

Law No. (65) of year 1970

Law

Patent and Industrial Models

In the name of the people

The Presidency

Pursuant to the provisions of Paragraph (C) of the amended Article fifty of the temporary constitution, and according to what the Minister of Economy presented and what the Revolution Leadership Council decided.

The following law issued:-

Article one- The following terms and expressions shall have the meaning ascribed thereto hereunder:-

- 1- Minister - Minister of Economy.
- 2- Registrar - Registrar of Patents and Industrial Models.
- 3- Directorate - Directorate General Registration and Supervision of Companies.
- 4- Invention - Every new innovation capable of industrial exploitation, whether pertaining of new industrial products or to novel methods and techniques, or to both.
- 5- Inventor - Person who reached an invention.
- 6- Patentee - The actual holder of the patent, whether he is the Inventor or the person to whom the royalties patent have reverted to.
- 7- Industrial Model - Every new arrangement of lines and shapes, colored or uncolored, used in industrial production.
- 8- Patent - Certificate indicating the registration of an invention.
- 9- Court - The competent court of first instance.
- 10- Bulletin - The bulletin where inventions and industrial models are published at Directorate General Registration and Supervision of Companies.
- 11- Application - An application for registration of an invention or an industrial model.

- 12- Applicant - The applicant for registration of an invention or an industrial model.
- 13- Date of application - Date of receipt of the application by Directorate.
- 14- Register - The register to be ready at the Directorate General Registration and Supervision of Companies for registration of patents or industrial models.
- 15- Fees - Amounts to be charged under the two attached schedules of this law.

Chapter one

Patent

Article two - A patent shall be granted according to the provisions of this law.

Article three - A patent shall not be granted in the following cases:-

- 1- Inventions the exploitation of which would breach public ethics, public order, or which contradict public interest.
- 2- Medical and pharmaceutical formulations.
- 3- Methods or means used in financial, banking, or calculations matters.
- 4- Construction maps and stereoscopic drawing related to thereof.

Article four - An invention shall not be considered as new in the following two cases:

- 1- If the invention during the fifty years preceding the date of filing the application of letter patent has been used publicly in Iraq or abroad, or the invention description or drawing has been disclosed in publications announced in Iraq or abroad whereby the description or drawing published is clear so that experts can exploit the invention.
- 2- If the invention during the fifty years preceding the date of filing the application of patent has been issued a patent or part of it thereof to a person other than the inventor, or person whom patent rights have reverted to, or a third party has requested the same patent for the invention or a part of it within the mentioned period.

Article five - The provisions of the Article four shall not apply to any person who exploits the invention industrially or carries out the activities required for such exploitation in good faith prior to the filing of an application for the letter patent.

Article six - A register entitled patents register shall be kept at Directorate, wherein patents for inventions and all relevant information shall be recorded under the provisions of this law.

Article seven - The following persons have the right to request patents:

- 1- Iraqis and Arab citizens.
- 2- Foreigners resident in Iraq and having a real place of work.
- 3- Foreigners who are nationals of countries according to Iraq reciprocal treatment.
- 4- Public administrations.
- 5- Companies, societies or organizations set up in Iraq or in countries according Iraq reciprocal treatment, where such bodies have legal personality, industrialists, producers, merchants or laborers provided that the invention is primarily registered in the name of the inventor; if however the invention has already been registered outside Iraq, it may be registered in the name of the company, organization or society owning it.

Article eight - The rights of an invention shall belong to the actual holder of the patent or the person to whom patent rights have reverted to. If the invention is the outcome of work carried out jointly by several persons, the right of patent shall belong jointly to all of them unless they agree otherwise. Where however several persons have each independently arrived at the invention, the person who has filed his application first shall be entitled to the patent.

Article nine - An employer shall have all the rights resulting from the inventions devised in the execution of a contract or where there exists a work or employment relationship, provided that the invention is the subject of specific remuneration and falls within the framework of the contract or the work or employment relationship. In this case the invention may primarily be registered in the name of the employer or the contractor with the inventor, provided that the inventor's name is stated in the patent. Where however no remuneration is recorded in consideration for the invention, the inventor shall be entitled to fair compensation from the employer.

Article ten - In other cases not mentioned in Article nine and when the invention falls within the field of activity of the inventor employee, the employer shall have the choice to exploit the invention or buy it for just fair compensation paid to the inventor provided that the employer shall express his opinion in writing whether of acceptance or rejection to the Registrar within three months following the date of letter patent issuance.

Article eleven - The application submitted by the inventor to obtain a patent within one year from the date of leaving the employment shall be deemed to have been filed during the execution of the contract or during the work or employment relationship. In such a case, the inventor and the employer shall each have all the rights provided in Articles nine and ten of this law, which shows that the inventor work with the employer had contributed to the production of the invention.

Article twelve – The patent granted the owner of the patent without the other with the right to exploit the invention in all legal means.

Article thirteen - The term of patent shall be for fifteen years as of the date of filing the application for a patent or of the date of completing documents, and it shall be renewed annually after payment of fees as determined by law.

The term of a patent already issued outside Iraq shall be equal to the term of patent granted in the foreign country; provided that the term of the registration in Iraq does not exceed fifteen years and that an authenticated copy of the patent is produced. Such patent shall be renewed in the manner provided for above.

Article fourteen - The fees shall be charged in accordance with table of fees No. (1) attached to this law.

Article fifteen - 1- Where the subject of an invention is the introduction of modifications, improvements or additions to the invention in respect of which a patent has already been granted, the patentee concerned may, in accordance with the provisions of Article sixteen of this law and upon payment of the prescribed fees, apply for a patent of addition, whose term shall expire at the same time as that of the principal patent. The patent of addition shall be revoked if the principal patent is revoked.

2- Any person may apply for a patent in respect of an amendment, correction or complement to invention upon payment of prescribed fees.

- 3- A person who has obtained a patent in respect of an amendment, correction or complement to an invention for which a patent has already been granted may not use the original invention without the consent of principal patentee. Nor may the principal patentee use the amendment, correction or complement without the consent of proprietor of the patent of amendment.

Article sixteen - 1- The application shall be submitted to the Register by the inventor or person whom patent rights have reverted to, or by a registration agent authorized to do so in the cases allowed by the law and in accordance with such conditions as may be prescribed by special regulation. An application for registration may not be made in respect of more than one invention.

- 2- The application shall be accompanied by detailed description of the invention and the method, capable of execution, of its exploitation. The description shall clearly indicate the new elements for which the applicant desires protection. The applicant shall be accompanied, where necessary, by drawings of invention. The details of such procedure shall be prescribed by the rules.

Article seventeen - The applicant shall be entitled to exploit his invention only from the date of issue of patent.

Article eighteen - The Directorate shall examine the application and its enclosures to ascertain the following:-

- 1- That the application is submitted in accordance with the provision of Article sixteen of this law.
- 2- That the description and drawings describe the invention sufficiently to allow its execution by industrialists.
- 3- That the innovative elements which the applicant desires protection are expressly and clearly indicated in the application.

Article nineteen - the Registrar may ask the applicant to make such amendments to the application as he may think fit, within six months from the date of such request. If the applicant fails to do so, he shall be deemed to have abandoned his application. The applicant may appeal to the Minister against the registrar's decision concerning such amendments within thirty days from the date of the registrar's decision. The Minister's decision in this respect shall be final.

Article twenty - the registrar shall announce the patent after providing the conditions set forth in article eighteen of this law.

Article twenty one - The patent is granted to the proprietor of patent based on a decision from the Registrar. The decision shall be announced in pursuant of the manner specified in the law.

Article twenty two - If the Registrar determines that the invention is related defense or has a military value then he must inform the Ministry of Defense immediately of the application and attach documents. The Minister of Defense shall request not to declare the application if he considers it as prejudice to defense matters. For the same reason the Minister of Defense may require not to publish the announced decision to grant a patent within 30 days from the date the application is filed or from the date the decision has been issued. The Minister of Defense shall have the right in any time to object granting the patent for the applicant in return for purchasing the invention from the applicant or conclude an agreement to exploit it.

Article twenty three - In any time, after paying the prescribed fees, the patent owner may request for an application to amend the invention's specifications or its drawing by correct or explain it showing the nature of the amendment or its justification provided that such amendment does change the essence of the invention. The amendment application shall follow the same procedures for original application filed for the registration of the invention.

Article twenty four - 1- Any person shall obtain a copy of patents and documentations which the Registrar considers appropriate after payment of the determined fees, except the main specifications which the inventor requires protection for and not to disclose.

2- Organizations and official and semi-official departments shall be exempt from the fees mentioned in the paragraph (1) of this Article.

Article twenty five - A patent shall be disposed by all legal action and shall be transferred and all its related rights by inheritance. The patent disposal shall not have any effect against third parties, except from the date of its documentation in the Registrar in the Directorate. The patent mortgage as well as transfer of possession shall be published appropriately.

Article twenty six - The creditor shall have the right to seize the patent office debtor according to a decision issued by the competent courts provided that the Directorate is notified of the seizure and all other legal proceedings taken in this matter. The seizure shall not have any effect against third party except from the date of documentation and publication of the seizure according to the appropriate procedures.

Article twenty seven - 1- The patent owner shall notify the Registrar of the date of exploiting the patent within 30 days of the date the exploiting commenced.

2- If the invention is not exploited in Iraq within three years as of the date of granting the patent or if the exploitation does not meet the needs of the country, and if the exploitation lapsed for two years at least, then the Registrar may grant a compulsory license to exploit the invention to a third party provided that the third party is capable of exploiting the invention seriously. The patent proprietor shall request a fair compensation through the Registrar within 90 days as of the date of issuing the decision to grant the compulsory license has been declared. The decision of the Registrar regarding compensation shall be subject to objection before the Minister within 30 days from the date the patent proprietor has been notified and the decision of the Minister shall be final.

Article twenty eight - If the exploitation of an invention has a great importance in industry and this exploitation requires using another invention that was previously granted a patent, then the Registrar may grant the patent proprietor a compulsory license to exploit the previous invention if his proprietor refused to agree on the exploitation on reasonable terms as determined by the Registrar. Contrary to what has been mentioned the Registrar may grant the owner the old patent a compulsory license to exploit the subsequent patent if it has a great importance. Taken into account in granting of the license estimating compensation due to one of the parties on the other according to the conditions and cases stated in Article (twenty seven) of this law.

Article twenty nine - The Registrar shall cancel the patent granted for the invention, and any interested person shall request so, if the invention is not exploited in Iraq within two years from the date the compulsory license has been issued.

Article thirty - The Minister may issue a decision to forfeit the ownership of inventions if necessary for public interest or for reasons related to national defense. Forfeiture shall include all rights related to the patent and the submitted application. The forfeiture shall be limited the right to exploit the invention and to meet the needs of the state. In all cases, the patentee shall have the right to request a fair compensation based on a decision by the Minister. The patentee shall have the right to object to the Minister decision before the President of the Republic within 30 days as of date of notification of the Minister decision and the decision of the President of Republic shall be final.

Article thirty one - The patent rights shall lapse in the following cases:-

- 1- The lapse of the protection period stipulated in Article thirteen of this law.
- 2- Issuance of a final judgment on the invalidity of the patent.
- 3- Non-payment of the due fees at the maturity period without a justified reason.
- 4- The invalidity of the patent in accordance of the provisions stipulated in this law.

Article thirty two - The lapse of the patent shall be published in the bulletin as well as transfer, invalidation dispossession, granting of a compulsory license and its renewal, and all related matters.

Article thirty three - Any interested party, as well as the Registrar himself, shall request the Registrar to invalidate a patent registered contrary to the provisions of this law, or to amend any statement recorded does not meet the reality or contrary to any statement recorded unlawfully. The decision of the Registrar shall be subject to objection before the Minister within 30 days as of the date of its issuance and the decision of the Minister shall be final.

Article thirty four - The rights of the patent owner are not violated whereby the patent is used in means of aerial, maritime, or land transport owned for countries which deal with Iraq with in a reciprocity way , in case if it is present in Iraq temporarily or incidentally.

Article thirty five - The provisions of this law shall apply on inventions which currently are enjoying legal protection provided that a patent application is filed within two years as of the date this law enters into force and the previous period of protection shall be included the subsequent period of protection.

Chapter Two

Industrial Models

Article thirty six - 1- The application for registration of industrial models shall be submitted to the Registrar in compliance with the conditions stipulated in the regulations.

2- Every industrial model should be separately applied for.

Article thirty seven - 1- Applications which do not comply with the conditions stipulated in the regulations shall be rejected.

2- The applicant may appeal the decision of the Registrar to the Minister within 30 days from the date of service decision. The decision of the Minister shall in this respect be final.

Article thirty eight - The Directorate shall issue the necessary certificate of registration of the industrial model including the information mentioned in the regulations.

Article thirty nine - Any interested person may ask for copies of certificates and decisions relating to the registration of industrial model after payment of the prescribed fees.

Article forty - Assignment of industrial models shall not be accepted as proof against third parties unless recorded in the Register.

Article forty one - Term of protection of industrial models shall be seven years as from the date of issuing the certificate, provided that the payment of the prescribed renewal annual fees is carried.

Article forty two - Fees related to registration, assignment and amendment of industrial models shall be levied in accordance with the table of fees No. (2) attached to this law.

Article forty three - The Registrar shall publish a notice in the Review for accepted, registered and canceled industrial models, and also any assignment or amendment that may occur thereon.

Chapter Three

General Provisions

Article forty four - A penalty of imprisonment not exceeding two years or a fine not exceeding one thousand dinars, or both, shall be imposed on whoever:

- 1- Imitates an invention for which a patent has been granted in accordance with provision of this law.
- 2- Imitates an industrial model for which a certificate has been issued in accordance with provision of this law.
- 3- Sells, or offers for sale and circulation, or imports from abroad, or possesses with the intention of trading, imitated products, or materials that include an imitated invention or industrial model knowingly to be imitated, if such invention or model was registered in Iraq.
- 4- Attaches unlawfully data on the products, advertisements or trademarks in a way leads to believe that he was granted a patent, registration or he used a registered industrial model contrary to the provisions of this law.
- 5- Places unlawfully a patent or a certificate of industrial model which has already been registered in Iraq or outside it.

Article forty five - 1- The owner of the patent or the industrial model may, during the hearing of civil or criminal action obtain - upon application supported by an official certificate denoting the registration of the invention or industrial model and upon submitting a financial guarantee proportionate to the value of the products as estimated by court - an order from the court to seize provisionally the imitated products or goods and also the tools and instruments used for such purpose, and if imitated goods were imported from abroad should be placed in custody.

- 2- The owner of the patent or the industrial model may, before the institution of a civil or criminal action, obtain an order for seizure in accordance with Paragraph (1) of this Article, provided that the suit or claim shall be brought within eight days from the date of provisional seizure, otherwise the seizure measures shall be canceled by decision of the competent court.
- 3- The decision to impose a provisional seizure may include, if necessary, the delegation of an expert or more to assist in the execution of the decision.

Article forty six - The court may, in any civil or criminal action, decide upon the confiscation of the articles seized or to be seized later on and to deduct their value from the fines or compensations, or to dispose of them in any other manner which the court may deem advisable. The court may, if necessary, order their destruction or decide on any other advisable measures. The court shall publish the judgment, at the expense of the adjudged, in the review and in one or more newspaper.

Article forty seven - Temporary protection of inventions and industrial models exhibited in national or international exhibitions held in Iraq or in other countries that treat Iraq on reciprocal basis, shall be guaranteed during the period of such exhibitions. The patentee or the owner of the industrial model must notify the Registrar, upon payment of the prescribed fees, of the details of invention or industrial model, within seven days prior to the date of exhibition.

Article forty eight - Officials of the Directorate General of Registration and Supervision of Companies are not permitted to submit applications, personally or through agents, to obtain patents or registration of industrial models unless after the elapse of five years at least from the date of their leaving service.

Article forty nine - 1- The Minister may, with the approval of the President of the Republic and upon the recommendation of the

Ministry of Industry and the confirmation of the Ministry of Finance, grant rewards to citizens who shall produce inventions or submit industrial models that will serve the country.

2- The Registrar may, with the approval of the Minister and after confirmation by the Ministry of Finance exempt citizens who have scientific capability and efficiency from the fees required under this law.

Article fifty - Patents and industrial models shall be classified according to the manner shown in the regulations.

Article fifty one - Regulations may be issued to facilitate the execution of this law.

Article fifty two - Patent Law No. (61) of 1935 with its amendments and regulation made the reunder shall be repealed.

Article fifty three - This law shall come into force as from the date of its publication in the Official Gazette.

Article fifty four - The Ministers shall execute this law.

Made at Baghdad on the 17th, day of Moharram 1390, A.H., corresponding to 25th day of March 1970, A.D.

Ahmad Hassan Al-Bakir
Chairman of revolution leadership council
President of the Republic

Published in the Iraqi Waqa'e, Issue 1865, dated 6/4/1970

Reasons of Applying the Law

Due to the economic, industrial and social development in the country which makes the amended patent Law No. 61 of 1935 become limited to keep up with this development, and to ensure the maintaining of the industrial patent rights, encouraging inventors, expanding and developing the relationships with the developed countries in the industrial field, this law has initiated.

Table No. (1)

Patent fees

| <u>Number</u> | <u>Dinar</u> | <u>Fils</u> |
|---|---------------------|--------------------|
| 1- For the application of the invention registration submitted by Iraqis | 1 | - |
| 2- For the application of the invention registration submitted by foreigners | 2 | - |
| 3- For renewing the application mentioned in number (1) above | 1 | - |
| 4- For renewing the application mentioned in number (2) above | 2 | - |
| 5- For the application of improving or completing or amending the invention mentioned in number (1) above | 1 | - |
| 6- For the application of improving or completing or amending the invention mentioned in number (2) above | 2 | - |
| 7- For the application of the patent granting for the invention mentioned in number (1) above | 4 | - |
| 8- For the application of the patent granting for the invention mentioned in number (2) above | 8 | - |
| 9- For the application of the patent granting for improving or completing or amending the invention mentioned in number (1) above | 4 | - |

| <u>Number</u> | | <u>Dinar</u> | <u>Fils</u> |
|---------------|--|----------------------------------|-------------|
| 10- | For the application of the patent granting for improving or completing or amending the invention mentioned in number (2) above | 8 | - |
| 11- | For the application of granting the copy of patent for the invention mentioned in number (1) above | 1 | - |
| 12- | For the application of granting the copy of patent for the invention mentioned in number (2) above | 2 | - |
| 13- | For the application of a copy for any document or record related to the invention for each page or part of it | - | 500 |
| 14- | For the application of transferring the ownership of the invention. | 1 | - |
| 15- | For granting a certificate of transferring the ownership of the invention mentioned in number (1) above | 2 | - |
| 16- | For granting a certificate of transferring the ownership of the invention mentioned in number (2) above | 4 | - |
| 17- | For the application of a copy for certificate of transferring the ownership of the invention | - | 500 |
| 18- | For renewing the registration of the invention for the second year | A- According to number (1) above | 5 |
| | | B- According to number (2) above | 9 |
| | For renewing the registration of the invention for the third year | A- According to number (1) above | 6 |
| | | B- According to number (2) above | 10 |
| | For renewing the registration of the invention for the fourth year | A- According to number (1) above | 7 |
| | | B- According to number (2) above | 11 |
| | For renewing the registration of the invention for the fifth year | A- According to number (1) above | 8 |
| | | B- According to number (2) above | 12 |

| | | | |
|--|----------------------------------|----|---|
| For renewing the registration of the invention for the sixth year | A- According to number (1) above | 9 | - |
| | B- According to number (2) above | 13 | - |
| For renewing the registration of the invention for the seventh year | A- According to number (1) above | 10 | - |
| | B- According to number (2) above | 14 | - |
| For renewing the registration of the invention for the eighth year | A- According to number (1) above | 11 | - |
| | B- According to number (2) above | 15 | - |
| For renewing the registration of the invention for the ninth year | A- According to number (1) above | 12 | - |
| | B- According to number (2) above | 16 | - |
| For renewing the registration of the invention for the tenth year | A- According to number (1) above | 13 | - |
| | B- According to number (2) above | 17 | - |
| For renewing the registration of the invention for the eleventh year | A- According to number (1) above | 14 | - |
| | B- According to number (2) above | 18 | - |
| For renewing the registration of the invention for the twelfth year | A- According to number (1) above | 10 | - |
| | B- According to number (2) above | 19 | - |
| For renewing the registration of the invention for the thirteenth year | A- According to number (1) above | 16 | - |
| | B- According to number (2) above | 20 | - |
| For renewing the registration of the invention for the fourteenth year | A- According to number (1) above | 17 | - |
| | B- According to number (2) above | 21 | - |
| For renewing the registration of the invention for the fifteenth year | A- According to number (1) above | 18 | - |
| | B- According to number (2) above | 22 | - |

Table No. (2)
Industrial models fees

| Number | Subject | Fees | |
|--------|---|-------|------|
| | | Dinar | Fils |
| 1- | For the application of the industrial model registration for Iraqis | 1 | - |
| 2- | For the application of the industrial model registration for non-Iraqis | 2 | - |
| 3- | For the application of industrial model registration certificate according to number (1) above | 2 | - |
| 4- | For the application of industrial model registration certificate according to number (2) above | 4 | - |
| 5- | For the application of a copy for the industrial model registration certificate according to number (1) above | 1 | - |
| 6- | For the application of a copy for the industrial model registration certificate according to number (2) above | 2 | - |
| 7- | For the application of transferring the ownership of the industrial model according to number (1) above | 1 | - |
| 8- | For the application of transferring the ownership of the industrial model according to number (2) above | 2 | - |
| 9- | For the application of the certificate of transferring the ownership of the industrial model according to number (1) above | 1 | - |
| 10- | For the application of the certificate of transferring the ownership of the industrial model according to number (2) above | 2 | - |
| 11- | For the application of a copy for certificate of transferring the ownership of the industrial model According to number (1) above | 1 | - |
| 12- | For the application of a copy for certificate of transferring the ownership of the industrial model according to number (2) above | 2 | - |
| 13- | For the application of a copy for the decrees related to the industrial models | 1 | - |
| 14- | For the application of amending the industrial model according to number (1) above | 1 | - |
| 15- | For the application of amending the industrial model according to number (2) above | 2 | - |
| 16- | For each application has not mentioned in this table | 1 | - |

17- Renewing fees shall be fulfilled according to the following:-

| | | Dinar | Fils |
|----------------------|----------------|--------------|-------------|
| For the first year | For number (1) | 1 | 500 |
| | For number (2) | 2 | - |
| For the second year | For number (1) | 2 | - |
| | For number (2) | 4 | - |
| For the third year | For number (1) | 2 | 500 |
| | For number (2) | 5 | - |
| For the fourth year | For number (1) | 3 | - |
| | For number (2) | 6 | - |
| For the fifth year | For number (1) | 3 | 500 |
| | For number (2) | 7 | - |
| For the sixth year | For number (1) | 4 | - |
| | For number (2) | 8 | - |
| For the seventh year | For number (1) | 4 | 500 |
| | For number (2) | 9 | - |

