

Decree of President of Government of Islamic Republic of Afghanistan regarding signing The Law on Support the Rights of Inventors and Discoverers

Number: 64

Date: 31 July, 2008

Article 1:

I am signing The Law on Support the Rights of Inventors and Discoverers pursuant to the article 79 of Constitution of Afghanistan which is confirmed in 6 chapters and 50 articles based on approval # 19 dated 24/4/1387 of ministerial council.

Article 2:

Minister of Justices and Government Minister in parliamentary affairs are held responsible to present this decree within 30 days from the date of first National Assembly meeting.

Article 3:

The decree from the date of signature shall be enforced and be published along the law in the official gazette.

Hamed Karzai

President of Islamic Republic of Afghanistan

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Chapter One

General Provision

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Using complete disclosure in lieu of the 375(510)33(071712g)31

In the Name of Allah, the Beneficent, the Merciful

The Law on support 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 Discovery).
- 3-

- 5- Industry: Means human economic activity as the result of which natural substances are converted into manufactured goods and services.
- 6- Compulsory License: A written document issued by the registration office and on the basis of which a third person makes use of the invention and discovery without the consent of the patentee.

Exclusive Rights

Article 4:

An invention or discovery shall be the exclusive right of the person who invents or discovers and shall be supported if it has been registered in accordance with the provisions of this law

Implementer of Law.

Article 5:

The Ministry of Commerce and Industries shall be the real source of implementing this law.

Chapter 2

Registration of Patents

Terms and Conditions of Registration

Article 6:

- 1) The inventor, discoverer or their legal representative may submit an application for registration of their patent to the office of intellectual property of the Ministry of Commerce and Industries.
- 2) The inventor, discoverer or their legal representative shall, after the application for registration has been confirmed, deposit an amount of money as registration fee in the revenue account of the state with the bank, which shall not be refundable.

Non-registration

Article 7:

The following inventions and discoveries are not registrable:

- 1- A financial chart.

- 2) The registration office shall, within 15 days of receiving the application and the annexes thereof, be required to check compliance thereof with the pertinent law and regulation and shall make a decision, and shall apprise the applicant in writing in case of defects being observed therein.
- 3) An applicant if a citizen of Afghanistan shall decide within two months and if an alien shall decide within six months to correct the defects being observed in the documents, and where reasons have given, this period can be extended for one more period.
- 4) Where the applicants fail to take action to correct th

- 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 Patent Form.
- 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 Patent Form.

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

Term of Validity of the Form

Article 13:

- 1) The term of validity of the Invention or Discovery form shall, as requested by the inventor or discoverer, be up to (20) years.
- 2) The inventor, discoverer or his or her legal representative shall have the exclusive right to use, manufacture

New Invention or Discovery

Article 16:

Any Invention or Discovery complementing the existing invention or discovery which has already been published in the mass media and / or used prior to the date of application for registration inside or outside Afghanistan shall be deemed as a new invention or discovery.

Transfer of Patent Rights

Article 17:

- 1) The patentee may, in accordance with the provisions of the present law, transfer his exclusive right in respect of a patent which has been registered in Afghanistan to a third person.
- 2) Where the Patent Form is transferred by way of inheritance, the new patentee may only enjoy the rights thereof in accordance with the provisions of the present Act provided he has reregistered it. The registration office shall record the said registration on the relevant page of the Invention or Discovery and shall publish it in the official Gazette.
- 3) Where a Patent is transferred in accordance with the provision of the present Act, 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 Act 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.

complementary Invention or Discovery form, submit to the relevant office an application for the registration of the unit.

Description of a Patent

Article 29:

An alien inventor or discoverer may, in accordance with the provisions of the present law, apply for the

Certification of Patent Right

Article 33:

1) The person applying for registration shall be deemed

2) The Compulsory License shall be issued with due observance of the following conditions:

- 1- Determining limits of the use of the license.
- 2- Determining the duration within which the holder of the license will commence use of the invention or discovery.
- 3- Fixing the amount of money payable to the owner of the exclusive right and payment conditions thereof.

3) Where the owner of exclusive right in respect of a patent convinces the relevant office by giving reasons by

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

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,

- 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,

Chapter 6

Final Provision

Amount of the Registration Fee

Article 48:

The amount of the registration, conveyance or assignment fee as well as the fee of Compulsory License of the Patent shall be determined by a separate regulation.

Enactment of Regulations and Procedures

Article 49:

The ministry of Commerce and Industries may process regulations and adopt by-laws and procedures for better implementation of the provisions of the present Law.

Date of Enforcement

Article 50: