

# The Law of the Republic of Armenia

3. A patent for an invention shall have effect for 20 years, when the patent was granted on a basis of a substantive examination (principal patent), or for 10 years, when it was granted without carrying out of a substantive examination of an invention ( preliminary patent), a patent for an industrial design - for 15 years and a patent for a utility model- for 10 years as from the filing day of an application.

4. The scope of legal protection afforded by a patent for an invention or for a utility model shall be determined by their claims and the scope of legal protection afforded by a patent for an industrial design shall be determined by the sum of its essential features as shown on the photographs of the article (the model or design) in which it is to be embodied and which were enumerated in the description of the industrial design.

5. The use or exploitation of inventions, utility models and industrial designs that are considered secret by the State and the publication of any particulars concerning them shall be governed by the procedure determined under the legislation of the Republic of Armenia.

6. No legal protection shall be afforded to inventions, utility models

- 4) methods and rules for performing mental acts;
- 5) algorithms and programs for computers;
- 6) projects and plans for structures and buildings and for land development;
- 7) proposals concerning the outward appearance of manufactured articles and intended to satisfy exclusively aesthetic requirements;
- 8) plant varieties and animal breeds.

## **Article 6. Conditions of Patentability for Utility Models**

1. Any new and industrially applicable solution that concerns the constructional embodiment of means of production and consumer articles or parts thereof (conditions of patentability for utility models) shall enjoy the protection afforded by the Law as a utility model.

2. A utility model shall be considered to be new if it does not form a single part of the state of the art.

3. The state of the art shall consist of all generally available information published anywhere in the world before the priority date of the claimed utility model, with respect to means having the same purpose, and of information on the application of such means in the Republic of Armenia. The state of the art includes also the subject matters of the inventions and the utility models, disclosed by the applications submitted to the Office with an earlier priority date, provided that the latter will subsequently publish the said applications or patents granted on the basis thereof.

4. Disclosure of the subject matter of a utility model by the author (or applicant) or by any person having obtained the information directly or indirectly from the latter (the burden of proof of the foregoing shall be on the applicant) shall not affect patentability on condition that it took place no earlier than 12 months preceding the filing date of the application or, if an earlier priority date is claimed, no earlier than 12 months preceding such date.

5. A utility model shall be considered to be industrially applicable if it can be made or used in industry, agriculture, public health or in other fields.

6. Processes, substances, strains of microorganisms, strains of plant or animal cells, their use for a new purpose, plant or animal varieties, or the subject matters set out in the eighth paragraph of [Article 5](#) of this Law may not be protected as utility models.

## **Article 7. Conditions of Patentability for Industrial Designs**

1. Any solution that is both artistic and technical, that is adopted for an article and that determines its outward appearance, shall enjoy protection as an industrial design under the Law if it is new, original and industrially applicable (conditions of patentability for industrial designs).

2. An industrial design shall be considered to be new if generally available information, of whatever kind, shows that the sum of its essential features that determine the special aesthetic and (or) functional aspects of the article in which it is embodied was not known anywhere in the world before the priority date of the design.

3. Disclosure of the subject matter of an industrial design by the creator (or applicant) or by a person having obtained such information directly or indirectly from the latter (the burden of proof of the foregoing shall be on the applicant) shall not affect patentability on condition that it took place no earlier than six months preceding the filing date of the application or, if an earlier priority date is claimed, no earlier than six months preceding such date.

4. An industrial design shall be considered to be original if its essential features determine the creative nature of the special aesthetic aspects of the article in which it is embodied.

5. An industrial design shall be considered to be industrially applicable if it can be reproduced in quantity via manufacturing of the corresponding article.

6. The following shall not constitute patentable industrial designs:

- 1) solutions that are determined exclusively by the technical function of an article;
- 2) solutions that relate to architectural works (with the exception of small scale architectural forms) and industrial, hydraulic and other stationary structures;
- 3.) solutions that relate to printed matter as such;
- 4) solutions that relate to subject matter of unstable shape such as liquids, gaseous and dry substances and the like.

## **Chapter III**

### **Authors and Patent Owners of Industrial Property Subject Matter**

#### **Article 8. Author of Industrial Property Subject Matter**

1. The natural person whose creative work has resulted in an invention, a utility model or an industrial design shall be recognized as the author thereof.

2. Where the industrial property subject matter is the result of the joint creative work of two or more natural persons, those persons shall be recognized as the joint authors thereof. The relations between the joint authors shall be determined by a consent thereof.

3. An assistance of non creative nature rendered in creation of the invention, a utility model or an industrial design (technical or organizational assistance, support in legalizing the rights etc.) shall not entail to the joint authorship.

4. The right of authorship is inalienable and intransferable personal non economic right and shall effect for unlimited duration.

5. An author shall have the right not to be mentioned as such in any information published with respect to the patent.

6. An author shall have the right to entitle an industrial property subject matter created by him.

#### **Article 9. Patent Owner of Industrial Property Subject Matter**

1. A patent for an invention, a utility model or an industrial design shall be granted to the author (joint authors) or to his/her (their) heirs, to the employer or to any other natural or legal person (patent owner); in the latter case, a contract shall have been concluded between the author (joint authors) and the person concerned and that person shall have been designated by the author (joint authors) or his/her (their) successors in title in the patent application filed with the Office or in a declaration filed with the Office prior to the registration of the invention, the utility model or the industrial design.

2. Where an employee creates an invention, utility model, industrial design within the exercise of his duties or specific tasks entrusted to him by the employer (service invention, utility model, industrial design), the right to be granted a patent shall belong to the employer, if it is

5. If, within a period of three months as from the date on which the employee has informed the employer of the invention, utility model, industrial design that has been created, the employer or his successor in title has not filed an application for a patent with the Office, the right to file an application and the right to be granted a patent shall be passed to the author.

6. In such case the employer shall enjoy a preemption of a non-exclusive license for the exploitation of a subject matter concerned.

**. Article 10. Transfer by Succession of the Rights of the Author and of the Patent Owner of Industrial Property Subject Matter**

The right to file a patent application and the right to be gran

2. The product (article) shall be deemed to have been involved the patented invention , utility model if it involves each of the characteristics, or its equivalent, of an independent claim of the invention, utility model.

3. The process protected by a patent for invention shall be deemed to have been applied if it has applied each of the characteristics, or its equivalent, of an independent claim of the invention.

4. The article shall be deemed to have involved an industrial design protected by a patent if in the article have used all the essential features of that design.

5. The effects of a patent on a process for the manufacture of a product shall also extend to the product obtained directly by the process. Unless proven that pr

2. Under a license contract, the patent owner (licensor) undertakes to grant, within the scope specified in the contract, the right to use the patented industrial property subject matter to another person (licensee) who undertakes to pay to the licensor the amounts and to perform the other acts stipulated in the contract.

3. An exclusive license shall afford the licensee the exclusive right to use the patented industrial property subject matter within the limits specified in the contract, beyond which the licensor maintains his right of use.

4. A non-exclusive license allows the licensor, while granting the licensee the right to use the industrial property subject matter, to retain all the rights deriving from the patent, including the right to grant licenses to the third persons.

5. The patent owner may apply to the Office with a request to publish a notice to the effect that he is willing to grant other persons the right to use the industrial property subject matter (open license). The patent maintenance fee shall be reduced as from the year following publication of such notice. Any person wishing to obtain an open license shall be required to conclude a contract with the patent owner with respect to the payments. The request of the patent owner in respect of granting the right to an open license may not be withdrawn.

6. A license contract that has not been registered with the Office shall be deemed invalid.

7. Any dispute relating to the violation of the contract shall be heard by the courts.

## **Article 16. Compulsory License**

1. In the interests of the national security and in the public interests or in the situations of emergency of the RA, as well as in case of public non-commercial use the Government of the RA is empowered to use or authorize third parties to use an invention, utility model or industrial design without the consent of the patent owner (compulsory license), provided the patent owner shall be notified within 10 days and paid adequate remuneration taking into account the circumstances of each case and the economic value of such authorization.

2. If an invention, a utility model or an industrial design are not used or are insufficiently used within 4 years from the date of filing an application or three years from the grant of patent (provided, that the period which expires last shall be applied), any person who, on the expiry of the mentioned period, wishes to use the invention, utility model or industrial design, but has not succeeded in concluding a license contract with the patent owner, may apply to the Government of the Republic of Armenia with a request for granting a compulsory license. In this case the license shall be granted, if the patent owner does not prove that not using or insufficiently using of the invention, utility model or the industrial design is stipulated by the valid reasons.

3. If an invention, a utility model or an industrial design of a great economic significance protected by a patent cannot be used without infringing the rights of a patent owner of an invention, a utility model or an industrial design protected by another patent ("first patent"), and in case of not reaching to an agreement for concluding a license contract, the mentioned patent owner (of the "second patent") may apply to the Government of the Republic of Armenia with a request for granting a compulsory license. In case of granting a request, the owner of "the first patent" reciprocally shall have the right to get a compulsory license for the use of the subject matter protected by the "second patent". The patent owner can assign his rights obtained by the compulsory license to another person only together with the rights ensuing from his own patent.

4. The compulsory license shall be only non-exclusive and, depending on its objectives, shall be granted for a certain period and on certain terms, basically for the purpose of ensuring the domestic market's demand.

5. In case of semi-conductor technologies, the compulsory license can be provided only by the State for the non-commercial use, as well as by the judicial or administrative bodies to remedy an anti-competitive practices.

6. The person granted a compulsory license, shall be allowed to transfer the right for using the industrial property subject matter to another person, only with that part of the enterprise where the use of the mentioned subject matter is exercised.

7. The compulsory license shall be recognized invalid in compliance with the decision of the Competent Authority, if the circumstances which led to it are considered to be ceased to exist and are unlikely to recur. In this case the legitimate interests of the persons authorized to a compulsory license shall be taken into account and protected. The mentioned Authority shall have the authority to review, upon motivated request, the continued existence of these circumstances.

8. Disputes relating to the grant of compulsory license and the amounts, procedure and terms of payments entailed by the latter shall be settled by the courts.

9. The conditions for the grant of a compulsory license are regulated in accordance with the procedure determined by the Government of the Republic of Armenia.

## **Article 17. Infringement of Patent**

1. Any use, made by a natural or a legal person, of an industrial property subject matter protected by a patent in a manner contrary to this Law shall be deemed to constitute an infringement of the patent.

2. At the request of the patent owner or of the exclusive licensee, unless the license contract provides otherwise, or of the non-exclusive licensee, if it is provided in the license contract, the action infringing the patent shall be ceased and the natural or legal person committing the infringement shall be liable to compensate the right holder for the damages sustained in accordance with the procedure determined by the



7. The activity of the patent attorneys shall be regulated by a statute determined by the Government of the Republic of Armenia.

8. The procedure for the registration of patent attorneys shall be determined by the Office.

## **Article 19. Invention Application**

1. The invention application shall

## **Article 21. Industrial Design Application**

1. The industrial design application shall relate to one industrial desi

6. The priority of an application may not be determined on the basis of the filing date of an application in which an earlier priority has already been claimed.

7. The priority of an invention, a utility model, an industrial design, the application of which was filed due to the division of an initial application (divisional application), shall be determined in accordance with the date of receipt of the initial application, provided that the divisional application has been filed before a final decision to refuse the initial application has been taken or, in case of a decision to grant a patent, -not later than State registration of the industrial property subject matter.

8. Where it is ascertained during examination that identical inventions, utility models, industrial designs have the same priority date, a patent may be granted for the application that is proved to have been sent first to the Office. Where those dates coincide, a single patent shall be granted to the applicants, with their agreement. Failing agreement, the matter shall be settled by the courts.

### **Article 23.. Preliminary Examination of Invention Application**

1. The preliminary examination of an invention application shall be carried out by the Office within a period of two months from the filing day of the application in accordance with this Article and the procedure determined by the Office.

2. During the preliminary examination shall be verified the presence of the documents, which are necessary and drawn up in accordance with the prescribed requirements, ascertained the compliance of the claimed invention with the requirements determined under the paragraph 6 of the Article 4, paragraphs 7-8 of the Article 5 and paragraph 1 of the Article 19 of this Law, without appreciation of the economic effectiveness of an invention.

3. If, as a result of the preliminary examination it is ascertained that the documents of the application conform to the prescribed requirements, the Office shall make a decision for an official publication of the application.

4. If it is ascertained that an application does not conform to the prescribed requirements, a request with a proposal to submit, within a period of two months, the corrected or the missing documents, shall be sent to the applicant.

5. If the application has filed with the violation of the requirement of unity, the applicant shall be invited to state, within two months, which invention should be taken into consideration and, to make necessary amendments to the documents of the application.

6. If the applicant fails, within the mentioned period, to reply on the notification of violation of the requirement of unity, the invention mentioned first in the claims shall be taken into consideration.

7. During the preliminary examination the applicant may, on his own initiative or if requested to do so, make corrections or amendments to the application by submitting additional materials, provided such materials do not modify the subject matter of the filed invention, unless he renounced this right at the filing of an application. The additional materials shall be deemed as modifying the subject matter of the invention if they contain characteristics that were not contained in the initial materials of an application and which should be included in the claims. The part of additional materials that modifies the subject matter of the filed invention shall not be taken into consideration during the examination and the applicant may couch it as a separate application.

8. In case of failing to submit, within a period of two months, corresponding additional or amended materials in response of the request, the application shall be deemed withdrawn.

9. If, as a result of the preliminary examination, it will be ascertained that the filed invention relates to the paragraph 6 of the Article 4 or paragraph 8 of the Article 5, it shall be made a decision for refusal to grant a patent.

10. If the applicant does not agree with the decision of the preliminary examination for refusal to grant a patent, he shall be entitled within two months as from the date of receipt of the



5. The applicant and the objector shall be notified about the decision made by the Office within a period of 10 days.

6. In case of disagreement with the re-examination decision, the applicant shall be entitled, within two months as from the day of receipt of the said decision, to lodge an appeal with the Appeal Board of the Office. The Appeal Board shall consider the appeal within two months as from the day of its receipt.

7. In case of disagreement with the decision of re-examination or of the Appeal Board, the applicant shall be entitled to apply to the court in accordance with the procedure determined by the law.

8. In case of absence of the objection to the grant of a patent after the expiration of the period for open public inspection the Office shall, within a period of 10 days, take a decision to grant a preliminary patent under the procedure determined by the Office.

9. The preliminary patent shall be granted at the responsibility of the applicant, without guarantee of its validity.

## **Article 27. Substantive Examination of Invention**

1. On a request of an applicant or a third person, which may be submitted upon expiration of 7 years as from the filing day of the application, the Office shall carry out a substantive examination and give a conclusion in respect of the compliance of the invention with the patentability conditions determined under the paragraphs 2, 3 and 6 of the Article 5 of this Law.

2. The request may be also submitted within 12 months after the expiration of the said period, providing the payment of an additional fee.

3. The Office shall notify the applicant of a request received from a third party.

4. The Office shall, within a period of 10 days

## **Article 28. Provisional Legal Protection of Invention**

1. From the date of official publication of the invention application until the publication of the official data on the granted patent, the pr

9. If, as a result of the examination, it will be

9. If, as a result of the examination, it will be ascertained that the filed industrial design relates to the paragraph 6 of the Article 4 or paragraph 6 of the Article 7, it shall be made a decision for refusal to grant a patent.

10. If the applicant does not agree with the decision of the examination for refusal to grant a patent, he shall be entitled within two months as from the date of receipt of the decision to appeal to the Office with a request for re-examination. The re-examination shall be carried out within a period of one month as from the date of receipt of the request.

11. As a result of the re-examination the Office shall make a decision to grant a patent or a decision for refusal to grant a patent for a industrial design .

12. The patent shall be granted at the responsibility of the applicant, without guarantee of its validity.

13. If the applicant does not agree with the decision of the re-examination, the applicant shall be entitled, within two months as from the date of receipt of the said decision, to lodge an appeal with the Appeal Board of the Office. The Appeal Board shall consider the appeal within two months as from the date of its receipt.

14. If the applicant does not agree with the decision of the re-examination or of the Appeal Board, the applicant shall be entitled to apply to the court in accordance with the procedure determined by the law.

### **Article 31. Conversion of Application**

1. On a request filed by an applicant, the application for an invention rejected for a reason of absence of the inventive step, within a period of one month as from the day of receipt the decision concerned, may be converted into a utility model application, and the utility model application may, before the taking of a decision in respect of the utility model, be filed in the Office.



## **Article 33. Withdrawal of Application and Renouncement of Patent**

1. An applicant may withdraw filed application and renounce the patent prior to state registration of the industrial property subject matter.

2. The information on withdrawal of the published application and on renouncement of the patent grant or of the patent shall be published in the Official Bulletin of the Office.

3. The provisional legal protection provided by the Article 28 of this Law shall be deemed never to have been granted from the date of publication of the information on withdrawal of the application or on renouncement of the patent grant.

## **CHAPTER VI**

### **LAPSE OF PATENT**

#### **Article 34. Contesting of Patent**

1. Throughout its term of validity, a patent may be deemed invalid in whole or in part on the strength of a complaint lodged against its grant if:

- 1) the conditions of patentability set out in this Law are violated;
- 2)

## **Chapter VII**

### **Defense of the Rights of Authors and of Patent Owners**

#### **Article 36. Liability for Infringement of the Rights of the Author of an Invention, a Utility Model, an Industrial Design**

1. An usurpation of an authorship, coercion to the joint authorship, publishing without the consent of an author the subject matter of an application before it is filed, as well as disclosure of the applied subject matter of an invention, utility model, industrial design prior to its official publication by the state patent examiner, shall entail a liability in accordance with the legislation of the Republic of Armenia.

2. The state patent examiners and other officials of the Office shall not have the right to file patent applications nor to directly or indirectly acquire a right to a patent during their employment and for two years thereafter.

## **Chapter VIII**

### **Final Provisions**

#### **Article 37. Restoration of Rights in Relation to a Time Limit**

1. The Office may restore the time limits set out in the Articles 23, 26, 27, 29 and 30 of this Law and omitted by the applicant.

2. The request for restoration of the time limits may be submitted within the 6 months following the day on which the mentioned time limit expires, enclosing to it the document confirming the payment of the relevant fee.

## **Article 39. Rights of Foreign Natural and Legal Persons**

Under the international treaties to which the Republic of Armenia is party or on the basis of reciprocity, foreign natural and legal persons shall enjoy the rights afforded by this Law and shall incur liability on the same footing as natural and legal persons of the Republic of Armenia.

## **Article 40. Patent Fees**

The fees shall be levied for the filing of a patent application, the grant of a patent and the maintenance of patent validity, as well as for the performance of other legal acts relating to a patent. The schedule of fees, the amount and the time limits for paying the fee, the reduction or reimbursement of the amount of the fee, the grounds and the procedure of the exemption from the fee shall be determined by the Law “ On state Duty” of the Republic of Armenia.

## **Article 41. Transitional Provisions**

1. The legal status of a preliminary patent granted under this Law shall be granted to the provisional patents, which were granted prior to the entry into force of this Law and the terms of validity of which were not expired.

2. If the validity of provisional patents, which were granted prior to the entry into force of this Law, had terminated by virtue of expiration of terms of validity, on the request of patent owners thereof, which may be submitted to the Office within a period of 6 months as from the day of entry into force of this Law, the legal status of a preliminary patent granted under this Law shall be granted to the mentioned provisional patents.

3. The exclusive rights derived from the patents granted under the Paragraph 2 of this Article shall continue to be in force as from the day of receipt by the Office of a patent owner's request .

4. The Law “On Patents” of the Republic of Armenia adopted on July 20, 1993 by the Supreme Council of the Republic of Armenia shall be deemed as ceased to be in force.

**THE PRESIDENT OF THE  
REPUBLIC OF ARMENIA**

**R.KOCHARYAN**

Yerevan, November 26, 1999

AL-15