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Draft Amendments in track changes

Decree of President of Government of Islamic Republic of Afghanistan regarding signing

The Law

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Oen the Support of the Rights of Inventors and Discoverers

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In the Name of Allah, the Beneficent, the Merciful

The Law
On the Support of the Rights
of Inventors and Discoverers.

Chapter 1
General Provisions

Basis

Article 1:

This Law has been enacted pursuant to ~~the~~ Article 47 of the Constitution of Afghanistan to protect material and intellectual rights of the inventor and discoverer and to regulate other related affairs.:

Objectives

Article 2:

The following are the objectives of ~~t~~ this Law:

- 1- To protect and guarantee the intellectual property rights of the inventor and discoverer.
- 2- To support and encourage scientific researches in the fields of science and technology (invention and

5- Capable of Industrial Application: A claimed invention shall be considered industrially applicable if, according to its nature, it can be made or used in any kind of industry. "Industry" shall be understood in its broadest sense.~~Industry: Means human economic activity as the result of which natural substances are converted into manufactured goods and services.~~

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Non-registration

Article 7:

Notwithstanding ~~paragraph 1 of this~~ Article 6(3) of this Law, the following inventions and discoveries are not eligible for patent protection:

- 1- A financial chart.
- 2-

Article 9:

The application for registration shall have the following annexes:

- 1- Description of the

- 5- Subject of the invention or discovery.
- 6- Term of validity of the pPatent fForm.
- 7- Registration number and term of validity of the pPatent fForm-~~in~~ abroad.
- 8- Registration date of the pPatent.
- 9- Signature of the in charge of the office.
- 10- Signature of the inventor, discoverer, or their legal representative.

2) Any alteration or complementation of the invention or discovery, total or partial conveyance thereof with due observance of the provision set forth under paragraph (1) of the present Article shall also be registered with the relevant office.

Form of the Registered Invention or Discovery:

Article 12:

1) The Invention or dDiscovery form containing the following points shall be submitted after being registered in the name of the inventor, discoverer or in the name of their legal representative:

- 1- Date of the Invention or dDiscovery.
- 2- Registration number and date of the invention or discovery.
- 3- File number of the inventor or discoverer.
- 4- Subject matter of the invention or discovery.
- 5- Submission date of the application.
- 6- Full name and address of the inventor, discoverer or their legal representative.
- 7- Term of validity of the pPatent fForm.
- 8- Registration number of the term of validity of the invention or discovery outside Afghanistan.
- 9- Signature of the head of the office.
- 10- Number and issue date of the pPatent fForm.

2) Copy of a summary description of the invention or discovery and the relevant drawings shall be sealed and attached to the pPatent fForm.

Term of Validity of the Form

Article 13:

1) The term of validity of the

Publication of the Invention or Discovery

Article 14:

The relevant office shall, within one month at a maximum following registration of an I invention or dDiscovery, be required to publish a notice containing the following points in the Official Gazette at the cost of the I invention or dDiscovery.

- 1- Subject of the I invention or dDiscovery.
- 2- Full name and address of the inventor or discoverer.

3) Where a ~~p~~Patent is transferred in accordance with the provision of the present ~~LawAct~~, the application for re-registration shall contain the following information:

- 1- Previous registration number in Afghanistan
- 2- Full name, address and citizenship of the transferee.
- 3- Full name and address of the legal representative of the inventor or discoverer in Afghanistan.
- 4- Where a patent is transferred from outside the country, the local office shall register the said transference which document shall be accepted as the deed of conveyance.

Submission of the Permit for Making use of the Patent

Article 18:

The relevant office shall, after thoroughly scrutinizing the application for registration and ensuring its conformity to the provisions of the present ~~LawAct~~ and the pertinent regulation, take action concerning the registration thereof, and shall publish the registration number of the invention or discovery, as well as a summary of the contents of the permit and deliver the document to the transferee.

Using ~~C~~omplementary Invention or Discovery in ~~L~~ieu of the Original Invention or Discovery

Article 19:

Where the application for the complementary-~~I~~ invention or ~~d~~Discovery is a person other than the inventor or discoverer, he cannot register the complementary ~~I~~ invention or ~~d~~D

1) Changing the name, address and citizenship of the representative of the inventor or discoverer in Afghanistan shall not be permitted unless the change has been registered.~~An inventor or discoverer may make entry of a change in the term of validity of his/her Invention or Discovery form, and shall be obligated to register it in accordance with the provisions of th~~

| 4) A description of the ~~I~~invention or ~~d~~Discovery and the supplements thereof, drawings and other documents shall be arranged on a standard A4 sheet of paper in such a way as to bear the signature of the inventor, discoverer or their legal representative on the blank back of the sheet.

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Conveyance documents, power of attorney and a registration form of I invention or dDiscovery shall be supplemented to the application. The I invention or dDiscovery form shall, following registration of transference, be returned to the owner thereof.

Rejection of the Application and Supplements Thereof

Article 28:

Where the application for registration of an I invention or dDiscovery has been rejected, the following documents shall also be supplemented thereto:

- 1- The original or copy of the decision by virtue of which the registration application has been rejected.
- 2- Objections raised by the applicant concerning rejection of the application.
- ~~3~~—A power of attorney where the application has been submitted by the legal representative of the inventor or dDiscoverer.

Chapter 4

Registration of Invention or Discovery Made by Aliens Patent Rights; Limitations

Registration Terms and Condition

Article 29:

Any natural or legal person who, before the filing date or priority date of a patent was, in good faith, using within the territory of Afghanistan an invention which is the subject matter of that patent, may, despite the

1) Where the person applying for registration does not reside in Afghanistan, he shall be required to specify his address in Afghanistan, or shall provide another authorized person who is a citizen of Afghanistan to furnish information and documents related to the Invention or dDiscovery.

with the provisions of the present law, and /or on the basis of the court order it has been determined that the owner is someone else other than the applicant.

Supplement to Application

Article 36:

A certified copy of the exclusive right in respect of the patent and its pertinent specifications shall be attached to the application for registration with due observance of the provision set forth under Article 9 of the present [ActLaw](#). Where the certified copy is in the English language, its precise translation in one of the official languages of the country shall, after being certified, also be attached.

Publication of the Application

Article 37:

The relevant office shall, after confirming the application for registration of the exclusive right in respect of a foreign invention, be required to publish information pertaining to the exclusive right in the media prior to registration thereof.

Chapter 5

Judicial Decisions

Protest

Article 38:

Any protest based on the ownership right concerning the application for registration of a patent shall only be

Post-registration Protest

Article 41:

An applicant for rebuttal of the registered patent to the following attachments shall be submitted to the relevant office:

- 1- A document certified by the office pertaining to the patent Form the rebuttal of which has been requested
- 2-

1) The protester may, within 60 days following the date on which the protest against the person applying for registration has been communicated, resort to the court unless the person applying for registration has served him with a rebuttal prior to expiration of this time in accordance with the provision set forth under Article 43 of the present Law.

2) Where the plaintiff did not resort to the court within the time provided for under paragraph (1) of the present Article, the registration office shall, taking into account the decision of the court, register the patent in the name of the respondent. In this case the amount which he had paid for registration of the patent shall be deposited into the state's revenues account.

Moratorium

Article 45:

1) Where the plaintiff has failed to attach his documents and papers to proceedings of the case, the court may, on the basis of his request after hearing, and if necessary, grant him a moratorium not exceeding 3 months.

2) A moratorium provided for under paragraph (1) of the present Article can also be granted to the person applying for registration in order to submit documents necessary for his defense.

Cancellation Referral to the Court

Article 46:

Any beneficiary may submit an application to a competent court to issue an order concerning cancellation of the patent in the following instances:

1- Where the invention or discovery does not meet the criteria of eligibility for registration set out at Article 7(1) of this Law, or is ineligible for registration under Article 7(2).

2- Where the invention or discovery has not been worked for five years following issuance of the pPatent fForm, and where a compulsory license on the invention or discovery has been granted but has not been

Precautionary Measures

Article 47:

The pertinent court shall have the authority to order, in accordance with applicable regulations, provisional measures to prevent an infringement of any rights under this Law, or to preserve evidence relevant to an alleged infringement. Where appropriate, such measures may be adopted without notice or hearing afforded to the defendant, in particular where any delay is likely to cause irreparable harm to a right holder, or where there is a demonstrable risk of destruction of evidence.

~~1) A plaintiff may, concerning the exclusive right in respect of his Invention or Discovery ask the competent court at any time to issue an order for sequestration of forged or imitative products, or may ask the court to issue an interim order for non-production, sale or entry of forged or imitative goods.~~

~~2) The court shall, in order to compensate for damages incurred by the respondent, require the plaintiff to provide an appropriate guarantee prior to issuing an interim order for sequestration of products or for non-production, sale or entry of goods.~~

~~3) Where the plaintiff fails to file a case within 10 days following the issuance of the court's order, he shall be required to compensate for damages incurred by the respondent,~~

Date of Enforcement

Article 50:

| The present Law shall come into force on the date which it is published in the Official Gazette.