is satisfied that the need for adequate protection of the legitimate interests of the persons who have obtained the authorization justifies the maintenance of the decision.

In cases where a third person has been designated by the Commission, the authorization may only be transferred with the enterprise or business of that person or with the part of the enterprise or business within which the patented invention is being exploited.

d) The authorization provided for in the present Article shall not impede the following acts:

1. The conclusion of a License Contract by the owner of the patent, subject to provisions of the present Article;
2. The continued exercise, by the owner of the patent, of his rights under Article 15(a);
3. The issuance of a non-voluntary license under subsections h (1) and (2) of the present Article

e) The request for the Commission's authorization shall be accompanied by the evidence that the Government agency or the authorized person has submitted a request to the owner of the patent for a license, but that the said person or agency has been unable to obtain such a license on reasonable terms and conditions and within a reasonable time.

Provisions of this subsection shall not apply in cases of emergency arising from national interests or cases of Force Majeure, at the total discretion of the Committee, provided that in such cases the owner of the patent shall be notified of the Commission's decision as soon as possible.

f) The exploitation of the invention by the Government agency or a third person designated by the Committee shall be predominantly for the supply only in Iranian market.

g) The authorization issued by the Commission for exploitation of a patent in the field of semi-conductor technology shall be authorized only for public non-commercial use or where the Minister or the highest ranking authority of the concerned organization has determined that the manner of exploitation of the patented invention, by the owner of the patent or his licensee, is anti-competitive.

h) The non-voluntary exploitation authorization may be issued in the following cases under the following conditions:

1. If it is claimed in a Letters Patent that the patent cannot be exploited without using an earlier patent and that the later patent, compared to the earlier patent, involves an important technical advance and is of considerable economic importance, the Industrial Property Office, upon the request of the owner of the later patent, may issue an authorization for using the earlier patent to the extent necessary, without consent of its owner.

2. Where a non-voluntary license is issued under subsection (1) above without consent of the owner, the Industrial Property Office, upon the request of the owner of the earlier patent, shall issue a non-voluntary license in respect of the later patent as well.

3. In case of a request for the issuance of a non-voluntary license under subsections (1) and (2) hereof, the decision issuing the non-voluntary license shall fix the scope and function of the authorization and the amount of the adequate remuneration to be paid to the owner of the patent and the conditions of payment.

4. In case of a non-voluntary license issued under subsection (1) above, its transfer shall be authorized only with the later patent, or, in the case of a non-voluntary license under subsection (2) above, only with the earlier patent.

5. The request for the issuance of a non-voluntary license shall be subject to the payment of the prescribed fee.

6. In case of a non-voluntary license issued under subsections (1) and (2) hereof, subsections (b) to (f) and (i) of the present Article are still valid.

i) Appeals may be lodged with the Public Courts of Tehran against resolutions of the Commission made within the scope of the subsections of the present Article.

Article 18 – Any interested person may request the Court to invalidate a Letters Patent. If the person requesting the invalidation proves that any of the requirements of Articles 1, 2, 4, the first sentence of Article 6 and Article 6(c) are not fulfilled or if the owner of the patent is not the inventor or his successor in title, the court shall invalidate the Letters Patent.

Any invalid patent, or claim or part of claims, shall be regarded as null and void from the date of the grant of the patent. The final decision of the Court shall be notified to the Industrial Property Office, which shall record it and, upon payment of the prescribed fees, shall publish a reference thereto as soon as possible.

Article 19 – If the owner of the patent decides to use/work a patented invention, the State Organization for Registration of Deeds and Properties, shall notify the concerned organization(s) within a period of one week.

The said organization(s) shall issue their opinion on the possibility of exploitation of the patent within a maximum period of two months and shall notify the result for the purpose of issuance of the exploitation permit to the State Organization for Registration of Deeds and Properties in writing.