

Translated from Spanish

## **LAW ON PATENTS AND UTILITY MODELS**

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### **Decree 260/96**

**The consolidated text of Law No. 24.481, amended by the similar law No. 24.572 (consolidated 1996) and the Regulations thereunder, is hereby approved.**

Buenos Aires, March 20, 1996

CONSIDERING Laws Nos. 24.481, 24.572 and 24.603, Decree No. 590 of October 18, 1995, and Decree No. 3 of January 3, 1996, and

#### **WHEREAS:**

In the debate preceding the approval by the National Congress of draft Law No. 24.603, Article 2 of which was commented on by the National Executive, legislators questioned certain provisions of Decree No. 590 of October 18, 1995, on the basis of its presumed statutory excesses.

The sole purpose of the comments by the National Executive was to preserve the statutory authority conferred upon it by the NATIONAL CONSTITUTION, without prejudice to the consideration and detailed analysis of the arguments expressed in the above-mentioned debate.

With this in mind and following the joint work carried out by officials of the National Executive with representative legislators from both Chambers, a new review has been conducted of the text of regulations under the laws mentioned under CONSIDERING, which while fully preserving the presidential authority and respecting international commitments undertaken by the Republic, respond to the concerns of the National Congress in terms of the exercise of its own powers.

In turn, the successive legislative and statutory amendments make it advisable to approve a new consolidated text of the Law as well as a regulations text that, once published, shall replace Decree No. 590 of October 18, 1995.

The present shall be issued by virtue of the responsibilities conferred by Article 99, subparagraph 2, of the National Constitution and Law No. 20.004.

Thus,

THE PRESIDENT OF THE ARGENTINE NATION

#### **DECREES:**

**Article 1** — Decree No. 590 of October 18, 1995 and Annex II thereto are hereby replaced by the present Decree and the annexes thereto.

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**Article 2** — The consolidated text of Law No. 24.481 on Invention Patents and Utility Models, with the corrections contained in Law No. 24.572 that acts as Annex I and forms an integral part of this Decree, is hereby approved.

**Article 3** — The Regulations under Law No. 24.481 with the corrections introduced by Law No. 24.572 which, like Annex II, form an integral part of this Decree, are hereby approved.

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**Article 4** — The validity of Annex I of Decree 590 of October 18, 1995, which is incorporated as Annex III of the present Decree, is hereby ratified.

**Article 5** — This Decree is communicated, published, given to the National Directorate of Official Records and filed. — MENEM. — Eduardo Bauzá. — Domingo F. Cavallo.

## ANNEX I

### CONSOLIDATED TEXT OF LAW No. 24.481 ON PATENTS AND UTILITY MODELS, AMENDED BY LAW No. 24.572 (CONSOLIDATED TEXT 1996)

#### TITLE I

##### GENERAL PROVISIONS

*Article 1.* Inventions of all kinds in all areas of production shall confer such rights and impose such obligations on the authors thereof as are specified in this Law.

*Article 2.* Ownership of an invention shall be attested by the grant of the following industrial property titles:

- (a) invention patents; and
- (b) utility model certificates.

*Article 3.* The industrial property titles governed by this Law may be acquired by national or foreign natural persons or legal entities having their true or elected domicile in Argentina.

#### TITLE II

##### PATENTS

##### Chapter I

##### Patentability

*Article 4.* Inventions relating to products or processes shall be patentable provided that they are new, involve an inventive step and are industrially applicable.

(a) For the purposes of this Law, any human creation that permits material or energy to be transformed for exploitation by humankind shall be considered an invention.

(b) Any invention that is not included in the state of the art shall likewise be considered novel.

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(c) The state of the art shall mean the whole body of technical knowledge that has been made public prior to the filing date of the patent application or the date of recognized priority if any, by oral or written description, by exploitation or by any other means of dissemination or information, either in Argentina or abroad.

(d) There shall be an inventive step where the creative process or the results thereof cannot readily be deduced by an average person skilled in the corresponding art.

(e) There shall be industrial applicability where the subject matter of the invention causes an industrial result or product to be obtained, industry being understood as including agriculture, forestry, livestock breeding, fisheries, mining, processing industries in the strict sense and services.

*Article 5.* Disclosure of an invention shall not affect the novelty thereof where, within ONE (1) year prior to the filing date of the patent application, or the date of recognized priority where applicable, the inventor or his/her successors in title have made the invention known by any means of communication or have displayed it at a national or international exhibition. The application shall in such a case be accompanied by documentary supporting evidence under such conditions as may be laid down in the regulations under this Law.

*Article 6.* The following shall not be considered inventions for the purposes of this Law:

- (a) discoveries, scientific theories and mathematical methods;
- (b) literary or artistic works or any other aesthetic creation; scientific works;
- (c) schemes, rules or methods for performing intellectual activities, playing games or engaging in economic and business activities; computer programs;
- (d) forms of data presentation;
- (e) methods of surgical, therapeutic or diagnostic treatment applicable to the human body or relating to animals;
- (f) the juxtaposition of known inventions or mixtures of known products, changes in the shape, dimensions or constituent materials thereof, except in the case of combination or merging in such a way that the elements are unable to function separately or where the characteristic qualities or functions thereof are so altered as to produce an industrial result that is not obvious to a person skilled in the art concerned;
- (g) any kind of live material or substances already existing in nature.

*Article 7.* The following shall not be patentable:

- (a) inventions the exploitation of which on the territory of the ARGENTINE REPUBLIC is to be prevented in the interest of the public good or morality, the health or life of persons or animals, the conservation of plants or the avoidance of serious damage to the environment;
- (b) all biological and genetic material existing in nature or derived therefrom in biological processes associated with animal, plant and human reproduction, including genetic processes applied to the said material that are capable of bringing about the normal, free duplication thereof in the same way as in nature.

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## Chapter II

### Right in a Patent

*Article 8.* The right in a patent shall belong to the inventor or his/her successors in title, who shall be entitled to assign it or transfer it by any lawful means and enter into license agreements. The patent shall confer the following exclusive rights on its owner, without prejudice to the provisions of Articles 36 and 99 of this Law:

(a) where the subject matter of the patent is a product, the right to prevent third parties from engaging without his/her consent in acts of manufacture, use, offering for sale, sale or importation of the product covered by the patent;

(b) where the subject matter of the patent is a process, the right to prevent third parties from engaging without his/her consent in the use thereof.

*Article 9.* In the absence of proof to the contrary, the natural person or persons designated as such in the application for a patent or utility model certificate shall be presumed to be the inventor or inventors. The inventor or inventors shall have the right to be mentioned in the corresponding title.

*Article 10.* Inventions made in the course of employment relations:

(a) Those made by a worker during the currency of his/her contract or other employment or service relations with the employer, where the object thereof is entirely or partly the performance of inventive activity, shall belong to the employer.

(b) The worker who has made an invention under the above circumstances shall be entitled to additional remuneration for the making of the invention if his/her personal contribution to it and its importance to the undertaking and the employer clearly go beyond the express or implied terms of his/her contract or employment relations. Where the situation specified in subparagraph (a), above, does not exist, if the worker has made an invention connected with his/her professional activity within the undertaking and the making of the invention has been predominantly influenced by skills acquired within the undertaking or by the use of means that it has provided, the employer shall be entitled to ownership or a reserved right of exploitation of the invention. The employer shall exercise that option within the NINETY (90) days following the making of the invention.

(c) Where the employer assumes ownership or reserves the right of exploitation of an invention, the worker shall be entitled to equitable economic compensation determined in relation to the industrial and commercial significance of the invention, due account being taken of the value of the means or knowledge made available by the undertaking and the contributions made by the worker himself/herself; in the event of the employer licensing the invention to third parties, the inventor may claim payment from the owner of the patent of up to FIFTY PER CENT (50%) of the royalties actually charged by the owner.

(d) An industrial invention shall still be considered made in the discharge of a work or service contract where the patent application is filed up to ONE (1) year following the date on which the inventor left the employment within the area of activity in which the invention was made.

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(e) Work-related inventions, in the making of which the circumstances provided for in subparagraphs (a) and (b), above do not obtain, shall belong exclusively to the maker thereof.

(f) Any advance renunciation by the worker of the rights conferred by this Article shall be null and void.

*Article 11.* The rights conferred by the patent shall be determined by the first of the approved claims, which shall define the invention and demarcate the scope of the said rights. The description and the drawings or plans, or where applicable the deposit of biological material, shall be used to interpret the claims.

### Chapter III

#### Grant of the Patent

*Article 12.* To obtain a patent, it shall be necessary to file with the NATIONAL PATENT ADMINISTRATION of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, in writing, an application with the characteristics and other particulars specified in this Law and the regulations thereunder.

*Article 13.* The patent may be applied for by the inventor or his/her successors in title either directly or through their representatives. Where a patent is applied for after having been applied for in other countries, it shall be accorded as its priority date the date on which the first patent application was filed, provided that no more than ONE (1) year has elapsed following that original filing.

*Article 14.* The right of priority provided for in the foregoing Article shall be claimed in the patent application. The applicant shall, in the manner and within the periods laid down by regulation, file a declaration of priority and a copy, certified by the office of origin, of the earlier application, together with a Spanish translation where the said application is drafted in another language.

For priority to be recognized, the following requirements shall, in addition, be met:

(i) the scope of the application filed in the ARGENTINE REPUBLIC must not be broader than that claimed in the foreign application; if it is, the priority shall be partial only and related to the foreign application;

(ii) there must be reciprocity in the country of the first application.

*Article 15.* Where two or more inventors have made the same invention independently of each other, the right to the patent shall belong to the inventor whose application bears the earliest filing date or recognized priority date, as the case may be. If the invention has been made jointly by two or more persons, the right to the patent shall belong jointly to all of them.

*Article 16.* The applicant may abandon his/her application at any time during its processing. Where the application belongs to more than one applicant, the abandonment shall be done jointly, failing which the rights of the abandoning party shall accrue to the remaining applicants.

*Article 17.* The patent application may not relate to more than one invention or group of inventions so related as to constitute a single general inventive concept. Applications that do not meet this requirement shall be divided as provided for by regulation.

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*Article 18.* The filing date of the application shall be the date on which the applicant delivers to the NATIONAL PATENT ADMINISTRATION created by this Law:

- (a) a declaration stating that a patent is applied for;
- (b) the identity of the applicant;
- (c) a description and one or more claims, even if they do not meet the requirements of form laid down in this Law.

*Article 19.* For a patent to be granted, the following shall also be filed:

- (a) the name and description of the invention;
- (b) the plans or technical drawings required for the understanding of the description;
- (c) one or more claims;
- (d) an abstract of the description of the invention and reproductions of the drawings, which shall be used only for publication and as a source of technical information;
- (e) proof of the payment of fees;
- (f) the documents testifying the assignment of rights and priority.

Where NINETY (90) days elapse following the filing date of the application without all the documentation having been submitted, the application shall be refused without further processing, except in cases of duly justified *force majeure*. Failure to submit the documents referred to in subparagraph (f) within the same period shall cause loss of entitlement to international priority.

*Article 20.* The application shall describe the invention with sufficient clarity and completeness for an average person skilled in the art concerned to be able to carry it out. It shall likewise include a clear and accurate account of the best known method of carrying out and implementing the invention, and of the materials and components used.

The methods and processes described shall be directly applicable in production.

In the case of applications relating to micro-organisms, the product obtainable by means of a claimed process shall be described as well as the process itself in the relevant application, and a strain of the micro-organism shall be deposited with an institution authorized for the purpose, as provided for by regulation.

The public shall have access to the micro-organism culture at the depository institution, as from the day of publication of the patent application, on conditions laid down by regulation.

*Article 21.* Supporting drawings, plans and diagrams submitted shall be sufficiently clear for the description to be understood.

*Article 22.* The claims shall define the subject matter for which protection is sought, and shall be clear and concise. They may be one or more and shall be based on the description, but may not go beyond it.

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The first claim shall refer to the main subject matter, and the remainder shall be subordinate thereto.

*Article 23.* A patent application may be converted in the course of its processing into an application for a utility model certificate and vice versa. The conversion may take place only within the NINETY (90) days following the filing date, or within the NINETY (90) days following the date on which the NATIONAL PATENT ADMINISTRATION has required conversion. Where the applicant does not convert the application within the period specified, it shall be considered abandoned.

*Article 24.* The NATIONAL PATENT ADMINISTRATION shall conduct a preliminary examination of the documentation, and may ask to have points specified or clarified where it considers this necessary, or omissions to be made good. Where the applicant fails to comply with such a request within a period of ONE HUNDRED AND EIGHTY (180) days, the application shall be considered abandoned.

*Article 25.* The pending patent application and its annexes shall remain confidential until the time of their publication.

*Article 26.* The NATIONAL PATENT ADMINISTRATION shall proceed with the publication of the pending patent application within EIGHTEEN (18) months following the filing date thereof. At the request of the applicant, the application shall be published before the said period expires.

*Article 27.* On payment of the fee laid down in the implementing Decree, the NATIONAL PATENT ADMINISTRATION shall undertake a substantive examination to determine compliance with the conditions set forth in TITLE II, CHAPTER I of this Law.

The NATIONAL PATENT ADMINISTRATION may request a copy of any substantive examination conducted by foreign examining offices according to the procedure laid down in the implementing Decree, and may likewise seek expert opinions from researchers working in universities or science and technology institutes in Argentina, who in each case shall be rewarded as provided for in the implementing Decree.

If it is considered necessary, the patent applicant may request the Administration to conduct the examination on his/her premises.

Where THREE (3) years have elapsed following the filing of the patent application and the applicant has not paid the fee for the substantive examination, the application shall be considered withdrawn.

*Article 28.* Where the application calls for comment, the NATIONAL PATENT ADMINISTRATION shall convey the comments to the applicant so that, within a period of SIXTY (60) days, the applicant may provide such clarification as he/she considers appropriate or submit the information or documentation that has been requested of him/her. If the applicant does not accede to such requests within the period specified, his/her application shall be considered withdrawn.

All comments shall be made in a single document by the NATIONAL PATENT ADMINISTRATION, except where prior clarifications or explanations are requested of the applicant.



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Any person may make reasoned comments on the patent application and add documentary proof within a period of SIXTY (60) days following the publication provided for in Article 26. The comments shall consist of allegations of non-fulfillment or insufficient fulfillment of the legal requirements for the grant of a patent.

*Article 29.* Where the comments made by the NATIONAL PATENT ADMINISTRATION are not acted upon by the applicant, the patent application shall be duly rejected, which fact shall be communicated to the applicant in writing, with a statement of the reasons and arguments underlying the decision.

*Article 30.* Where all the relevant requirements have been met, the NATIONAL PATENT ADMINISTRATION shall grant the title.

*Article 31.* The grant of the patent shall take place without prejudice to any third-party claim to a stronger right than the applicant, and without any State guarantee of the usefulness of the subject matter to which it relates.

*Article 32.* The announcement of the grant of the patent shall be published in the Gazette issued by the NATIONAL PATENT ADMINISTRATION. The notice shall include the following particulars:

- (a) the number of the patent granted;
- (b) the class or classes to which the patent has been assigned;
- (c) the surname and forename, or corporate name, and the nationality of the applicant, and that of the inventor where appropriate, and their addresses;
- (d) the abstract of the invention and claims;
- (e) a reference to the Gazette in which the patent application and any amendments that may have been made to the claims thereof were published;
- (f) the date of the application and that of the grant; and
- (g) the period for which the patent is granted.

*Article 33.* Changes in the text of the title of a patent shall be allowed only for the correction of errors of substance or form.

*Article 34.* Granted patents shall be a matter of public knowledge, and a copy of the documentation shall be issued to any person who so requests against payment of the prescribed fees.

## Chapter IV

### Term and Effects of Patents

*Article 35.* The patent shall have a non-renewable term of TWENTY (20) years, starting from the filing date of the application.

*Article 36.* The right conferred by a patent shall have no effect against:

- (a) a third party who privately or in an academic environment and without gainful intent, conducts scientific or technological research activities for purely experimental, testing or

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teaching purposes, and to that end manufactures or uses a product or applies a process identical to the one patented;

(b) the routine dispensation of drugs by authorized professionals, individually on medical prescription, or against acts relating to drugs so dispensed;

(c) any person who acquires, uses, imports or in any way deals in the product patented or obtained by the patented process once the said product has been lawfully placed on the market in any country; placing on the market shall be considered lawful when it conforms to Section 4 of Part III of the Agreement on Trade-Related Aspects of Intellectual Property Rights;

(d) the use of inventions patented in Argentina on board foreign land vehicles, seaborne vessels or aircraft that accidentally or temporarily travel within the jurisdiction of the ARGENTINE REPUBLIC, if they are used exclusively for the needs thereof.

## Chapter V

### Transfer and Contractual Licenses

*Article 37.* Patents and utility model certificates shall be transferable and may be licensed, either fully or in part, in the manner and subject to the formalities laid down by law. In order to be binding on third parties, any transfer shall be registered with the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY.

*Article 38.* License agreements shall not contain restrictive trade clauses that would affect the production, marketing or technological development of the licensee, restrict competition or impose any other procedure such as exclusive transfer-back conditions, conditions preventing any challenge to validity, those that impose mandatory joint licenses or any other of the practices specified in Law No. 22.262 or such legislation as may amend or replace it.

*Article 39.* In the absence of any provision to the contrary, the grant of a license shall not exclude the possibility of the owner of the patent or utility model granting other licenses or engaging in simultaneous exploitation himself/herself.

*Article 40.* The person who has been granted a contractual license shall have the right to bring such legal actions as are available to the owner of the inventions only where the said owner does not bring them himself/herself.

## Chapter VI

### Exceptions to the Rights Granted

*Article 41.* The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY may, at the reasoned request of a competent authority, introduce limited exceptions to the rights conferred by a patent. Such exceptions shall not unjustifiably prejudice the normal exploitation of the patent or do unjustified harm to the legitimate interests of the owner thereof, due account being taken of the legitimate interests of third parties.

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Other Uses Not Requiring Authorization by the Owner of the Patent

*Article 42.* Where a prospective user has attempted to secure the grant of a license from the owner of a patent on reasonable commercial terms and conditions under Article 43, and the attempts have had no effect after ONE HUNDRED AND FIFTY (150) days have elapsed following the date on which the license in question was requested, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY may allow other uses of the said patent without authorization by the owner thereof. Without prejudice to the foregoing, notice shall be given to the authorities created by Law No. 22.262, or such law as may amend or replace it, on the protection of free competition, for whatever purposes may be appropriate.

*Article 43.* If, after THREE (3) months have elapsed since the grant of the patent, or FOUR (4) since the filing of the application, the invention has not been exploited, except in cases of *force majeure*, or if no genuine and effective preparations have been made for such exploitation, or where such exploitation has been interrupted for more than ONE (1) year, any person may apply for authorization to use the invention without seeking the permission of the owner thereof.

Objective difficulties of legal and technical character, such as delays in obtaining registration with the authorities to secure marketing authorization that are beyond the control of the owner of the patent and make the working of the invention impossible shall be considered cases of *force majeure*, in addition to those legally recognized as such. Lack of financial resources or the lack of economic viability of the exploitation shall not in themselves constitute justification.

The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall inform the owner of the patent of the non-fulfillment of the provisions of the first paragraph above before allowing use of the patent without his/her authorization.

The implementing authority, after having heard the parties and established their inability to agree, shall set reasonable remuneration to be charged by the owner of the patent, which remuneration shall be determined by the particular circumstances of each case, due account being taken of the economic value of the authorization and also of the average rate of royalties payable in the sector concerned under contractual licenses between independent parties. Decisions on the licensing of such uses shall be taken within NINETY (90) working days from the filing of the application, and appeals therefrom shall lie with the civil and commercial Federal courts. The substantiation of the appeal shall have no staying effect.

*Article 44.* The right of exploitation conferred by a patent shall be granted without permission from the owner thereof where the competent authority has established that the said owner has engaged in anti-competitive practices. In such cases, without prejudice to the remedies available to the owner of the patent, the said right shall be granted without the need for application of the procedure laid down in Article 42.

For the purposes of this Law, the following practices, among others, shall be considered anti-competitive:

(a) the setting of prices for the patented products that are excessive in relation to the market average or discriminatory, particularly where alternative proposals exist for supplying the market at prices significantly lower than those charged by the patent owner for the same product;

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(b) refusal to supply the local market on reasonable commercial terms;

(c) the slowing-down of marketing or production activities;

(d) any other act capable of being included among the practices considered punishable by Law No. 22.262 or such law as may replace it or be substituted for it.

*Article 45.* The NATIONAL EXECUTIVE may, for reasons of health emergency or national security, order the exploitation of certain patents through the grant of the exploitation rights under a patent; the scope and duration thereof shall be limited to the purposes of the grant.

*Article 46.* The right of use without authorization from the owner of the patent shall be granted to permit the working of a patent - the second patent - that cannot be worked without infringing another patent - the first patent - provided that the following conditions are met:

(a) the invention claimed in the second patent must represent significant technical progress, of considerable economic importance, compared with that claimed in the first patent;

(b) the owner of the first patent shall be entitled to cross-licensing on reasonable terms for the exploitation of the invention claimed in the second patent; and

(c) the authorized use of the first patent may not be assigned without assignment also of the second patent.

*Article 47.* When other uses without authorization from the owner of the patent are allowed, the following provisions shall be observed:

(a) the authorization of said uses shall be given by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY;

(b) the authorization of said uses shall be considered in the light of the particular circumstances of each case;

(c) for the uses envisaged in Article 43 and/or 46, before grant the prospective user shall have attempted to obtain a license from the owner of the rights on commercial terms and conditions conforming to Article 43, such attempts having had no effect within the period provided for in Article 42; in the case of non-commercial public use, where the Government or the Contracting Party, without having conducted a patent search, knows or has good reason to know that a valid patent is being or will be used by or on behalf of the Government, the owner of the said patent shall be informed accordingly without delay;

(d) the authorization shall extend to patents for the manufacturing components and processes that permit the working of the patent;

(e) the uses shall be non-exclusive in character;

(f) they may not be assigned, except with that part of the business or intangible assets concerned by them;

(g) they shall be authorized to supply mainly the domestic market, except as provided for in Articles 44 and 45;

(h) the owner of the rights shall collect reasonable remuneration according to the particular circumstances of each case, due account being taken of the economic value of the

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authorization, according to the procedure laid down in Article 43; when the amount of remuneration for uses authorized to remedy anti-competitive practices is determined, due account shall be taken of the need to correct those practices, and revocation of the authorization may be refused if it is considered probable that, under the circumstances that gave rise to the license, the practices will continue;

(i) with regard to the uses provided for in Article 45, and any other use not provided for, the scope and duration thereof shall be limited to the purposes for which they have been authorized, and the authorization may be withdrawn if the circumstances that gave rise to it no longer obtain and are unlikely to recur, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY being empowered to ascertain, in response to a reasoned request, whether the circumstances continue to exist. Where such permitted uses remain without effect, due account shall be taken of the legitimate interests of the persons who have received such authorization. In the case of semiconductor technology, it may only be subjected to non-commercial public use or used to rectify a practice declared anti-competitive in judicial or administrative proceedings.

*Article 48.* In all cases, decisions relating to uses not authorized by the owner of the patent shall be subject to judicial review, as shall matters pertaining to the appropriate remuneration, if any is payable.

*Article 49.* Appeals lodged against administrative acts connected with the authorization of the uses provided for in this Chapter shall have no staying effect.

*Article 50.* Any person who applies for one of the uses provided for in this Chapter shall possess the economic ability to carry out efficient exploitation of the patented invention and shall have at his/her disposal an establishment authorized for the purpose by the competent authority.

## Chapter VIII

### Patents of Addition or Improvement Patents

*Article 51.* Any person who improves on a discovery or on a patented invention shall be entitled to apply for a patent of addition.

*Article 52.* Patents of addition shall be granted for such time as remains of the validity of the patent on which they depend. If there are two or more such patents, the one that expires last shall be taken into account.

## TITLE III

### UTILITY MODELS

*Article 53.* Any new arrangement or form obtained or incorporated in known tools, working instruments, utensils, devices or other objects that are used for practical work, insofar as they make for better performance of the operations for which they are intended, shall confer on the owner thereof exclusive rights of exploitation, which shall be attested by titles known as utility model certificates.

The rights shall be granted only in the new form or arrangement as defined: a utility model certificate may not be granted within the area of protection of a patent in force.

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*Article 54.* The utility model certificate shall have a non-renewable term of TEN (10) years, starting from the filing date of the application, and shall be subject to the payment of the fees laid down in the implementing Decree.

*Article 55.* The essential requirements determining the issue of such certificates shall be that the inventions provided for under this Title are new and are industrial in nature; lack of inventive step or the fact that the subject matter is known or has been disclosed elsewhere shall not constitute an impediment.

*Article 56.* The application for a utility model certificate shall be accompanied by:

(a) the title, which shall designate the invention in question;

(b) a description relating to a single main instance of the new configuration or arrangement of the object in practical use or of the functional improvement, with an explanation of the causal relationship between the new configuration or arrangement and the functional improvement, in such a way that the invention in question may be reproduced by an average person skilled in the art, and an explanation of the drawing or drawings;

(c) the claim or claims of the invention concerned;

(d) the necessary drawing or drawings.

*Article 57.* On the filing of an application for a utility model, an examination shall be made to ensure compliance with the provisions of Articles 50 and 53.

When the said examination has been made and compliance with the provisions of the foregoing paragraph established, or effected where possible, the certificate shall be issued.

*Article 58.* Those provisions on patents shall be applicable to utility models that are not incompatible with them.

#### TITLE IV

##### INVALIDITY AND LAPSE OF PATENTS AND UTILITY MODELS

*Article 59.* Patents and utility model certificates shall be wholly or partly null and void when they have been granted in violation of the provisions of this Law.

*Article 60.* If the causes of invalidity affect only part of the patent or utility model certificate, partial invalidity shall be declared by the cancellation of the affected claim or claims. It shall not be possible to declare a claim partially invalid.

Where invalidity is partial, the patent or utility model certificate shall remain in force with respect to the claims that have not been invalidated, insofar as they can themselves constitute the subject matter of an independent utility model certificate or patent.

*Article 61.* The declaration of invalidity of a patent shall not in itself cause the invalidation of additions thereto, provided that the conversion of the said additions into independent patents is applied for within the NINETY (90) days following notification of the declaration of invalidity.

*Article 62.* Patents and utility model certificates shall lapse under the following circumstances:

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(a) on expiration of their term;

(b) on renunciation by their owner; where the patent belongs to two or more persons, renunciation shall be done jointly, renunciation may not affect third-party rights;

(c) on failure to pay the annual maintenance fees to which they are subject; on attainment of the relevant due dates, the owner shall have a grace period of ONE HUNDRED AND EIGHTY (180) days within which to pay the current fee, at the end of which period lapse shall occur, except where the non-payment is due to *force majeure*;

(d) where a license for use has been granted to a third party and the invention has not been exploited within TWO (2) years for reasons attributable to the owner of the patent.

The administrative decision that declares a patent lapsed shall be subject to judicial appeal. The appeal shall have no staying effect.

*Article 63.* No judicial declaration shall be necessary for invalidity or lapse to have the effect of making the invention public property; both invalidity and lapse shall take effect as of right.

*Article 64.* Action for invalidation or lapse may be brought by any person who has a legitimate interest therein.

*Article 65.* Actions seeking invalidity and lapse may be opposed by means of defense procedures or claims of exceptions.

*Article 66.* Where a court ruling has ordered the invalidity or lapse of a patent or utility model certificate and the ruling has become *res judicata*, the appropriate notification shall be conveyed to the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY.

## TITLE V

### ADMINISTRATIVE PROCEDURES

#### Chapter I

##### Procedures

*Article 67.* Applications shall be signed by the interested party or his/her legal representative and be accompanied by proof of payment of the prescribed fees. Where any of the said elements is lacking, the NATIONAL PATENT ADMINISTRATION shall reject the application outright.

*Article 68.* Where applications are filed through a legal representative, the said representative shall attest his/her status by filing:

(a) the power of attorney from which he/she derives his/her authority; or a copy thereof;

(b) a power of attorney granted in accordance with the legislation applicable in the place of grant, or pursuant to international treaties in case of the representative being a foreign legal entity;

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(c) every pending file shall include proof of the legal capacity of the representative, a copy of the register entry being sufficient if the power of attorney is entered in the general register of powers kept at the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY.

*Article 69.* In every application the applicant shall elect legal domicile within the national territory and notify the NATIONAL PATENT ADMINISTRATION of any amendment thereto. Where no notice is given of a change of domicile, notifications shall be deemed validly sent to the domicile on record.

*Article 70.* Until the time of the publication referred to in Article 26, pending files may be consulted only by the applicant, his/her representative or persons authorized thereby.

The staff of the NATIONAL PATENT ADMINISTRATION engaged in the processing of applications shall be obliged to keep the contents of files confidential.

The foregoing shall not apply to any information that is of official character or any that may be required by the judicial authorities.

*Article 71.* The employees of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY may not, either directly or indirectly, process rights on behalf of third parties until TWO (2) years have elapsed since the date on which their employment relations with the said Institute ceased, on pain of disqualification and a fine.

## Chapter II

### Appeal for Review

*Article 72.* An appeal for review may be lodged:

- (a) against a decision refusing the grant of a patent or utility model certificate;
- (b) against a decision that finds for comments made pursuant to Article 29 of this Law.

In both cases the appeal shall be lodged in writing with the President of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY within an absolute period of THIRTY (30) days following the date of notification of the relevant decision. The appeal shall be accompanied by documentation in support of its validity.

*Article 73.* After analyzing the arguments put forward in the appeal and the documents submitted, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall issue whatever decision is appropriate.

*Article 74.* Where the decision handed down by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY denies the validity of the appeal, the appellant shall be given notice thereof in writing. Where the decision is favorable, the procedure provided for in Article 32 of this Law shall be observed.

## TITLE VI

### VIOLATION OF THE RIGHTS CONFERRED BY PATENTS AND UTILITY MODEL CERTIFICATES



Translated from Spanish

*Article 75.* Unlawful appropriation of the rights of the inventor shall be treated as an offense of counterfeiting and punished by imprisonment for a term of SIX (6) months to THREE (3) years and a fine.

*Article 76.* The penalty provided for in the foregoing Article shall likewise be imposed on any person who knowingly, without prejudice to the rights conferred on third parties by this Law:

(a) produces or causes to be produced one or more objects in violation of the rights of the owner of the patent or utility model certificate;

(b) imports, sells, places on sale or markets or displays, or introduces into the territory of the Argentine Republic, one or more objects in violation of the rights of the owner of the patent or utility model certificate.

*Article 77.* The same penalty, increased by one-third, shall be imposed on:

(a) any person who has been a partner, agent, advisor, employee or worker of the inventor or his/her successors in title and who unlawfully appropriates or discloses the invention while it is still unprotected;

(b) any person who, by corrupting the partner, agent, advisor, employee or worker of the inventor or his/her successors in title, brings about the disclosure of the invention;

(c) any person who violates the obligation of secrecy imposed by this Law.

*Article 78.* A fine shall be imposed on any person who is not the owner of a patent or utility model certificate or no longer enjoys the rights conferred thereby but makes use on his/her goods or in his/her advertising of names liable to mislead the public as to the existence thereof.

*Article 79.* In the event of repetition of the offenses punished by this Law, the penalty shall be doubled.

*Article 80.* The provisions of the Criminal Code shall apply to participation and complicity in criminal acts.

*Article 81.* In addition to criminal actions, the owner of the patent and his/her licensee or the owner of the utility model certificate may bring civil actions seeking the prohibition of continued unlawful exploitation and compensation for any prejudice sustained.

*Article 82.* The actions provided for under this Title shall be statute-barred in accordance with the provisions of the Basic Codes.

*Article 83.* On submission of the patent or utility model certificate, the injured party may seek the following precautionary measures, subject to such security as the court may consider necessary:

(a) sequestration of one or more specimens of the offending articles, or a description of the offending process;

(b) an inventory or a restraining order concerning the offending articles and the machinery specially designed for the manufacture of the products or the carrying-out of the offending process.

Translated from Spanish

*Article 84.* The measures provided for in the foregoing Article shall be implemented by a Government law officer, assisted at the request of the plaintiff by one or more experts.

The record shall be signed by the plaintiff or the person authorized thereby, by the expert(s), by the current director or agents of the establishment and by the Government law officer.

*Article 85.* Any person who has infringing goods in his/her possession shall give a full account of the name of the person who sold them to him/her or procured them for him/her, the quantity and value thereof and the time at which retail sales began, on pain of being considered the accomplice of the infringer.

The Government law officer shall set down in the record the explanations given either spontaneously or at his/her request by the person concerned.

*Article 86.* The measures specified in Article 83 shall have no further effect after FIFTEEN (15) days have elapsed if the applicant has not brought the appropriate court action, without prejudice to the evidentiary value of the official record.

*Article 87.* The plaintiff may demand security of the defendant to avoid interrupting the defendant's exploitation of the invention where he/she wishes to proceed with such exploitation, and in the absence of security he/she may seek the suspension of exploitation, providing appropriate security in his/her turn, where necessary and if so requested.

*Article 88.* For the purposes of civil procedures, where the subject matter of a patent is a process for obtaining a product, the courts shall be empowered, as from January 1, 2000, to order the defendant to prove that the process for obtaining a product is different from the patented process. For the purposes of this judicial power, it shall be presumed that, as from the said date and in the absence of proof to the contrary, any identical product produced without the consent of the owner of the patent has been obtained by means of the patented process insofar as the product is new, pursuant to Article 4 of this Law, as of that date.

*Article 89.* Civil cases conducted according to ordinary judicial procedure shall be within the jurisdiction of the Federal judges in civil and commercial matters, and criminal actions conducted according to petty-criminal procedures shall be within the jurisdiction of Federal judges in criminal and petty-criminal matters.

## TITLE VII

### ORGANIZATION OF THE NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY

*Article 90.* The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY is hereby created as a self-governing body with legal personality and its own assets, which shall operate within the scope of the MINISTRY OF ECONOMY AND PUBLIC WORKS. It shall be the implementing authority for this Law, Law No. 22.362, Law No. 22.426, and Decree-Law No. 6.673 of August 9, 1963.

The assets of the Institute shall consist of:

(a) annual fees and charges arising from the laws that it applies and also the fees payable for any additional services that it provides;

(b) contributions, subsidies, bequests and donations;

Translated from Spanish

(c) property belonging to the Temporary Center for the Creation of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY;

(d) the sum that the Congress of the Nation sets aside for the Institute in the Annual Budget.

*Article 91.* The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall be managed and directed by a Board composed of THREE (3) members designated by the NATIONAL EXECUTIVE, one of them on a proposal by the Ministry of Economy and Public Works and another on a proposal by the MINISTRY OF HEALTH AND SOCIAL WELFARE.

The THREE (3) members shall elect from their number the directors who shall hold the positions of president and vice president. The remaining member shall be a director without portfolio. The members of the Board shall be exclusively devoted to their duties and shall be subject to the incompatibilities laid down by law for the holders of public office; they may only be removed from their posts by means of a reasoned order issued by the NATIONAL EXECUTIVE.

The directors shall have a term of office of FOUR (4) years, and may be re-elected an indefinite number of times.

A Control Office shall operate within the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY which shall be responsible for the supervision and control of the acts of the constituent bodies of the said Institute.

The Control Office shall be under the direction of a titular Controller and a deputy designated by the NATIONAL EXECUTIVE on a proposal by the GENERAL AUDIT OFFICE OF THE NATION.

*Article 92.* The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall have the following duties:

(a) to ensure observance of the provisions of this Law and those of Laws Nos. 22.362 and 22.426, and Decree-Law No. 6.673/63;

(b) to engage such technical and administrative staff as may be necessary for the performance of its duties;

(c) to enter into agreements with private and public bodies for the performance of tasks within its area of concern:

(d) to manage the funds that it receives as remuneration for its services;

(e) to draw up an annual report and annual balance sheet;

(f) to draw up a schedule of remuneration for the staff that perform tasks within the Institute;

(g) to publish the Trademark and Patent Gazettes and the registers of marks, patents, utility models and industrial designs;

(h) to create a data bank;

(i) to promote its activities;

Translated from Spanish

(j) to publicize its action.

*Article 93.* The following shall be the functions of the Board of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY:

(a) to propose to the NATIONAL EXECUTIVE, through the MINISTRY OF ECONOMY AND PUBLIC WORKS, such amendments to regulations and national policy as it considers appropriate in relation to the laws on the protection of industrial property rights;

(b) to issue guidelines for the operation of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY;

(c) to exercise budgetary control over the funds collected by the Institute;

(d) to hold contests, competitions or exhibitions and to award prizes and fellowships to foster inventive activity;

(e) to designate the Directors of Trademarks, Industrial Designs and Technology Transfer, and the Commissioner and Under-Commissioner of Patents;

(f) to designate the registrars of trademarks, designs and technology transfer;

(g) to organize the creation of an Advisory Council;

(h) to issue internal regulations;

(i) to hear appeals filed with the Institute;

(j) to grant the licenses for use provided for in TITLE II, CHAPTER VIII

of this Law;

(k) to perform any other duty that may arise from this Law.

*Article 94.* The NATIONAL PATENT ADMINISTRATION is hereby created as a department of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY. The Administration shall be led by a Commissioner and an Under-Commissioner of Patents, both designated by the Board of the Institute.

*Article 95.* The NATIONAL EXECUTIVE shall exercise control over the operation of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY.

## TITLE VIII

### FINAL AND TRANSITIONAL PROVISIONS

*Article 96.* The implementing Decree shall set both the amount of fines and annual fees and charges, and specify the method of adjusting them.

*Article 97.* Patents granted under the Law hereby repealed shall retain the validity accorded them until they expire, but they shall remain subject to the provisions of this Law and the regulations thereunder.

Translated from Spanish

*Article 98.* This Law shall not afford exemption from compliance with the requirements laid down in Law No. 16.463 for the authorization of the manufacture and marketing of pharmaceutical products in Argentina.

*Article 99.* The provisions of Article 26 of this Law on publication of applications shall not apply to patent applications that are pending on the date of its entry into force, and the patent need only be published as provided for in Article 32.

*Article 100.* Inventions relating to pharmaceutical products shall not be patentable until FIVE (5) years have elapsed following the publication of this Law in the Official Gazette. Until that date, none of the Articles contained in this Law that provide for the patentability of inventions of pharmaceutical products shall have effect, neither shall any other provisions that are inseparably related to such patentability.

*Article 101.* Without prejudice to the provisions of the foregoing Article, patent applications may be filed for pharmaceutical products in the form and under the conditions laid down in this Law, provided that the patents shall be granted as from FIVE (5) years following publication of this Law in the Official Gazette.

The term of the patents mentioned above shall be that arising from the application of Article 35.

The owner of the patent shall have exclusive rights in his/her invention as from FIVE (5) years following the publication of this Law in the Official Gazette, except where the third party or parties making use of his/her invention without his/her authorization guarantee that the domestic market will be fully supplied at the same actual prices.

In such a case the owner of the patent shall have the right only to collect fair and reasonable remuneration from the said third parties that are making the use from the time of the patent grant until the expiration thereof. If there is no agreement between the parties, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall set the remuneration in accordance with Article 43. The provisions of this paragraph shall apply unless the amendment thereof is required to implement decisions of the World Trade Organization adopted by virtue of the TRIPS Agreement, compliance with which is mandatory for the ARGENTINE REPUBLIC.

*Article 102.* Patent applications filed abroad prior to the enactment of this Law, whose subject matter was not patentable under Law No. 111 but is patentable under this Law, may be filed provided that the following conditions are met:

(a) the first application must have been filed within the year preceding the enactment of this Law;

(b) the applicant shall prove, in the manner and under the conditions provided for in the implementing Decree, that he/she has filed the patent application in a foreign country;

(c) neither exploitation nor importation of the invention must have started on a commercial scale;

(d) the validity of patents granted under this Article shall end on the same date, as it does in the country in which the first application was filed, provided that the term of TWENTY (20) years provided for in this Law is not thereby exceeded.

*Article 103.* Article 5 of Law No. 22.262 is hereby repealed.

Translated from Spanish

*Article 104.* The NATIONAL EXECUTIVE shall issue the regulations under this Law.

*Article 105.* The foregoing shall be communicated to the National Executive.

ANNEX II

REGULATIONS UNDER THE ARTICLES OF THE LAW ON PATENTS AND UTILITY  
MODELS, WITH THE CORRECTIONS INTRODUCED BY LAW No. 24.572

TITLE I — GENERAL PROVISIONS —

Article 1 — All the rights and obligations recognized by the application of the Law shall be recognized to the same extent for foreign natural or legal persons with true or special domicile in the Argentine Republic, within the terms and scope provided for in Laws Nos. 17.011 and 24.425.

Article 2 — The granting of invention patents and utility model certificates shall be carried out in accordance with the safeguards and procedures established in the present Regulations.

Article 3: Unregulated.

CHAPTER I. PATENTABILITY

Article 4 — To obtain an invention patent, under the terms of Article 12 of the Law and other rules contained in these regulations an application shall be filed with the NATIONAL PATENT ADMINISTRATION or the provincial delegations authorized for this purpose by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY.

Translated from Spanish

Article 5 — If the inventor has disclosed the invention during the year prior to the filing of the application, he/she shall declare this in writing and submit the following along with the patent application:

- (a) an issue or copy of the means of communication used to disclose the invention, where this was a graphic or electronic medium.
- (b) mention of the medium and its geographical location, the disclosure and date of disclosure, where this involved an audio-visual medium.
- (c) proof of the participation of the inventor or applicant in the national or international exhibition in which the invention was disclosed, and the date and extent of the disclosure.

The applicant's declaration shall serve as a sworn declaration and, if it proves false, the right to obtain the patent or utility model certificate shall be lost.

Article 6 — Plants, animals and essentially biological procedures for their reproduction shall not be considered patentable material.

Article 7 — The NATIONAL EXECUTIVE may prohibit the manufacture and marketing of inventions whose commercial exploitation on its territory is to be prevented in the interest of the public good or morality, the health or life of persons or animals, the conservation of plants or the avoidance of serious damage to the environment.

CHAPTER II – RIGHT IN THE PATENT -

Article 8 — The applicant may mention in the application the name of the inventor(s) and request that it be included in the publication of the patent application, in the industrial property title awarded and in the publication of the patent or utility model carried out.

The patent holder that in any way learns of the import of goods in infringement of the rights afforded to him/her by the Law shall be entitled to bring proceedings at the Administrative or Judicial Headquarters as legally appropriate.

Article 9 — The inventor(s) who have assigned their rights may intervene at any time during the procedure and ask to be mentioned in the corresponding title, duly accrediting their status as inventor(s). From this application, notice of THIRTY (30) consecutive days shall be served on the assignee. Should an opposition be raised, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall settle the issue within THIRTY (30) consecutive days of the response to the notice or the production of the proof required to clarify the facts involved.

Article 10. — The right to obtain the patent shall be considered to belong to the employer, when the completion of inventive activities has been stipulated as the partial or total purpose of the worker's activities.

For the purposes of subparagraph (b) of Article 10 of the Law, the making of the invention shall be understood to have been predominantly influenced by skills acquired within the undertaking or by the use of means that it has provided only when the invention concerns the activities of the employer or relates to specific tasks that the inventor carries out or will carry out to serve the employer.

If the invention has been carried out in the conditions indicated in the second part of subparagraph (b) of Article 10 of the Law, if the employer chooses not to exercise his/her right

Translated from Spanish

within the period established in the last part of the same subparagraph, ownership of the patent shall fall to the inventor —employee—.

Where the invention has been carried out by a worker in employment relations, in the conditions indicated in subparagraph (b) of Article 10 of the Law and prior to the granting of the patent, the right to ownership of the patent may be requested stating the grounds, in writing and in a sealed envelope, to the NATIONAL PATENT ADMINISTRATION or the provincial delegations authorized for this purpose by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY. Based on this assumption, the Commissioner of Patents shall call upon the parties to submit their arguments in writing within the non-renewable period of FIFTEEN (15) days from the respective notifications. Within THIRTY (30) days following those submissions or the production of evidence supplied, where applicable, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall issue a reasoned resolution indicating who has the right to apply for the patent, which will be notified to the parties by certified means.

In the event of disagreement between the worker and the employer about the sum of additional remuneration or economic compensation provided for in subparagraph (b) and subparagraph (c) of Article 10 of the Law, respectively, either party may at any time request the intervention of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY to resolve the dispute in a reasoned way. Notice of the request shall be given to the other party within TEN (10) days of the notification date. The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall issue a reasoned resolution within TWENTY (20) days of the reply to the notice or the production of the evidence supplied, where applicable, establishing the additional remuneration or economic compensation that, in its view, is fair, which will be notified to the parties by certified means.

The resolutions of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY referred to in the two previous paragraphs shall be appealable before civil and commercial Federal courts with territorial jurisdiction in the domicile of the workplace, within TWENTY (20) working days from the notification. The appeal shall have no staying effect.

Article 11. — Unregulated.

### CHAPTER III — GRANTING OF THE PATENT —

Article 12. — In order to be able to obtain a patent, the applicant shall supply the following information and documentation within the periods specified for each case by the Law or these Regulations:

- (a) a patent application comprising:
  - (1) a declaration formally applying for a patent;
  - (2) complete name of applicant(s);
  - (3) identity document number and nationality of the applicant(s) or registration data in the case of a legal person;
  - (4) effective domicile of the applicant(s);
  - (5) special elective domicile of the applicant;
  - (6) full name of the inventor(s), where applicable;



Translated from Spanish

- (7) effective domicile of the inventor(s), where applicable;
- (8) title of the invention;
- (9) patent number (or patent application number) to which the application filed is added (where applicable);
- (10) number of the patent application of which the filed application is divisional (where applicable);
- (11) number of the application for a utility model certificate for which conversion into a patent application is requested (where applicable) or vice versa;
- (12) when the filing is carried out under Law 17.011 (PARIS CONVENTION), data relating to the priority or priorities invoked in the patent application (country, number and date of filing of the application(s) for foreign patents);
- (13) full name and address of the depository institution for the micro-organism, date it was deposited and the registration number assigned to the micro-organism by the depository institution, where the patent application refers to a micro-organism;
- (14) full name of the person or industrial property agent authorized to process the patent application;
- (15) identity document number of the authorized person or registration number of the authorized industrial property agent or the general management agent of the applicant;
- (16) signature of the filer;
- (b) a technical description of the invention, headed by the title of the patent, which should coincide with the title on the application, which shall contain:
  - (1) a description of the technical field to which the invention belongs;
  - (2) a description of the state of the art in that domain, known by the inventor, preferably with an indication of the documents that disclosed it;
  - (3) a detailed and complete description of the invention, highlighting the advantages in relation to the known state of the art, understandable to a person skilled in such matters;
  - (4) a brief description of the figures included in the drawings, where these exist.
- (c) one or more claims;
- (d) the technical drawings necessary to understand the invention referred to in the technical specifications;
- (e) an abstract of the invention description;
- (f) reduced-scale reproductions of the drawings that will be used to publish the application;

Translated from Spanish

- (g) micro-organism deposit certificate issued by the depository institution, where applicable;
- (h) proof of payment of fees for the filing of the application;
- (i) certified copies of the priority or priorities invoked in the application.

Article 13. — The date of priority referred to in Article 13 of the Law shall be determined in the way provided for in Law No. 17.011.

Article 14. — Unregulated.

Article 15. — When a patent application is filed jointly by two or more people, the right shall be assumed to be shared equally among them, except otherwise stated in the application.

Article 16. — Unregulated.

Article 17. — When the patent application includes more than one invention, it must be divided before it is granted. For these purposes, the NATIONAL PATENT ADMINISTRATION shall call upon the applicant to request the division within THIRTY (30) days of the notification, on pain of considering the application abandoned.

Article 18. — Unregulated.

Article 19. — Up to NINETY (90) days after the filing date of the patent application, the applicant may provide supplements, corrections and amendments, provided that this does not involve extending the object. Following that period, only the removal of errors highlighted by the examiner shall be authorized. New examples of creation that are added must be supplementary and improve understanding of the invention. No right may arise from the supplements, corrections and amendments that imply an extension of the original application.

Article 20. — Where the object of a patent application is a micro-organism or where its execution requires a micro-organism that is not publicly available or known, the applicant shall deposit the strain with an institution authorized for the purpose and recognized by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY. This obligation shall be considered fulfilled when the micro-organism has been deposited on or before the filing date of the application.

The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall recognize, for the purposes of the provisions of Article 21 of the Law, institutions recognized by the WORLD INTELLECTUAL PROPERTY ORGANIZATION to receive micro-organisms in deposit, or institutions that meet the following conditions:

- (a) they are permanent;
- (b) they are not controlled by depositors;
- (c) they have the appropriate staff and installations to check the suitability of the deposit and guarantee its storage and conservation with no risk of contamination;
- (d) they provide the necessary security measures to minimize the risk of losing the material deposited.

Translated from Spanish

At any time from the date of publication of the patent application, the public may obtain samples of the micro-organism in the depository institution under ordinary conditions that govern that operation.

Article 21. — Unregulated.

Article 22. — The claim or claims shall contain:

(a) a preamble or introduction stating from the outset the same title as the invention, continuing to include all the known aspects of the invention arising from the closest prior art;

(b) a characteristic part that shall list the elements that establish the novelty of the invention and that are necessary and essential to carry it out, defining that for which protection is sought;

(c) should the clarity and understanding of an invention require it, the main claim, which is the only independent one, may be followed by one or more claims that make reference to the claim upon which they depend and specifying the additional characteristics they seek to protect. A similar procedure should apply when the main claim is followed by one or several claims relating to particular means of carrying out the invention.

Article 23. — Unregulated.

Article 24. — Once all the documentation specified in Article 19 of the Law has been received, the Commissioner of Patents shall order the completion of a formal preliminary examination within TWENTY (20) days.

The application shall be automatically rejected if, within ONE HUNDRED AND EIGHTY (180) days of certified notification, the applicant does not remedy the faults identified by the NATIONAL PATENT ADMINISTRATION in its preliminary examination. If the fault relates exclusively to foreign priority, the application may continue to be processed, but the priority shall be considered never to have been invoked. Certificates for applications that are resolved shall be issued with the clarification that they are awarded without prejudice to the right of priority provided for in Law No. 17.011, unless the interested parties ask for the procedure to be delayed until after the terms of priority provided for therein. The procedure delay request shall be formulated when the application is filed.

Article 25. — Unregulated.

Article 26. — The publication of the pending patent application shall contain:

(a) application number;

(b) filing date of application;

(c) number(s) of priority or priorities;

(d) date(s) of priority or priorities;

(e) country or countries of priority or priorities;

(f) full name and domicile of applicant(s);

Translated from Spanish

- (g) full name and domicile of inventor(s) (where applicable);
- (h) registration number of the authorized industrial property agent (where applicable);
- (i) title of the invention;
- (j) abstract of the invention;
- (k) most representative drawing of the invention, where one exists.

Article 27: I. — The substantive examination of an application will not be carried out, if the preliminary examination has not been previously completed and approved.

II. — Once the filing procedures have been completed, the applicant may request the substantive examination. The Commissioner of Patents shall, within FIFTEEN (15) days, assign the application to an examiner.

The substantive examination shall be carried out within ONE HUNDRED AND EIGHTY (180) days of the payment of the fee and will include the following phases:

(a) Prior art search. The examiner will endeavor to identify, insofar as he/she considers reasonable and feasible, the documents he/she considers necessary to determine whether the invention is novel and involves an inventive step. His/her search shall cover all the technical sectors which may contain elements relevant to the invention, and the following documentation must be consulted:

- (1) national patent documents (patents and utility models granted and patent and utility model applications in progress),
- (2) published patent applications and patents from other countries,
- (3) technical literature other than that indicated in the above subparagraphs which may be relevant to the search.

(b) Examination. The examiner will investigate, insofar as he/she considers necessary and taking into account the results of the preliminary examination and the prior art search, whether the application fully satisfies the requirements of the Law and the associated Regulations.

III. — If he/she considers it necessary, the examiner may request:

- (a) the applicant to submit, within NINETY (90) days of receiving the request notification, a copy of the substantive examination conducted for the same invention by foreign patent offices where available, pursuant to Article 28 of the Law.
- (b) specific reports relating to the subject matter of the invention from researchers working in universities or science or technology research institutes.

When the collaboration indicated in subparagraph (b) above is requested, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall recognize and pay the professional fees that correspond to the category of main researcher of the NATIONAL COUNCIL OF SCIENTIFIC AND TECHNICAL RESEARCH (CONICET) or its equivalent, based on a time allocation budget previously approved by the Commissioner of Patents.

Translated from Spanish

IV. — Should the applicant consider it appropriate, he/she may request that the NATIONAL PATENT ADMINISTRATION carry out some of the substantive examination in his/her own facilities, to verify data in laboratories or production equipment. The Commissioner of Patents may accept or reject the offer based on that which, in his/her view, is necessary or appropriate.

Article 28. — The examiner will include among his/her observations those that were submitted by third parties, based on the data emerging from the publication issued in accordance with Article 28 of the Law, and which are based on the lack of novelty, industrial applicability or inventive step, or unlawful nature of the subject matter of the application, unless they are clearly incorrect and are declared as such.

Within SIXTY (60) days of the notification, the applicant shall:

- (a) amend the application so that it satisfies the legal and statutory requirements, or
- (b) express his/her opinion on the observations, refute them or make such clarifications as he/she considers relevant and expedient.
- (c) If the applicant does not satisfy the requirements within the period indicated, his/her application will be considered to have been withdrawn.

Article 29. — When the objections raised were not satisfactorily resolved by the applicant, the examiner, following a reasoned report, which will be shown to the applicant, may advise the NATIONAL PATENT ADMINISTRATION to refuse the application, under the terms of Article 29.

Article 30. — If, as a result of the substantive examination, the examiner determines that an invention does meet all the legal and statutory requirements to be patented and, where applicable, that all the remarks made have been satisfactorily resolved, he/she shall produce within TEN (10) days a report to the Commissioner of Patents with a recommendation, who will then make a decision during the next THIRTY (30) days.

Once the resolution granting or refusing the award of the title has been issued, the applicant shall be notified by certified means.

If the resolution is a refusal, the period of THIRTY (30) days to bring the relevant proceedings or appeal shall begin from the time of notification, in accordance with Article 72 of the Law.

Patents granted by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall be registered in the Registry of Patents Granted in order stating its number, title, full name of owner, date and number of application, date of award and expiry date. This Registry may be held on a magnetic carrier, adopting all the necessary means to ensure its conservation and inalterability.

Article 31. — Unregulated.

Article 32. — The announcement of the award of the patent shall also be published in the book published by the INSTITUTE.

Translated from Spanish

Article 33. — Unregulated.

Article 34. — Unregulated.

Translated from Spanish

#### CHAPTER IV. DURATION AND EFFECTS OF THE PATENT

Article 35. — Unregulated.

Article 36. — For the purposes of subparagraph (c) of Article 36 of the Law, the owner of a patent granted in the ARGENTINE REPUBLIC shall have the right to prevent third parties not having his/her consent from carrying out the acts of making, using, offering for sale or importing that product, while it has not been lawfully placed on the market in any country. Placing on the market shall be considered lawful when the licensee authorized for marketing in the country certifies that he/she has been authorized by the patent holder in the country of acquisition or by a third party authorized for marketing.

The marketing of the imported product shall be the subject to the provisions of Article 98 of the Law and these Regulations.

#### CHAPTER V. TRANSFER AND CONTRACTUAL LICENSES

Article 37. — When an invention patent application is transferred, an application shall be filed to include the names and domiciles of the transferor and transferee, for which the transferee must establish a special domicile in the FEDERAL CAPITAL, while the certification of the signatures of both parties must also be accredited.

The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall authorize TWO (2) registries, one for invention patents and another for utility model certificates, where the transfers provided for in Article 37 of the Law shall be recorded.

The transfer of rights shall be binding on third parties from the date of the respective act when the entry is recorded within TEN (10) working days thereof. Otherwise, it will only be binding on third parties from the date of entry.

The owner of a patent may, from the date on which it is granted, request in writing that the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY includes the patent in the Registry of Patents Open to Voluntary Licensing, which the INSTITUTE shall authorize for this purpose.

This Registry may be consulted by any interested party who, if desired, shall negotiate the conditions for the license of use with the patent holder.

The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall arrange for publication in the Gazette of Patents and Utility Model Certificates and the dissemination through the media it deems appropriate of the patents entered in the above-mentioned registry, indicating the number, title, award date and date of inclusion in the registry.

Article 38. — Unregulated.

Article 39. — Unregulated.

Article 40. — Unregulated.

#### CHAPTER VI. EXCEPTIONS TO THE RIGHTS GRANTED

Article 41. — The Ministry of Economy and Public Works and Services, along with the Ministry of Health and Social Welfare or the Ministry of Defense, within the extent of their jurisdiction, shall be the competent authorities to establish limited exceptions to the rights granted by a patent, under the terms and within the limits provided for in Article 41 of the Law.

Translated from Spanish

## CHAPTER VII. OTHER USES NOT REQUIRING AUTHORIZATION BY THE OWNER OF THE PATENT

Article 42. — If the periods established in Article 43 of the Law have elapsed, and the invention has not been exploited, except in cases of force majeure, or if no genuine and effective preparations have been made for such exploitation, or where such exploitation has been interrupted for more than a year, any person may apply to the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY for the granting of a compulsory license for the manufacture and sale of the patented product or the use of the patented procedure. For these purposes, he/she shall certify having attempted to secure the grant of a voluntary license from the owner of a patent on reasonable commercial terms and conditions, and that the attempts have had no effect after ONE HUNDRED AND FIFTY (150) days, and that he/she meets the technical and commercial conditions to supply the domestic market on reasonable commercial conditions.

The license request shall be submitted to the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, shall contain the grounds that support it and shall include all the evidence deemed relevant. The patent owner shall be given written notice at the domicile established in the relevant file, for a period of TEN (10) working days, in which he/she may respond and offer proof. The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY may reject the production of misleading evidence, and the remainder must be supplied within FORTY (40) days. Once this period has elapsed or all the evidence has been produced, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall give a ruling either granting or refusing the compulsory license requested.

The ruling of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY granting or rejecting the compulsory license may be appealed directly before civil and commercial Federal courts, within TEN (10) days of the notification, without prejudice to the remedies provided for in Article 72 of the Law and in the Administrative Procedures Act and the Regulations thereunder. The substantiation of the appeal shall have no staying effect.

Article 43. — A product shall be considered to be exploited where it is sufficiently distributed and marketed to satisfy the demand of the national market, in reasonable commercial conditions.

The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, after hearing the parties and established their inability to agree, shall set reasonable remuneration to be charged by the owner of the patent, which remuneration shall be determined by the particular circumstances of each case, due account being taken of the economic value of the authorization and also of the average rate of royalties payable in the sector concerned under contractual licenses between independent parties.

Resolutions adopted by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY in the framework of this Article may be appealed under the terms of Article 42, final paragraph, of these Regulations.

Article 44. — The competent authority under Law No. 22.262 or such that may replace it or be substituted for it, *ex officio* or at the request of a party, shall determine the existence of supposed anti-competitive practices, when aberrantly exercised to constitute an abuse of a dominant market position, in the terms provided for by Article 44 of the Law and other provisions in force of the Competition Protection Act, following a summons of the patent owner, so that he/she may present the reasons relating to his/her right, for TWENTY (20) days. Once the evidence has been heard and, where applicable, the proof supplied, that authority shall rule on



Translated from Spanish

the suitability of granting compulsory licenses and shall give its opinion on the conditions in which it should be offered.

Translated from Spanish

Under the latter assumption, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, shall, once the acts have been received, arrange for publication of an announcement in the Official Gazette, the Patent Gazette and in a national daily newspaper to make known that it will study offers from third parties interested in obtaining a compulsory license, stating a time limit of THIRTY (30) days to file applications. Once the application(s) have been filed, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall give a reasoned ruling, granting or rejecting the compulsory license. This ruling shall be appealable under the terms of the final paragraph of Article 42.

The decisions of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY on the suitability of the grant and the decisions on the grant itself or, where applicable, the rejection of compulsory licenses shall be adopted in a period not exceeding THIRTY (30) days.

Article 45. — The NATIONAL EXECUTIVE shall grant compulsory licenses for the reasons provided for in Article 45 of the Law, with the intervention of the MINISTRY OF ECONOMY AND PUBLIC WORKS AND SERVICES, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY and, where appropriate, that of the MINISTRY OF HEALTH AND SOCIAL WELFARE or the MINISTRY OF DEFENSE, in the framework of the jurisdiction assigned to them by the Ministries Act.

Article 46. — The resolutions of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, issued in exercise of the responsibility conferred upon it by Article 46 of the Law, shall be appealable under the terms of the final paragraph of Article 42 of these Regulations.

Article 47. — The granting of compulsory licenses shall be considered in accordance with the circumstances of each case, provided that this involves one of the grounds to proceed established by the Law. This shall extend to patents for manufacturing processes and components that enable their exploitation when some of the grounds established by the Law for this purpose are satisfied, and they shall be awarded in the conditions provided for in Article 47 of the Law.

Article 48. — Unregulated.

Article 49. — Unregulated.

Article 50. — The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall establish the procedure and means for accrediting economic and technical capacity, according to the rules in force issued by the competent authorities, to implement efficient exploitation of the patented invention, understood in terms of supplying the national market in reasonable commercial conditions.

#### CHAPTER VIII. PATENTS OF ADDITION OR IMPROVEMENT PATENTS

Article 51. — The application for a compulsory license for a patent of addition shall be granted by the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, by means of a reasoned resolution, following accreditation of the technical or economic importance of the improvement to the discovery or invention. Resolutions issued in the framework of this Article shall be appealable under the terms of the final paragraph of Article 42 of these Regulations.

Article 52. — Unregulated.

#### TITLE III. UTILITY MODELS

Article 53. — Unregulated.

Translated from Spanish

Article 54. — Unregulated.

Translated from Spanish

Article 55. — The novelty of the invention shall be considered not to have been broken when it is the applicant who has made known or disclosed abroad the invention that is the subject of a utility model in the SIX (6) months prior to the filing of the respective application in the ARGENTINE REPUBLIC.

Article 56. — Unregulated.

Article 57. — Unregulated.

Article 58. — The rules contained in these Regulations relating to invention patents shall, where relevant, apply to the procedure for utility model certificates.

TITLE IV. LAPSE OF PATENTS AND UTILITY MODELS

Article 59. — Unregulated.

Article 60. — Unregulated.

Article 61. — Unregulated.

Article 62. — Final decisions adopted by virtue of the provisions of Title IV of the Law shall be appealable under the terms of the final paragraph of Article 42 of these Regulations.

Article 63. — Unregulated.

Article 64. — Unregulated.

Article 65. — Unregulated.

Article 66. — Unregulated.

TITLE V. ADMINISTRATIVE PROCEDURES

CHAPTER I. PROCEDURES

Article 67. — Unregulated.

Article 68. — Unregulated.

Article 69. — Unregulated.

Article 70. — The technical and administrative information contained in patent application files shall be secret and the agents of the NATIONAL PATENT ADMINISTRATION and the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall not allow such information to be disclosed or used in any way by uninterested third parties or known in general. They shall therefore ensure that it is not accessible to those circles in which it would normally be used.

Whomsoever violates such secrecy shall be subject to legal proceedings that may apply, plus a sanction of dismissal and a fine for those who are directly answerable to the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, the Administration or Agency that for technical reasons must intervene, without prejudice to the provisions of Articles 157, 172 and 173 of the Penal Code.

Translated from Spanish

The administrative or legal proceedings may be substantiated *ex officio* or at the request of a party.

Article 71. — Unregulated.

CHAPTER II. APPEAL FOR REVIEW

Article 72. — The lodging of an appeal for review, as established in Article 72 of the Law, shall not act as security for the bringing of other administrative or judicial remedies that may be relevant pursuant to the rules of this Law or Law No. 19.549 and the Regulations on Administrative Procedures. Decree 1759/72 (consolidated text 1991).

Article 73. — Unregulated.

Article 74. — Unregulated.

TITLE VI. VIOLATION OF THE RIGHTS CONFERRED BY PATENTS AND UTILITY MODEL  
CERTIFICATES

Article 75. — Unregulated.

Article 76. — Unregulated.

Article 77. — Unregulated.

Article 78. — Unregulated.

Article 79. — Unregulated.

Article 80. — Unregulated.

Article 81. — Unregulated.

Article 82. — Unregulated.

Article 83. — The precautionary measures and securities required for them to be valid, as provided for in Article 83 of the law, shall not preclude the adoption of other precautionary measures, under the terms established in the substantive or procedural legislation applicable in each case.

Article 84. — Unregulated.

Article 85. — Unregulated.

Article 86. — Unregulated.

Article 87. — Unregulated.

Article 88. — Unregulated.

Article 89. — Unregulated.

TITLE VII. ORGANIZATION OF THE NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY

Translated from Spanish

Article 90. — The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall be responsible for carrying out the State's activities in relation to Industrial Property.

Article 91. — The structure of the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall be made up of the following bodies:

- 1 — Board
- 2 — Control Office (Internal Auditor)
- 3 — Honorary Advisory Board
- 4 — National Patent Administration
- 5 — Directorates

The Board is the supreme governing body with responsibility for leadership and management control.

The Board shall comprise ONE (1) President, ONE (1) Vice-President and ONE (1) Member.

The President of the Board shall represent the INSTITUTE, with the Vice-President standing in, in the event of his/her absence.

The Control Office shall have the responsibilities provided for in Title VI of Law No. 24.156 and its statutory provisions.

Article 92. — The following shall be considered responsibilities of the Institute, in addition to those provided for by the Law:

(a) administrative acts in terms of recognizing and maintaining registry protection for the various manifestations of industrial property, including the processing and resolution of files and the conservation and publishing of documentation;

(b) to disseminate periodically the technological information which is the subject of registration, without prejudice to any other type of publication it deems necessary. For this purpose, it shall have its own database with connections to relevant international databases and foreign industrial property offices;

(c) to propose Argentina's accession to international agreements that it has not signed, and in general to encourage to the development of international relations in the field of industrial property;

(d) to promote initiatives and develop activities conducive to improved knowledge and protection of industrial property within the national and international order;

(e) to maintain direct relations with national and international agencies and bodies working in the field.

(f) to hand down rulings on issues relating to industrial property as requested by the authorities of the EXECUTIVE, LEGISLATURE and JUDICIARY OF THE NATION.

(g) any other responsibility assigned to it by the legislation in force or subsequently assigned to it within its jurisdiction. Article 93. — The following shall be considered responsibilities of the Board, in addition to those provided for by the Law:

Translated from Spanish

- (a) to propose the policy of the Institute and draw up guidelines for its implementation;
- (b) to propose the draft budget and carry out the annual budget settlement;
- (c) to approve the annual report of activities of the INSTITUTE;
- (d) to submit to the NATIONAL EXECUTIVE, through the MINISTRY OF ECONOMY AND PUBLIC WORKS AND SERVICES, proposed accessions by the ARGENTINE REPUBLIC to international industrial property agreements;
- (e) to discuss and, where appropriate, adopt decisions on issues submitted to it for consideration;
- (f) to create the NATIONAL INVENTION AWARD;
- (g) to convene the ADVISORY COUNCIL at least once a month;
- (h) to issue all resolutions necessary for and inherent in its status as supreme body of the INSTITUTE, especially those relating to the implementation of the duties established in Article 93 of the Law.

Article 94. — The NATIONAL PATENT ADMINISTRATION shall be responsible for:

- (a) processing, studying and settling applications for the granting of patents and utility models;
- (b) dealing with invalidity and lapse proceedings and the control of exploitation of patents granted;
- (c) issuing certificates and authorized copies of documents contained in the files within its jurisdiction;
- (d) recording the transfers of patents granted, which should be presented in a public document, and those that are pending, for which certified signatures will be required from transferor and transferee;
- (e) notifying its resolutions and procedures in accordance with Law No. 19.549 and the Regulations on Administrative Procedures, Decree 1759/72 (consolidated text 1991);
- (f) issuing reports and producing statistics on the functioning, activities and performance of the office;
- (g) acting in conjunction with the information technology department and the Legal Counsel of the INSTITUTE for the appropriate application of international agreements in the field.

Article 95. — Unregulated.

Translated from Spanish

TITLE VIII. FINAL AND TRANSITIONAL PROVISIONS

Article 96. — The amount set in fines, fees and annuities may be amended by a resolution of the MINISTRY OF ECONOMY AND PUBLIC WORKS AND SERVICES.



Translated from Spanish

Article 97. — The term established in Article 35 of Law 24.481 shall apply only to applications filed after the entry into force of that Law.

Article 98. — The authorization to produce and market pharmaceutical products shall be requested from the MINISTRY OF HEALTH AND SOCIAL WELFARE, and for agrochemical products, authorization must be sought from the ARGENTINE INSTITUTE OF PLANT HEALTH AND QUALITY, which is part of the SECRETARIAT OF AGRICULTURE, FISHERIES AND FOOD of the MINISTRY OF ECONOMY AND PUBLIC WORKS AND SERVICES.

Article 99. — Unregulated.

Article 100. — Patent applications for pharmaceutical products where the initial applications in Argentina or abroad were filed before January 1, 1995, shall not be accepted, except where the applicants claim the priority provided for in the Paris Convention after that date. Under no circumstances may the initial applications that form the basis for the procedure in the Argentine Republic be prior to January 1, 1994. The same criteria shall be used in cases of amending or converting process patent applications into patent applications for pharmaceutical products.

Article 101. — I. — In terms of inventions of pharmaceutical products, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall use the following procedure for the filing of patent applications:

- (a) from January 1, 1995, it shall establish the receipt of patent applications.
- (b) from January 1, 1995, it shall apply to these applications the same procedure and criteria of patentability, priority and claim as for other patentable material.
- (c) it shall grant the patent, where applicable, following the end of the transition period provided for in Article 100 of the Law, for a period of TWENTY (20) years from the filing date of the application.

II. — From the expiry of the transition period, any person who seeks to limit the resources available to the holder of rights in protected material shall have initiated acts of exploitation or made a significant investment in such acts prior to January 1, 1995. If such an extreme is found to be the case, the patent holder shall have the right to receive the payment provided for in Article 102, third paragraph of the Law. The authorization may not be granted if the patent owner guarantees to supply fully the domestic market at the same real prices. The provisions of this paragraph shall apply unless they must be amended to comply with decisions of the World Trade Organization that are binding on the Argentine Republic.

III. — The application for exclusive marketing rights, during the transition period, shall be filed with the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, along with the necessary documents, such that the Institute may certify:

- (a) that the product is the subject of a patent application filed with the Institute.
- (b) that, after January 1, 1995, a patent application has been filed to protect the same product in another member country of the TRIPS Agreement, by checking that the two applications are the same.

Translated from Spanish

(c) that, after January 1, 1995, a patent has been granted for that product in the other member country of the TRIPS Agreement.

(d) that, after January 1, 1995, marketing approval has been obtained in the other member country of the TRIPS Agreement.

Once those assumptions have been verified, the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall rule on the validity of the award of exclusive marketing rights in the Argentine Republic, for a period of FIVE (5) years from the marketing approval in the Argentine Republic, with the proviso that the permission will expire before that time if the patent application filed with the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY is granted or rejected, or if the marketing authorization is revoked.

The granting of exclusive marketing rights shall be subject to authorization from the competent agencies, in accordance with the provisions of Article 98 of these Regulations.

Article 102. — Patent applications filed abroad before the approval of the Law shall be filed with the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY, which will for these purposes produce a special form that will serve as a sworn statement, under the terms of Article 102 of the Law and in compliance with Article 100 of these Regulations.

Article 103. — Unregulated.

Article 104 — Unregulated.

ANNEX III

ANNEX I OF DECREE No. 590 OF OCTOBER 18, 1995

FEES FOR THE MARKS DEPARTMENT

|     |  |          |
|-----|--|----------|
| 1   | Filing of an application to register a mark:   |          |
| 1.1 | Per logo, mark description and mark not exceeding six centimeters in width and two centimeters in height | \$ 100.- |
| 1.2 | Per cm of excess   | \$ 3.-   |
| 1.3 | Per column of excess   | \$ 6.-   |
| 2   | Filing of mark renewal application (one mark in one class)   | \$ 100.- |
| 3   | Merging of marks (for each mark merged in the original application)                                      | \$ 60.-  |
| 4   | Transfer of rights:  |          |
| 4.1 | During application   | \$ 30.-  |
| 4.2 | Once granted   | \$ 50.-  |
| 5   | Change of heading:   |          |
| 5.1 | During application   | \$ 20.-  |
| 5.2 | Once granted   | \$ 40.-  |
| 6   | Extension of certificate of priority through Paris Convention  | \$ 50.-  |
| 7   | Extension of certificate of priority, not through Convention   | \$ 40.-  |
| 8   | Extension of pendency certificate  | \$ 20.-  |

Translated from Spanish

|        |  |           |
|--------|--|-----------|
| 9      | Extension of the mark title, with copy of documentation                                    | \$ 20.-   |
| 10     | Right to opposition by third parties   | \$ 50.-   |
| 11     | Responses to hearings:   |           |
| 11.1   | Hearing for acceptance   | \$ 10.-   |
| 11.2   | Arising from substantive examination   | \$ 20.-   |
| 11.3   | Arising from third party opposition  | \$ 30.-   |
| 11.4   | Extension of response to hearing   | \$ 10.-   |
| 12     | Request to extend periods for joint hearings:  |           |
| 12.1   | First request  | \$ 30.-   |
| 12.2   | Second request   | \$ 45.-   |
| 12.3   | Third request  | \$ 60.-   |
|        | Request to extend periods for instruction (single and non-renewable)                       | \$ 50.-   |
| 13     | Requests for review:   |           |
| 13.1   | Of a resolution of refusal   | \$ 75.-   |
| 13.2   | Of a resolution of abandonment   | \$ 40.-   |
| 14     | Prior art search:  |           |
| 14.1   | Phonetic search:   |           |
| 14.1.1 | In one class   | \$ 30.-   |
| 14.1.2 | In the 34 classes of product   | \$ 150.-  |
| 14.1.3 | In the eight classes of service  | \$ 90.-   |
| 14.1.4 | In all classes   | \$ 200.-  |
| 14.2   | Search by owner (for each owner in the 42 classes)   | \$ 100.-  |
| 14.3   | Search by name:  |           |
| 14.3.1 | In one class   | \$ 15.-   |
| 14.3.2 | In all classes   | \$ 100.-  |
| 15     | Screen query service:  |           |
| 15.1   | No printing  | No charge |
| 15.2   | Printing, per page   | \$ 0.50   |
| 16     | Request for New Testimony  | \$ 50.-   |
| 17     | Request for report on classification of products/services (without Nice Agreement):        |           |
| 17.1   | In our offices   | \$ 20.-   |
| 17.2   | Using information from Foreign Offices (WIPO), plus the costs resulting from the operation | \$ 30.-   |
| 18     | Price of Trade Mark Gazette:   |           |
| 18.1   | Per issue  | \$ 2.-    |
| 18.2   | Per back issue   | \$ 3.-    |

Translated from Spanish

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| 18.3 | Half-year subscription (26 issues)  | \$ 40.- |
| 18.4 | Monthly review  | \$ 25.- |
| 19   | Ratifications of applications filed as business agents:                             |         |
| 19.1 | Applying for a registration or renewal  | \$ 50.- |
| 19.2 | An opposition   | \$ 30.- |
| 20   | Requests for correction of formal errors in the application (owner, domicile, etc.) | \$ 20.- |
| 21   | Copy of documents for third parties:  |         |
| 21.1 | Uncertified photocopies of up to 10 pages   | \$ 1.50 |
| 21.2 | Over 10 pages, per page   | \$ 0.20 |
| 21.3 | Certified copy of up to 10 pages  | \$ 2.50 |
| 21.4 | Over 10 pages, per page   | \$ 0.30 |

FEES

ARTICLE 85: Patents and utility model certificates are subject to the payment of the following fees:

|     |   |          |
|-----|---|----------|
| 1   | Filing a patent application:  |          |
| 1.1 | Up to 10 claims   | \$ 200.- |
| 1.2 | Per claim over 10   | \$ 10.-  |
| 2   | Early publication request   | \$ 70.-  |
| 3   | Request for substantive examination:  |          |
| 3.1 | Up to 10 claims   | \$ 300.- |
| 3.2 | Per claim over 10   | \$ 10.-  |
| 3.3 | Additional for examination in the applicant's own premises, plus travel expenses to be borne by the applicant | \$ 200.- |
| 4   | Right to opposition or comment by third parties   | \$ 150.- |
| 5   | Responses to hearings:  |          |
| 5.1 | Arising from the preliminary examination  | \$ 30.-  |
| 5.2 | Arising from the substantive examination  | \$ 60.-  |
| 5.3 | Arising from third party opposition   | \$ 100.- |
| 6   | Request to extend periods:  |          |
| 6.1 | First request   | \$ 40.-  |
| 6.2 | Second request  | \$ 80.-  |
| 6.3 | Third request   | \$ 150.- |
| 7   | Request for suspension of procedure   | \$ 100.- |
| 8   | Requests for review   |          |
| 8.1 | Of a resolution of refusal  | \$ 150.- |

Translated from Spanish

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| 8.2  | Of a resolution of abandonment   | \$ 80.-  |
| 9    | Extension of patent title, with copy of up to 50 pages of documentation  | \$ 20.-  |
|      | 51 to 100 pages  | \$ 40.-  |
|      | Over 100 pages   | \$ 70.-  |
| 10   | Extension of certificate of priority through Paris Convention  | \$ 50.-  |
| 11   | Extension of certificates of priority, not through Convention  | \$ 40.-  |
| 12   | Extension of pendency certificates   | \$ 20.-  |
| 13   | Transfers of rights:   |          |
| 13.1 | In an application  | \$ 30.-  |
| 13.2 | In a patent  | \$ 50.-  |
| 14   | License contract   | \$ 50.-  |
| 15   | Conversion from Utility Model to Patent, and vice versa  | \$ 200.- |
| 16   | Request for Substantive Examination to be carried out in foreign Offices or information from scientific and technological institutions, plus any resulting costs | \$ 200.- |
| 17   | Annuities:   |          |
|      | 1st to 3rd year, per year  | \$ 100.- |
|      | 4th to 6th year, per year  | \$ 140.- |
|      | 7th year onwards, per year   | \$ 200.- |
| 18   | The fees for Utility Models will be 50 per cent of the fees applied for Invention Patents.   |          |
| 19   | SMEs and nonprofit institutions shall pay fees the equivalent of 50 per cent of those laid down herein.  |          |
| 20   | Copy of documents for third parties:   |          |
| 20.1 | Uncertified photocopies of up to 10 pages  | \$ 1.50  |
|      | Over 10 pages, per page  | \$ 0.20  |
| 20.2 | Certified copy of up to 10 pages   | \$ 2.50  |
|      | Over 10 pages, per page  | \$ 0.30  |
| 21   | Surcharge for not respecting the payment terms for annuities:  |          |
|      | 30 per cent on the value of the relevant fee   |          |
| 22   | New Testimonies  | \$ 50.-  |

## FEES FOR DOCUMENTS AND TRANSFERS

|     |   |         |
|-----|---|---------|
| 1   | Information:  |         |
| 1.1 | Requested by a party, per trial pending, each   | \$ 30.- |
| 1.2 | Information on the existence of precautionary measures                                      | \$ 30.- |
| 2   | Request for recording of precautionary measure:   |         |
| 2.1 | Embargos, where the provisions of Law No. 19.551, Article 296, subparagraph 8, do not apply | \$ 50.- |

Translated from Spanish

|        |  |          |
|--------|--|----------|
| 2.2    | Inhibitions, at the request of a party   | \$ 30.-  |
| 3      | Lifting of precautionary measure, at the request of a party  | \$ 40.-  |
| 4      | Copies of files for legal submission, including processing:  |          |
| 4.1    | Per uncertified copy:  |          |
| 4.1.1  | Marks and models   | \$ 20.-  |
| 4.1.2  | Patents  | \$ 40.-  |
| 4.2    | Per certified copy:  |          |
| 4.2.1  | Marks and models   | \$ 40.-  |
| 4.2.2. | Patents  | \$ 80.-  |
| 4.3    | Additional for urgent procedures (72 hours), to be returned if the service is not able to be fulfilled | \$ 50.-  |
| 5      | Receipt and processing of requests:  |          |
| 5.1    | For an act   | \$ 50.-  |
| 5.2    | Per additional act   | \$ 10.-  |
| 6      | Searches:  |          |
| 6.1    | Phonetic search:   |          |
| 6.1.1  | In one class   | \$ 30.-  |
| 6.1.2  | In the 34 classes of product   | \$ 150.- |
| 6.1.3  | In the eight classes of services   | \$ 90.-  |
| 6.1.4  | In all classes   | \$ 200.- |
| 6.2    | Search by owner (for each owner in the 42 classes)   | \$ 100.- |
| 6.3    | Search by name:  |          |
| 6.3.1  | In one class   | \$ 15.-  |
| 6.3.2  | In all classes   | \$ 100.- |
| 7      | Application to transfer or change heading or to change the form of association:                        |          |
| 7.1    | Adding a title   | \$ 50.-  |
| 7.2    | Without adding a title, with issue of new testimony  | \$ 100.- |
| 8      | Application for new testimony  | \$ 50.-  |
| 9      | Request to exclude protected products/services (renunciation):   |          |
| 9.1    | Partial  | \$ 30.-  |
| 9.2    | Total  | \$ 40.-  |
| 10     | Extension of pendency certificates   | \$ 20.-  |
| 11     | Dismissals and renunciations   | \$ 30.-  |
| 12     | Requests for correction of formal errors in the application (owner, domicile, etc.)                    | \$ 20.-  |

FEES FOR THE INDUSTRIAL DESIGNS DEPARTMENT

Translated from Spanish

|      |  |          |
|------|--|----------|
| 1    | Application to register an industrial design                     | \$ 80.-  |
| 2    | Application to register first renewal                            | \$ 80.-  |
| 3    | Application to register second renewal                           | \$ 80.-  |
| 4    | Transfer of rights:  |          |
| 4.1  | During application   | \$ 30.-  |
| 4.2  | Once granted   | \$ 50.-  |
| 5    | Change of heading:   |          |
| 5.1  | During application   | \$ 20.-  |
| 5.2  | Once granted   | \$ 20.-  |
| 6    | Extension of certificate of priority through Paris Convention    | \$ 50.-  |
| 7    | Extension of certificate of priority, not through Convention     | \$ 40.-  |
| 8    | Extension of pendency certificate                                | \$ 20.-  |
| 9    | Extension of industrial design title, with copy of documentation | \$ 40.-  |
| 10   | Responses to hearings  | \$ 30.-  |
| 11   | Request for suspension of procedure                              | \$ 100.- |
| 12   | Administrative appeals   | \$ 50.-  |
| 13   | New testimony  | \$ 50.-  |
| 14   | Searches:  |          |
| 14.1 | By owner, in all classes for each owner                          | \$ 100.- |
| 14.2 | Prior art search, in all classes                                 | \$ 30.-  |
| 15   | Copy of documents for third parties:                             |          |
| 15.1 | Uncertified photocopies, up to 10 pages                          | \$ 1.50  |
| 15.2 | Over 10 pages, per page  | \$ 0.20  |
| 15.3 | Certified photocopies, up to 10 pages                            | \$ 2.50  |
| 15.4 | Over 10 pages, per page  | \$ 0.30  |

FEES FOR THE INFORMATION TECHNOLOGY DEPARTMENT

|         |   |         |
|---------|---|---------|
| 1       | Technical prior art search:                                 |         |
| 1.1     | Database available in the office:                           |         |
| 1.1.1   | Thematic search:  |         |
| 1.1.1.1 | Database of Argentine Patents:                              |         |
|         | Total   | \$ 60.- |
|         | Since 1975  | \$ 40.- |
| 1.1.1.2 | Databases of Foreign Patents (US.EP.ES.):                   |         |
|         | Per database consulted                                      | \$ 50.- |
| 1.1.2   | Search by bibliographical data (except Title):              |         |
|         | Per item of bibliographical data, up to 10 patent citations | \$ 20.- |
|         | Per patent citation, over 10                                | \$ 0,70 |

Translated from Spanish

|         |  |                         |
|---------|--|-------------------------|
| 1.2     | Databases external to the office:  |                         |
| 1.2.1   | Total cost   | Cost of source + 20 %   |
| 1.2.1.1 | Thematic searches, preliminary fee   | \$ 60.-                 |
| 1.2.1.2 | Search by bibliographical data, preliminary fee                            | \$ 30.-                 |
| 1.2.1.3 | Patent family, preliminary fee   | \$ 50.-                 |
| 2       | Patent Monitoring Services:  |                         |
| 2.1     | In a database available in the office:                                     |                         |
| 2.1.1   | Thematic:  |                         |
| 2.1.1.1 | Argentine Patents:   |                         |
|         | Annual subscription (quarterly issue)                                      | \$ 250.-                |
|         | Individual quarterly report  | \$ 70.-                 |
| 2.1.1.2 | Foreign Patents (US.EP.ES.):   |                         |
|         | Annual subscription (issue every four months)                              | \$ 300.-                |
|         | Individual four-monthly report   | \$ 110.-                |
| 2.1.2   | By patent owner:   |                         |
| 2.1.2.1 | Argentine Patents:   |                         |
|         | Annual subscription (quarterly issue)                                      | \$ 100.-                |
|         | Individual quarterly report  | \$ 30.-                 |
| 2.1.2.2 | Foreign Patents (US.EP.ES.):   |                         |
|         | Annual subscription (issue every four months)                              | \$ 120.-                |
|         | Individual four-monthly report   | \$ 50.-                 |
| 3       | Report on the state of the art:  |                         |
| 3.1     | Databases available in the office:   |                         |
|         | Per report   | \$ 300.-                |
| 4       | Patenting trends:  |                         |
| 4.1     | Databases available in the office:   |                         |
| 4.1.1   | Argentine Patents:   |                         |
|         | By subclass or group of the International Patent Classification or subject | \$ 100.-                |
| 4.1.2   | Foreign Patents (US.EP.ES.):   |                         |
|         | By subclass or group of international patent classification or subject     | \$ 150.-                |
| 5       | Requests for documents:  |                         |
| 5.1     | Documents from Argentine Patents   | \$ 2.- + 0.20 per page  |
| 5.2     | Other documents available in the office                                    | \$ 2.- + 0.20 per page  |
| 5.3     | Documents from Foreign Patents:  |                         |
| 5.3.1   | Provided to the office by mail   | \$ 15.- + 0,20 per page |
| 5.3.2   | Provided to the office by fax  | Cost of source + 20 %   |
|         | Preliminary fee  | \$ 20.-                 |



Translated from Spanish

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| 6   | Dispatch to sender:                          |         |
| 6.1 | Search result:                               |         |
|     | Registered mail                              | \$ 5.-  |
|     | National fax: bibliographical data only      | \$ 10.- |
|     | National fax: claim or abstract and drawings | \$ 20.- |
| 6.2 | Documents:                                   |         |
|     | Registered mail                              | \$ 10.- |
|     | National fax, per document                   | \$ 30.- |

FEES FOR TECHNOLOGY TRANSFER

|                         |  |
|-------------------------|--|
| Application to register | 1 0/00 of the economic value of the Convention |
| Certificate extension   | Tax Department \$ 150.-                        |

Those procedures not specifically listed shall come under those that apply to Trademarks.

— CORRIGENDA—

**DECREE No. 260/96**

The edition of March 22, 1996, where the above-mentioned Decree was published, included the following printing errors:

In Article 65

**WHERE IT STATES:** Actions seeking invalidity and lapse may be opposed ...

**IT SHOULD STATE:** Actions seeking invalidity and lapse may be opposed ...

Annex II - Chapter II – Right to the patent-

In Article 9

**WHERE IT STATES:** ... of the proof required ...

**IT SHOULD STATE:** ... of the proof required ...

Chapter III – Granting of the patent -

In Article 12

**WHERE IT STATES:** (12) ... patent application (country, number and date ...);

Translated from Spanish

**IT SHOULD STATE:** (12) ... patent application (country, number and date ...);

**WHERE IT STATES:** (13) ... refers to a micro-organism;

**IT SHOULD STATE:** (13) ... refers to a micro-organism;

In Article 22, subparagraph (b)

**WHERE IT STATES:** a characteristic part ...

**IT SHOULD STATE:** a characteristic part ...

Chapter V. Transfer and Contractual Licenses

**WHERE IT STATES:** ... request in writing that the NATIONAL INSTITUTE OF HORIZONTAL PROPERTY ...

**IT SHOULD STATE:** ... request in writing that the NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY ...

Chapter VII. Other Uses Not Requiring Authorization By The Owner Of The Patent

In Article 50

**WHERE IT STATES:** NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall establish ...

**IT SHOULD STATE:** The NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY shall establish ...

Title VIII. Final and Transitional Provisions

In Article 101- I.

**WHERE IT STATES:** In terms of investments of pharmaceutical products, ...

**IT SHOULD STATE:** In terms of inventions of pharmaceutical products, ...