

IRAQ
Patents and Industrial Designs Law

(No. 65 of 1970) *

1. — The following expressions shall have the meanings stated against them:

- (i) *Minister*: Minister of Economics;
- (ii) *Registrar*: Registrar of Patents and Industrial Designs;
- (iii) *Directorate*: Directorate General of Registration and Supervision of Companies;
- (iv) *invention*: anything which is new and capable of industrial exploitation, whether pertaining to new industrial products or to novel methods and techniques, or to both;
- (v) *inventor*: any person arriving at an invention;
- (vi) *patentee*: the actual holder of the patent, whether he is the inventor or his successor in title;

* Translation kindly provided by the Directorate General of Registration and Supervision of Companies.

- (vii) *industrial design*: any new arrangement of shapes, colored or uncolored, used in industry;
- (viii) *patent*: a certificate denoting registration of invention;
- (ix) *Court*: the competent court of first instance;
- (x) *Bulletin*: the bulletin in which inventions and designs are published at the Directorate of Registration and Supervision of Companies;
- (xi) *application*: an application for registration of invention or an industrial design;
- (xii) *applicant*: the applicant for registration of invention or an industrial design;
- (xiii) *date of application*: date of receipt of the application by the Directorate;
- (xiv) *Register*: the register kept at the Directorate of Registration and Supervision of Companies for registration of patents or industrial designs;
- (xv) *fees*: amounts to be charged under the provisions of this Law.

Chapter One — Patents

2. — A patent shall be granted in pursuance of the provisions of this Law.

3. — A patent shall not be granted in the following cases:

- (i) for inventions whose exploitation is prejudicial to public morals or public order; for inventions which are contrary to the public interest;
- (ii) for medical and pharmaceutical preparations;
- (iii) for methods or techniques used in financial, banking and accounting matters;
- (iv) for layouts of buildings and solid drawings thereon.

4. — An invention shall not be deemed new in the following cases:

- (i) if, within the fifty years preceding the date of the relevant application, the invention is germane to the state of the art already used publicly in Iraq or abroad; or if the invention or drawing of that invention was published in bulletins issued in Iraq or abroad in such a manner that it may be executed by experts;
- (ii) if, within the fifty years preceding the date of the relevant patent application, a patent has already been granted in respect of the invention or in respect of part thereof to a person other than the inventor or his successor in title or if a third party has already applied for a patent for the invention itself or for part thereof during the said period.

5. — The provisions of Section 4 shall not apply to a person who exploits the invention industrially or commercially, or to the activities required for such exploitation in the state prior to the filing of an application for the patent.

6. — A register entitled "Patents Register" shall be kept at the Directorate, wherein patents for inventions and relevant information shall be recorded under the provisions of this Law.

7. — The following persons shall be entitled to apply for a patent:

- (i) Iraqis and Arab citizens;
- (ii) foreigners resident in Iraq and having a real place of business;
- (iii) foreigners who are nationals of countries according Iraq reciprocal treatment;
- (iv) public administrations;
- (v) companies, societies or organizations set up in Iraq or in countries according Iraq reciprocal treatment, where such bodies have legal personality; industrialists, producers, merchants or laborers, provided that the invention is primarily registered in the name of the inventor; if however the invention has already been registered outside Iraq, it may be registered in the name of the company, organization or society owning it.

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

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

10. — In cases other than those mentioned in Section 9, where the invention falls within the scope of the inventor's work, the employer may, at his option, exploit the invention or acquire it, in return for fair compensation paid to the inventor, provided that the employer informs the Registrar in writing, within three months of the issue of the patent, as to whether or not he wishes to acquire the invention.

11. — An application for a patent filed by the inventor within one year from the date of leaving the employment shall be deemed to have been filed during the execution of the contract or during the work or employment relationship. In such a case, the inventor and the employer shall each have all the rights laid down in Sections 9 and 10 of this Law, provided that the inventor's work with the employer had contributed to the production of the invention.

12. — The patent shall confer upon the patentee the exclusive right to exploit the invention in accordance with the law.

13. — The term of a patent shall be fifteen years from the date of the application for the patent or from the date when the documents were completed. The patent shall be renewed annually by payment of the fees prescribed by law. The term of a patent already issued outside Iraq shall be equal to the term of a patent granted in the foreign country, provided that the term of the patent in Iraq does not exceed fifteen years and that an authenticated copy of the patent is produced. Such patent shall be renewed in the manner provided for above.

14. — The fees shall be charged in accordance with Schedule No. 1 annexed to this Law.

15. — (1) Where the subject of an invention is the introduction of modifications, improvements or additions to an invention in respect of which a patent has already been granted, the patentee concerned may, in accordance with the provisions of Section 16 of this Law and upon payment of the prescribed fees, apply for a patent of addition, whose term shall expire at the same time as that of the principal patent. The patent of addition shall be revoked if the principal patent is revoked.

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

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

16. — (1) The application shall be made to the Registrar by the inventor or his successor in title, or by a registration agent authorized to do so in the cases allowed by the law and in accordance with such conditions as may be prescribed by special regulation. An application for registration may not be made in respect of more than one invention.

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

17. — The applicant shall be entitled to exploit his invention only from the date of issue of the patent.

18. — The Directorate shall examine the application and its enclosures to ascertain the following:

- (i) that the application is made in accordance with the provisions of Section 16 of this Law;
- (ii) that the specification and drawings describe the invention sufficiently to allow its execution by industrialists;
- (iii) that the new elements for which the applicant desires protection are expressly and clearly indicated in the application.

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

20. — The Registrar shall advertise the application when the conditions laid down in Section 18 of this Law are fulfilled.

21. — The patent shall be granted to the person entitled by a decision of the Registrar; such decision shall be advertised in the manner prescribed by the Rules.

22. — If the Registrar is of the opinion that the invention pertains to defense matters or has a military value, he shall forthwith cause the Ministry of Defense to have access to the application and documents annexed thereto. The Minister of Defense may ask for the application not to be published if he thinks that it has a bearing on defense matters; he may for the same reason ask for the decision on the grant of a patent not to be published, within thirty days from the filing date of the application or from the date of the decision. The Minister of Defense may at any time object to the grant of a patent to the applicant if he undertakes to buy the invention from the applicant or reaches agreement with him as to its exploitation.

23. — A patentee may at any time, upon payment of the prescribed fees, file an application to amend the specification or the drawings of the invention for the purposes of correction or explanation, stating the nature of such amendment and reasons therefor, provided that the amendment does not affect the identity of the invention. In such a case, the procedure applicable to the original patent application shall be followed.

24. — (1) Any person may, upon payment of the prescribed fees, obtain copies of patents and documents which the Registrar sees no objection to disclosing, save in the case of the main specification where the inventor has requested protection and secrecy therefor.

(2) Organizations and official and semi-official departments shall be exempt from the fees mentioned in subsection (1).

25. — A patent may be the subject of all legal transactions; ownership of a patent and all rights arising therefrom shall be inheritable. Transactions relating to a patent shall not be binding on third parties unless they are recorded in the Register kept at the Directorate. Transactions, pledges and assignments relating to a patent shall be duly made public.

26. — A creditor may cause a patent belonging to his debtor to be the subject of attachment in pursuance of a decision issued by the competent courts, provided that the Directorate is notified of the attachment and of all other

legal actions taken to that effect. An attachment shall not be binding on third parties until it is recorded in the Register and duly made public.

27. — (1) The patentee shall notify the Registrar of the date of exploitation of the invention within thirty days from the beginning of such exploitation.

(2) Where an invention is not exploited in Iraq within three years from the date that the patent was granted, or where the exploitation is not commensurate with the country's need, or where exploitation of the invention is suspended for at least two years, the Registrar may grant to any person who applies therefor a compulsory license to exploit the invention. The grant of a compulsory license shall be conditional on the applicant's being capable of exploiting the invention seriously. The patentee shall be entitled to apply to the Registrar for fair compensation within ninety days from the date that the decision to grant the compulsory license was published; the Registrar's decision to that effect shall be subject to appeal to the Minister within thirty days from service of the decision on the patentee. The Minister's decision in this respect shall be final.

28. — Where exploitation of an invention is of great importance to industry and requires the use of another invention for which a patent has already been granted, the Registrar may grant the patentee a compulsory license to exploit the former invention if the proprietor thereof refuses to agree to such exploitation on reasonable terms determined by the Registrar. Alternatively, the proprietor of the former invention may be granted a compulsory license to exploit the subsequent invention if his invention is of greater importance. When such license is granted, due regard shall be had to the assessment of compensation payable by one party to the other in accordance with the terms and conditions referred to in Section 27 of this Law.

29. — Where an invention is not exploited within the two years following the grant of a compulsory license, the Registrar may revoke the patent granted for the invention and any interested person may apply to him for such revocation.

30. — Inventions may, by a decision of the Minister, be expropriated if the public interest of the country so requires or for reasons of national defense. Expropriation shall relate to all rights arising from the patent and from the patent application. It may also be restricted to the right of exploitation of the invention for the needs of the State. In such cases, the proprietor of the invention shall be entitled to fair compensation through a decision made by the Minister. He may appeal against the Minister's decision to the President of the Republic within thirty days from service of the decision on him. The decision of the President of the Republic shall be final.

31. — Patent rights shall cease to have effect in the following cases:

- (i) where the term of protection expires pursuant to Section 13 of this Law;
- (ii) where a final judgment invalidating the patent is delivered;

- (iii) where, without reasonable cause, fees that have become due are not paid;
- (iv) where a patent is annulled under this Law.

32. — Expiry, assignment, annulment, expropriation, the grant of a compulsory license, and renewal of a patent, as well as all relevant matters, shall be published in the Bulletin.

33. — The Registrar may, on the application of any interested person or ex officio, annul a patent issued contrary to the provisions of this Law or change any statement in the Register which does not conform to the truth or which was wrongfully entered in the Register. The Registrar's decision shall be subject to appeal to the Minister within thirty days from the date on which it was issued. The Minister's decision in this respect shall be final.

34. — There shall be no derogation from the rights of the patentee by the utilization of an invention in a vehicle of transport by land, sea or air, belonging to one of the countries according Iraq reciprocal treatment, when such means of transport are temporarily or accidentally in Iraq.

35. — The provisions of this Law shall apply to inventions at present enjoying legal protection, provided that an application for a patent is made within two years from the entry into force of this Law. The former term of protection shall be included in the subsequent term of protection.

Chapter Two — Industrial Designs

36. — (1) An application for registration of an industrial design shall, on compliance with the conditions set out in the Rules, be made to the Registrar.

(2) Every industrial design shall be the subject of a separate application.

37. — (1) Any application not fulfilling the conditions set out in the Rules shall be rejected.

(2) An applicant may appeal to the Minister against the decision of the Registrar within thirty days from the date on which it was served. The Minister's decision in this respect shall be final.

38. — The Directorate shall issue the necessary certificate of registration of the industrial design. Such certificate shall contain the information set out in the Rules.

39. — Any interested person may apply for copies of the certificates and decisions relating to the registration of an industrial design, upon payment of the prescribed fees.

40. — Assignment of an industrial design shall not be binding on third parties until it is entered in the Register.

41. — The term of protection of an industrial design shall be seven years from the issue of the certificate, provided that annual payment of the renewal fees prescribed is made.

42. — The fees relating to registration, assignment and amendment of the industrial design shall be charged in accordance with the Fees Schedule No. 2 of this Law.

43. — The Registrar shall publish a notice in the Bulletin of the industrial designs accepted, registered and revoked and of any assignment or alteration relating thereto.

Chapter Three — General Provisions

44. — The following shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand dinars, or to both:

- (i) any person who imitates an invention patented under this Law;
- (ii) any person who imitates an industrial design for which a certificate has been issued under this Law;
- (iii) any person who knowingly sells, offers for sale or distribution, imports from abroad or possesses with intent to trade imitated goods, or articles which include an imitated invention or an imitated industrial design, where such invention or design is registered in Iraq;
- (iv) any person who, without any right, affixes to products, advertisements, trademarks or other media a statement inducing the belief that he has obtained a patent or registered an invention, or who uses a registered industrial design contrary to the provisions of this Law;
- (v) any person who, without any right, possesses a patent or a certificate of an industrial design already registered in Iraq or abroad.

45. — (1) During the hearing of a civil or criminal action, a patentee or registered owner of an industrial design may — upon an application supported by an official certificate of registration relating to the patent or industrial design and accompanied by a financial guarantee proportionate to the products' value as estimated by the court — obtain an order from the court for the provisional attachment of the imitated products or goods, of any implements and tools used for such purpose, and of imitated goods imported from abroad.

(2) A patentee or registered owner of an industrial design may obtain an attachment order in pursuance of subsection (1) prior to the institution of a civil or criminal action, provided that the action is brought or the complaint is laid within eight days from the date of the provisional attachment, failing which the attachment order shall be revoked by decision of the competent judicial authority.

(3) The order for provisional attachment may, where necessary, provide for the assistance of one or more experts in the execution of the order.

46. — The Court may, in any civil or criminal action, order the confiscation of the articles attached, or to be attached, so as to deduct their value from the fines or compensation, or dispose of the articles in any other way that the Court thinks fit. The Court may also order the destruction of such articles where necessary or order other suitable measures. The Court may publish the judgment in the Bulletin and in one or more newspapers at the expense of the person convicted.

47. — The temporary protection of inventions and industrial designs displayed at national or international exhibitions held in Iraq or in a country according Iraq reciprocal treatment shall be guaranteed throughout their display in such exhibitions. The patentee or registered owner of an industrial design shall, upon payment of the prescribed fees, notify the Registrar of the particulars of the invention or the industrial design within the seven days preceding the date of exhibition.

48. — Officials of the Directorate General of Registration and Supervision of Companies may not file applications, personally or through a third party, for patents or for registration of industrial designs until the elapse of at least five years from the date of leaving the civil service.

49. — (1) The Minister may, with the consent of the President of the Republic, upon the recommendation of the Ministry of Industry and confirmation of the Ministry of Finance, reward citizens who produce inventions or submit industrial designs of service to the country.

(2) The Registrar may, with the consent of the Minister and after confirmation by the Ministry of Finance, exempt citizens who have scientific aptitudes and abilities from the fees payable under this Law.

50. — Patents and industrial designs shall be classified in the manner specified in the Rules.

51. — Regulations may be issued to facilitate the implementation of this Law.

52. — Patents Law No. 61 of 1935, together with its amendments and the Rules issued thereunder, shall be repealed.

53. — This Law shall come into force on the date of publication in the Official Gazette.

54. — The Ministers shall be charged with the execution of this Law.
