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## THE LAW OF REGISTRATION OF PATENTS, INDUSTRIAL DESIGNS AND TRADEMARKS

### The Law of Registration of Patents

**Article 1-** A patent is the fruit of the intellectual endeavours of one or more individuals who, for the first time, come up with a special new process or product and solve a problem in a vocation, trade, technology, industry and the like.

**Article 2-** A patent, in order to be accepted for registration, needs to contain new initiative for application and industrial usage.

By new initiative, it is meant the elements that did not exist in the previous technology or industry and were not known to ordinary holders of skills in that profession. Such initiative need to be an applied invention and innovation from an industrial prospect that can be manufactured or used in an industrial field.

By industry, the vastest application, including handicrafts, agriculture, fishing and services, has been taken into consideration.

**Article 3-** A letters patent is a document proceeding from the Department of Industrial Property conveying a patent right. A holder of such Letters Patent shall become entitled to the exclusive rights derived from such letters patent.

**Article 4-** The following instances may not be covered by protection under letters patent:

- a- Discoveries, scientific theories, mathematical methods and works of art.
- b- Designs, procedures or methods for carrying out commercial activities and other intellectual and social activities.
- c- Methods of diagnosis and treatment of human or animal diseases.
- d- Genetic resources and genetic components thereof as well as the biological processes of their production.
- e- Any and all matters already known in technologies and industries of the past.

By previous technology and industry already existing, it is meant any and all matters already known in any part of the World in the form of written or oral disclosure or already put into use, prior to filing application or in the instances of priority rights, under a statement for registration of patent.

In cases where the disclosure of a patent has been made during the six month period prior to filing the statement of registration of patent or six months prior to the date of priority of letters patent, such disclosure shall not prejudice registration.

- f- The patents the exploitation of which shall be contrary to the Rules of Sharia or public order and good social morals.



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**Article 5-** The conditions for declaring the name of an inventor by means of a letters patent and Property of patent rights shall be as follows:

- a- Patent rights shall belong exclusively to the inventor thereof.
- b- The exclusive patent rights of an invention made jointly by two or more individuals, shall jointly belong to them.
- c- If two or more individuals make a similar invention, independent of one another, the individual who first submitted a statement of the patent or who shall prove to have first submitted such statement without withdrawing or leaving same unattended, shall have the right of registration in his/her name.
- d- The rights under letters patent may be freely transferred and made over to another. In case of death of a holder of letters patent, the rights there under shall be transferred to the heirs.
- e- The material rights deriving from an invention made by an individual under the employment of another or while acting under an agreement for another, shall belong to the employer unless otherwise was provided in the agreement.
- f- The name of the inventor shall be indicated in the letters patent unless the inventor shall request the Department of Industrial Property Rights, in writing, that his/her name shall not be mentioned in the letters patent. Any statement or undertaking by an inventor that the name of another individual shall be indicated in the letters patent instead of that of the inventor shall be null and void.

**Article 6-** A statement of registration of patent given to the Department of Industrial Property shall explicitly define the object for which protection has been sought and shall be made in Persian with date, signature, and a description of claimed patent with the drawings, if required.

The costs of registration of statement shall be collected from the applicant of registration of patent.

In preparing and filing a statement of patent, the following instances shall be observed:

- a- The name and other particulars of the applicant, the inventor and his/her legal representative, the title of the patent, if any, shall be inserted in a statement.
- b- In cases where the applicant of registration of a patent is not the inventor, documents regarding the proxy shall be submitted together with the application.
- c- The claimed patent shall be concisely and expressly mentioned in the statement of registration in a manner that such description shall be quite explicit and conclusive for a person with ordinary skill in the pertinent technology and must provide, at least, one executive procedure for the invention. The descriptive abstract shall be given for the purpose of introducing the technical data and no reference may be made to the scope of protections, in the said abstract.

**Article 7-** An applicant of registration of a patent, so long as his statement of registration of patent has not been accepted, shall have the right to withdraw the statement of registration.



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**Article 8-** The statement of registration of patent may refer to only one invention or a number of inventions that form a general invention. Failure to describe the relations among the said components shall not render the letters patent invalid.

An applicant of registration, so long as his statement has not been accepted, shall have the right:

- a- To certify and amend the statement. Provided, however, that amendments shall not exceed the scope of the initial statement and,
- b- To divide the patent into two or more statements. As divided statement shall have the date of the initial application and shall be subject to the priority right of the initial statement, if protection shall be sought.

**Article 9-** An applicant, while filing a statement of registration of patent, shall have the right to apply for the priority right envisaged in Paris Convention for Protection of Industrial Property Rights, 1883 and its subsequent amendment, through filing a declaration in this regard. Priority right may be applied for one or more national, regional or international statements submitted in each member country of the said Convention or for each country.

Upon submission of a request for the grant of a priority right certificate,

- a- The Department of Industrial Property shall ask the applicant to provide a copy of the statement of registration of patent certified by the Registrar in charge of registration of the statement of registration that formed the basis of application for issuance of the certificate of priority right, within a certain respite.
- b- Upon acceptance or the request for (issuing the certificate of) priority rights, the protections envisaged in the above Paris Convention of 1883 shall cover the certificate of priority.

In case of failure to comply with the conditions set forth in his Article and the pertinent regulations, the above said certificate shall be considered null and void.

**Article 10-** Upon request by the Department of Industrial Property, an applicant shall provide the number and the date of filing a statement of registration of patent outside Iran that must fully correspond to the shape and nature of the patent described in the statement of registration submitted to the above Department in Iran, together with the following documents:

- a- Photocopies of any correspondence or notice that the applicant received on the results of examinations carried out in respect of the statements that applicant filed outside Iran.
- b- Photocopy of the letters patent issued on the basis of statements filed overseas.
- c- Photocopies of any final decision on refusing foreign statements filed or refusing registration of the claimed patent for which registration was applied through foreign statement of patent.
- d- Photocopies of any final decision that rendered the letters patent issued on the basis of the statement filed outside Iran, null and void.



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**Article 11-** The Department of Industrial Property shall deem the date of application as the date of statement. Provided that the statement, on the date of filing, contained the following information:

- a- Explicit or implied indication that the request is being given for the registration of an invention (patent)
- b- Indication of the facts that render the identification of the applicant possible.
- c- And abstract description of the patent.

If the Department of Industrial Property decides that a statement, at the time of filing, was devoid of the above conditions, shall call upon the applicant to remedy the defects within 30 days after the date of receiving notice. The date of application shall thus be regarded as the date of remedy of the defects.

If the defects shall remain without rectification after expiry of the respite allowed therefore, the statement shall be considered null and void.

**Article 12-** If, in a statement of registration of patent, reference will be made to drawings but such drawings will not be provided as a part of the text or in the form of attachments, the Department of Industrial Property shall call upon the applicant to provide the drawings. If the applicant shall act according to the call and shall submit the drawings, the Department of Industrial Property shall consider the date of handing over the drawings as the date of statement. Otherwise, the said Department shall consider the drawings to be null and void and shall consider the date of submission of the statement as the date of application for registration.

**Article 13-** After taking note of the date of application for registration, the Department of Industrial Property shall review the statement of registration of patent in order to ensure compliance of the statement with the regulations of this law and the pertinent executive by-laws. The Department shall proceed with the registration of the patent if the Department finds the statement to be in compliance with the above statutory terms and conditions. Otherwise, the said Department shall refuse to register the statement and shall inform the applicant of such refusal.

**Article 14-** The Department of Industrial Property shall take the following actions after registration of patent:

- a- Publication of a notice of registration of patent (one time )
- b- Issuing the letters patent.
- c- Filing a copy of the letters patent and handing over the original copy thereof, after collecting the pertinent fee, to the applicant.
- d- The Department of Industrial Property may make changes in the description and drawings as the request of the holder of letters patent for the purpose of fixing the limits of protection. Provided that such changes shall not go beyond the scope of information supplied through the initial statement of registration on the basis of which was registered.

**Article 15-** The rights under letters patent are the following:



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- a- Exploitation and making use of registered invention by a person other than the owner of patent shall be subject to acceptance and agreement by the owner.

Exploitation and making use of registered patents shall be in the forms described below:

- 1- If the patent shall be a product:

- i- Through manufacture, exports, imports, offering for sale, sale and disposing of the product.
- ii- Stockpiling for the purpose of sale, sale or disposing of the product.

- 2- If the patent shall be a process:

- i- By using the process.
- ii- By carrying out the instances described in Para 1 of Sub-clause "a" above in respect of the commodities directly produced through the registered process.

- b- A proprietor may lodge complaint with court in compliance with Sub-clause "e" of this Article and Article 17 below against anyone who, without permission by proprietor, shall make the exploitations enumerated in Sub-clause "a" above and infringes the rights of the proprietor or takes any action that shall lead to infringement of the rights of the proprietor of a patent.

- c- The rights under a letters patent shall not include the following instances:

- 1- The use of commodities supplied to the market in Iran by the proprietor of patent or with his consent and agreement.
- 2- The use of the equipment being the subject of the patent in aircraft, road vehicles or ships of other countries entering Iranian air, Land or sea borders, temporarily or accidentally.
- 3- Exploitation and employment of a patent solely for experimental purposes.
- 4- Exploitation and use of the patent by any person in Iran with good intention, prior to the date of filing a statement of patent or prior to the date of filing request for issuing a certificate of a priority of the same patent (in cases where a certificate of priority has been required) where such person has been using the patent or has taken effective and serious actions towards preparation thereof for use in Iran.

- d- The rights of a previous user described in Part 4 of Sub-clause "c" above may be transferred or assigned only in case the business or the commercial entity or part thereof that was using the patent or took initial steps towards usage, shall also be transferred or assigned.

Article 16- A letters patent issued according to the provisions of this present Article shall expire after twenty years form the date of submitting a statement of the patent. In order to keep a letter of patent or a statement of patent valid, after the lapse of one year from the date of filing the statement and prior to the beginning of each year, a sum of money that shall be fixed in the executive by-laws of this law shall be paid by the applicant to the Department



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of Industrial Property. Delay in payment, up to a maximum of six months, in case of payment of the accruing penalty, shall be permitted. If the above annual charges shall not be paid, the pertinent statement of registration of patent shall be deemed as withdrawn and the letter of patent shall be without activity.

**Article 17-** The Government or a person authorized by the Government may exploit and use a patent in compliance with the following provisions:

- a- In cases where, in the opinion of a minister or the highest authority in the government organization concerned the interests of the public in such matters as the national security, nutrition, hygiene or development of vital economic sectors of the country shall require that the Government or a third party shall exploit and make use of a patent or if exploitation by proprietor or the person authorized on his behalf shall be inconsistent with free competition and, in the opinion of the said authority, exploitation and making use of the patent shall solve the problem. Under the above circumstances, the issue shall be referred to a committee comprising the Head of the Organization for Registration of Deeds and Property, one of the judges of the Supreme Court designated by the Head of Judiciary, Attorney General, the representative of the President and the minister or the highest authority in the relevant organization. In case of approval by the said Committee, a Government Organization or a third party designated by the Committee shall exploit and use the patent without the consent and agreement by proprietor thereof.
- b- Exploitation and use of patent shall be limited to the purpose envisaged in the relevant permit and shall be subject to payment of appropriate compensation to the proprietor thereof by taking into consideration the economic value of the object of permission. If the proprietor of the patent or any other interested party shall have any remarks, the Committee above shall review and examine the said remarks and shall decide about exploitation in non-competitive activities.

The Committee may, on the request of the proprietor of patent, the government organization or a third party that was permitted to use the patent, review the statements of the parties or any one of them in respect of a required matter and take appropriate new decision.

- c- If the proprietor shall claim that the circumstances that gave rise to the decision adopted by the Committee no longer exist and such circumstances may not be repeated or if the proprietor claims that the government organization or the third party designated by the Committee failed to act according to the conditions set forth by the Committee for the use of patent, the said claims shall be brought to the attention of the Committee. In the session, statements by proprietor, the minister or the highest authority of the exploiting organization shall be heard. The Committee may then revoke the permit given for the said exploitation and permit shall be issued for exploitation by proprietor or another exploiter.



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If the Committee decides that the circumstances that gave rise to the original decision of the Committee still persist and that the legal rights of those who obtained the original permit of the Committee must be maintained, the Committee shall not revoke the original decision.

In cases where permission for exploitation has been given to a third party by the Committee, such permit may be transferred or assigned only in case the business or the commercial entity, or part thereof that was allowed to exploit the patent, shall also be transferred or assigned.

d- Permission for exploitation under this Article may not prevent the following acts:

- 1- Conclusion of contract for exploitation by the holder of letters patent through compliance with the provisions of this Article.
- 2- Continued exploitation of the rights granted by the holder of letters patent, according to Article 15.a above.
- 3- Grant of permission for exploitation with no consent required according to Paras (1) and (2) of Sub-clause "h" below.

e- Request for exploitation to be given to the above Committee need to be supported by documents evidencing that the government organization concerned or the person authorized on behalf of the said organization demanded exploitation and usage right from the owner of patent, but failed to receive permission under reasonable conditions within a normal period of time.

Compliance with the above procedures, in case of emergency resulting from national interests or existence of the conditions of force majeure in Iran, shall be fully at the discretion of the Committee. Provided, however, that the owner of patent shall become aware of the decision of the Committee within the shortest possible delay.

f- Exploitation of patent by a government organization or a third party designated by the Committee shall be possible for supply to the market, in Iran.

g- Permission for exploitation given by the above Committee in respect of semi-conductors shall be possible only if the exploitation concerns non-commercial, public purposes or in case the minister or the highest authority in rank in the user organization shall consider the usage of patent by the owner or users thereof to be non-competitive.

h- A permit for exploitation may be issued without the consent of the owner thereof also in the following cases and according to the criteria described below:

- 1- If, in the letters patent, provision has been made that the new invention cannot be used without combining a previously registered patent and the new patent, compared with the old one, brought major technological advancement of high economical value.



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In such case, the Department of Industrial Property, on the request of the holder of the more recent patent, shall grant permission also for the use of the previously patented invention without the consent of its owner, to the extent required by the owner of the recent patent.

- 2- In cases where according to Para (1) above, the permit for exploitation shall be issued without agreement by owner thereof, the Department of Industrial Property, on the request of the preceding patent, shall also issue the permit for the exploitation of the latter invention without obtaining the consent and agreement of its owner.
- 3- In case of requests for grant of exploitation license without taking the agreement and consent of the owner thereof according to Paras (1) and (2) above, a decision shall be adopted by the above Committee for grant of any one of the above permits. In the said decision, the limits, application and a suitable compensation that shall be payable to the owner of the patent as well as the conditions of payment shall be included.
- 4- For the purpose of transfer of permission granted for exploitation according to Para (1) above, also the latter new patent need to be included in the transfer. Likewise, in the case of transfer of exploitation license granted according to Para (2) above, the former, old patent shall also be required to be included in the transfer.
- 5- Request for grant of exploitation license (permit) without agreement by owner, shall be subject to payment of charges.
- 6- In case of issuing exploitation license without agreement on the part of the owner thereof, enforcement of Paras (1) and (2) of this present Sub-clause and Sub-Clauses "b" to "f" as well as Sub-clause "h" shall be possible.

Resolutions of the above Committee concerning the various Sub-Clauses of this present Article may be objected to by filing plaint with the public court in Tehran.

**Article 18-** Any interested party shall have the right to ask the court for cancellation of letters patent.

If the said interested party shall be able to establish the fact that any one of the conditions set forth in Articles 1, 2, 4 and the upper part of Article 6 and Sub-clause "c" thereof has not been complied with or the owner of the patent is not, in fact, the inventor or a legal substitute of the inventor, judgment shall be given by court for cancellation of the letters patent.

A letters patent or claim for invention or a part thereof that shall be cancelled in the above manner, shall be regarded as null and void as of the date of registration.

Final judgment of the court shall be served on the Department of Industrial Property.

The said Department shall register the judgment and shall arrange publication of the relevant notice within the shortest possible delay, after receiving the costs of publication of the notice.





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**Article 19-** If the owner of a patent shall decide to use the patent by putting it to exploitation, the Organization for Registration of Deeds and Properties shall inform the Organizations concerned of the above decision no later than one week.

The said organizations shall furnish their opinion regarding the possibilities of exploitation of a patent within a maximum period of two months to the Organization for Registration of Deeds and Prosperities in order that an exploitation license may be issued by the said Organization.