

Libyan Patents and Industrial Designs and Models Law

Date: 30th March 1959, Law No.8 of the year 1959 on patents
and industrial designs and models,

We, Idris the 1st, king of the United Kingdom of Libya,

The Chamber of Senates and the House of representatives endorsed the
law of the following provisions, which we approved and issued,

Section No. 1 **Chapter No.1** **The Patent**

Article No.1

- (a) In respect with the application of this law, any innovation that is industrially exploitable, whether it is related to new industrial products, new methods or industrial means or application of new methods for known industrial approaches or means, shall be deemed as an invention.
- (b) The invention shall not be deemed new in whole or partially in the following two cases:
 - 1. If ever been used in public in Libya within the past 50 years as of the application date of the patent, or if its description or drawing had appeared in publications published in Libya, or if the published description or drawing was apparently obvious that people of skill may exploit it.
 - 2. If ever a patent was issued in Libya within the past 50 years as of the application date of a patent *Vis a Vis* an invention or a part of it for a non inventor, or to whom its rights were devolved or if a third party had requested a patent for the same invention or a part thereof in the foresaid period.

Article No.2

- (a) The patent shall be granted as per the provisions of this law.
- (b) The patent shall not be granted for the following:
 - 1. Inventions in which exploitations may result in breach of morals or public order.
 - 2. Chemical inventions related to foodstuff, drugs or pharmaceutical formulas unless these products are made

through special methods or chemical processes, where in the latter case, the patent shall be granted to the method of production rather than to the products themselves.

Article No.3

Regarding enforcement of the provisions of this law, the Trade Marks Office established as per the provisions of article No.2, clause (a) of the Trade Marks Law No.40 of the year 1956, shall be deemed an office for patents and the industrial designs and models as per provisions of this law and the regulations that are issued in accordance with it, provided that the said office shall be named the Office for the Protection of Industrial and Commercial Property ".

Article No.4

The following persons shall have the right to request the patent of the invention:

1. The Libyans.
2. Foreigners who reside in Libya or have industrial or commercial corporations in it.
3. Foreigners affiliated to a country that treats Libya reciprocally, or live in these countries or have a real physical residence there.
4. Companies, associations, corporations, groups of industrialists or producers or labors which are established in Libya or in countries of reciprocity if they enjoyed judicial personalities.
5. Public corporations.

Article No.5

The right of patent shall be granted to the inventor or to whom rights are devolved upon, and if the invention was a result of a joint work among several persons, the right of the patent shall be shared by all of them evenly unless they agree otherwise, but if several persons have achieved the invention independently, the right of patent shall be granted to the person who filed the application first.

Article No.6

If a person charged another with disclosing a specific invention and the latter accepted that, all entailed rights shall be granted to the first person and the owner of the work shall be entitled to all rights

resulting from the inventions made by the worker or the employee while carrying out the task charged with.

If a dispute erupted between the owner of the work and the worker or the employee on the definition of works that the laborer or employee is charged with, the owner of the work, the laborer or the employee may resort to the competent court to consider the dispute. In all circumstances, the name of the inventor shall be mentioned in the patent and the inventor shall have a wage for it. If it was not agreed upon this wage, he shall have the right to get a fair compensation from the person who charged him with disclosing the invention or from the owner of the work.

Article No.7

In circumstances other than those mentioned in the previous article and when the invention falls within the activity of the public or private plant to which the inventor is affiliated, the owner of the work shall have the option to choose either to utilize the invention or purchase of the patent, in return for a fair compensation that he pays to the inventor, provided that the choice must be made within three months as of notification date of patent grant.

Article No.8

The patent entitles nobody but its owner the right of exploiting the invention by all means.

Article No.9

The patent's provision shall not apply to the party who industrially exploits the invention or who performs the necessary works needed for exploitation with bona fide before submitting the patent application ,so he will have the right to exploit the invention for his plant's requirements , without transferring this right independently away from the plant itself .

Article No.10

(a) The legal effects resulting from granting the patent shall start as of the application date of the patent, and its duration shall be for fifteen years. The owner of the patent shall have the right to renew it once for a period that does not exceed five years, provided to ask

for the renewal in the last year and to prove that the invention has a unique importance and that he did not yield profits compatible to his efforts and expenses.

- (b) Patents which are granted according to provisions of clause (b) No.2 of the 2nd article of this law shall be valid for ten years, un-renewable.

Article No.11

The owner of the patent may request an additional patent as per articles No.13 and 14 of this law in case of conducting amendments or improvements to the invention subject matter of the original patent. If the original patent is cancelled, the additional patent shall not be cancelled unless the cancellation of the original patent is due to not paying the fees.

Article No.12

The Implementing Regulations of this law defines the basic categories of due fees for submitting the application of the original invention, renewal application, the additional patent request of the invention and the annuities.

Chapter 2 **Patent application procedures**

Article No.13:

Patent application is submitted by the inventor or by whom rights are devolved upon to the financial and economy administrator where his place of residence is located, who shall refer his request to the Office of Industrial and Commercial Property Protection at the Ministry of National Economy in order to issue the patent as per the provisions of this law. The application shall be submitted as per the circumstances and conditions defined by the Implementing Regulations of this law. The patent application shall not include more than one invention.

Article No.14:

A detailed description of the invention and exploitation mode shall be attached to the patent which also shall include clearly the new elements which the respective person asks for their protection, and to enclose

the drawing of the invention if necessary, all to be done as per description defined by the Implementing Regulations of this law.

Article No.15:

The applicant of the patent may exploit his invention as of the application date at his sole responsibility, and the Office of Industrial and Commercial property protection shall not bear any responsibility should the application has been refused for any of the reasons set up in this law .

Article No.16:

The respective office referred to in article No.3 shall examine the patent application and its enclosures to verify the following:

1. The application is submitted as per provisions of article No.13 of this law.
2. The description and drawing depict the invention in a manner that allows the owners of industry to execute it and that it is attested by a specialized technical expert as specified in the Implementing Regulations.
3. The innovated elements which the respective person asks protection for are set out in the application defined and clear.

Article No.17:

The Office of the Industrial and Commercial Protection is entitled to ask the applicants for carrying out the amendments deemed necessary as per the provisions of the previous article, within the period defined by the Implementing Regulations of this law. If the applicant did not carry out this procedure, he will be deemed as abandoning his application .The applicant may submit a petition against the Office's decision in respect with amendments before the committee described in article No.20 of this law, as per conditions and within timelines defined by the Implementing Regulations.

Article No.18:

If the patent application met all conditions provided for in the article No.13 of this law, the Office shall publish the application as defined by the Implementing Regulations.

Article No.19:

Any person of interest may present a notification in writing to the Office of Industrial and Commercial Property Protection, within designated timelines of the Implementing Regulations contesting the issuance of the patent, provided that such notice shall include the causes of contest.

Article No.20:

A committee formed by a decision issued by the Council of Ministers upon the request of the Minister of Economy shall look into the opposition. The committee shall comprise three members. One of the said members shall be the head of Legislation and Cases Department at the Ministry of Justice .The committee may ask for another opinion from government experienced employees and others.

Article No.21:

Decisions issued by the committee in regard with the petition or opposition can be contested before the Federal Supreme Court within sixty days as of respective notification date and the court shall look into the contest promptly .

Article No.22:

Granting the patent to the entitled person shall be implemented through a decision issued by the Minister of National Economy, and this decision shall be published as set out in the Implementing Regulations.

Article No.23:

If the Office of Industrial & Commercial Property Protection noticed that the invention is related to defense affairs or it has an actual military value, it shall brief the **Ministry of Defense** immediately on the patent application and on the attached documents.

The Minister of Defense has the right to challenge granting the patent to the applicant within three months as of patent application date, in return for purchasing the invention from him or making a deal with him to exploit it.

Article No.24:

The applicant of the invention or its owner has the right to submit an application, anytime, in order to amend the invention's specifications or drawing showing its quiddity and causes provided that the amendment will not affect the core of the invention .Procedures pertaining patent application shall be followed in this regard.

Article No.25:

Each person has the right of getting a copy of the patent application, related documents, **and offprints** of the patents registry, and shall also have the right to review the applications, documents and the registry as per description set out in the Implementing Regulations provided that the invention is not related to defense affairs and does not have any actual military value.

Chapter 3

Transfer, Mortgage and Seizure of Patent Proprietorship

Article No.26:

The rights of a patent and all entailed rights are transferred through succession, and invention proprietorship is also transferred in whole or partially in return for compensation or not, and it can be mortgaged as well.

Article No.27:

Creditors may seize patents pertinent to their debtors as decided in the procedural law with respect to seizing chattel or garnishment. The Office of Industrial &Commercial Protection is exempted from provisions related to garnishee's declaration regarding his dues against the debtor. The creditor has to notify the Office of Industrial &Commercial Protection about seizure and the minutes of auction so as to be denoted in the registry , and they can not be used as an evidence against a third party but as of the date of denoting.

Article No.28:

If the invention has not been utilized in Libya or in the country of origin within three years as of granting date of the patent, it becomes cancelled.

Article No.29:

If the Office of Industrial & Commercial Protection found, despite of expiry of stated deadlines mentioned in the previous article, that non exploitation of the invention was due to compelling circumstances, he may be granted an extended period of not more than two years in order to utilize it perfectly.

Article No.30:

Competent government departments may be granted a compulsory license through a decision issued by the Minister of National Economy to utilize the invention due to reasons related to pro bono publico or national defense.

In such circumstances, the owner of the patent has the right to get a fair compensation, which shall be estimated with the knowledge of the stated committee in article No.20, and grievances against its decisions are made before the Supreme Federal Court within sixty days as of committee's date of declaration of decision to the grievant.

Chapter Four Expiry and Cancellation of the patent

Article No. 31:

The rights resulting from the patent will expire in the following conditions:

- a- Expiration of the protection period of the patent given in accordance with the provision of Article 10 of this law.
- b- The assignment of the ownership of the patent by the owner.
- c- The issuance of a judgment for the cancellation of the patent having the power of a passed decision.
- d- The non-payment of due fees during a period of six months from the due date.

The expired patent will be published in the manner mentioned in the Implementing Regulations.

Article No. 32:

The Office of Industrial and Commercial Property Protection and any interested person may ask the Supreme Federal Court to rule the cancellation of the patent which was granted in violation to the provisions of Article (1) paragraph (b) and Article (A) paragraph (b) no. 1 of this law, and the Office will cancel these patents under a judgment having the power of a passed judgment is submitted.

Section Two
Industrial Designs and Models

Article No. 33:

As to the implementation of this law, any arrangement of lines and any shape in colors or without colors used for industrial production whether manually or by a chemical means shall be considered an industrial design or model.

Article No. 34:

A registry shall be established in the Office at the Ministry of National Economy referred to in Article 3 called "Industrial Designs and Models" to register industrial designs and models and all data relating to them in accordance with the provisions of this law and the decisions issued for its implementation.

Article No. 35:

The application for the registration of the design or model shall be submitted to the finance management as per the situations and conditions mentioned in the Implementing Regulations of this law, and the said management shall refer the application to the above mentioned office as one unit.

Article No. 36:

The registration application shall not be rejected unless it does not satisfy the situations and conditions referred to in the previous article, and the applicant may appeal the decision of the Office to the committee mentioned in Article (20), and he may appeal the decision of this committee to the Federal Supreme Court during a period of

(60) days from the date of being notified of the decision of the Office or the committee.

Article No. 37:

The applicant, upon registration, shall be granted a certificate that includes the data specified by the Implementing Regulations of this law. The effects of registration shall start from the date of filing the application if it satisfies the legal requirements. The registration shall be published in accordance with the conditions that are decided by the Implementing Regulations.

Article No. 38:

Anyone has right to ask for extracts and copies of the registry.

Article No. 39:

The transfer of ownership of a design or model shall not be evidence against others unless it is recorded in the registry and published in the way decided by the Implementing Regulations.

Article No. 40:

The period of legal protection resulting from the registration of the design or model shall be five years starting from the date of the application. Protection may continue for two new periods consecutively, if the owner of the design or model filed an application for renewal during the last year of each period and in the way described by the Implementing Regulations.

Article No. 41:

The Implementing Regulations shall specify the fees that should be paid upon the filing an application for the registration of the design or model or the renewal application.

Article No. 42:

The office shall write off the registration in the name of a person other than the real owner of the design or model, when a final judgment from the Federal Supreme Court is submitted to him requiring writing off.

The Office shall make this writing off upon its own initiative or upon the request of concerned people.

Article No. 43:

The writing off of the registration or its renewal shall be published in accordance with the provisions decided by the Implementing Regulations.

**Section Three
Chapter One
Common Provisions**

Article No. 44:

Without prejudice to any more sever penalty provided for in any other law, a penalty of imprisonment and a fine ranging between 10-20 pounds shall be imposed on:

- 1- Anyone who forged an invention which has been granted a patent in accordance with the provisions of this law.
- 2- Anyone who forged an industrial design or model that was registered in accordance with the provisions of this law.
- 3- Anyone who sold, offered for sale or circulation or imported from outside or possessed for commercial purposes forged products or materials with forged industrial design or model with his knowledge of the same, when the invention, design or model was registered in Libya.
- 4- Anyone who illegally places on products, advertisements, trademarks, packing instruments or otherwise, any data that may lead to the belief that he owned the invention patent, or the registration of an industrial design or model.

Article No. 45:

The owner of a patent, design or model may, during the administrative or criminal lawsuit is being considered, request the head of the Federal Supreme Court or the criminal court to issue an order to take the precautionary procedures, especially for withholding the forged products or goods, machines and equipment that were used or may be used in committing the crime and the imported goods from outside

upon their arrival. The owner of the patent, the design or model may ask for the issuance of above-mentioned procedures, before filing an administrative or criminal lawsuit. He shall in this case file his administrative lawsuit or file his complaint to the attorney-general during a period of (8) days excluding the period as from the date of order implementation, otherwise these procedures will be revoked by themselves. The concerned person shall file his application for taking these procedures by a petition supported by a certificate indicating the registration of the invention, the industrial design or model.

The issued order may include taking these procedures, if necessary, the secondment of an expert or more to assist the bailiff in implementation.

Article No. 46:

The Federal Supreme court or the criminal court may rule to confiscate the withheld materials or that will be withheld later on, and their price will be deducted from fines or compensation, or it will be disposed by another method that the court deems appropriate. Also, the court may order the destruction thereof, if necessary, and it may judge all what has been mentioned in case of an acquittal decision was passed due to the lack of criminal intention. The court may order to publish the judgment in one newspaper or more at the expense of the convicted party.

Article No. 47:

The crimes mentioned in this law, those mentioned in the trademark Law No. 40 for 1956, and the crimes mentioned in chapters (1) and (2) of section (8) of the second book of the Libyan criminal law are similar crimes when reference is made to them.

Chapter Two Final Provisions

Article No. 48:

The Implementing Regulations of this law shall include provisions that guarantee provisional protection, inventions and industrial designs or model that are exposed in national or international exhibitions in Libya or in any country that has reciprocal treatment with Libya. The

assignment of these exhibitions shall be by a decision of the Minister of National Economy.

Article No. 49:

If an application has been filed for obtaining a patent in one of the countries that treats Libya reciprocally, those concerned, their legal representatives or those who acquired the owners rights may file an application for this invention in accordance with the Implementing Regulations and the requirements and conditions mentioned in this law, during a period of one year as from the date of filing the application in the foreign country.

And with the exclusion from the provisions of Article (1) (b) of this law, the patent application will not be affected by the publishing of the patent description, its use or filing another application of it during the period specified in the previous paragraph. The provision of this Article applies to industrial designs or models, on condition that the period shall be (6) months as from the date of filing the application in the country of origin, and without prejudice to the provision of Article (9).

Article No. 50:

The use of the invention in land, marine and airway transportation means related to one of the countries that deals with Libya on reciprocal basis shall not affect the rights of patent owner, in case of its existence in Libya in a temporary or casual manner.

Article No. 51:

The provisions of this law shall apply to inventions and industrial designs or models that are covered by legal protection when it is in effect, on condition that the filing of application for the patent or the registration of a design or model shall be during (2) years as from that date, and the previous protection period shall be included within the protection period that is provided by the provisions of this law.

Article No. 52:

The employees of the Office referred to in Article (3) shall not file, by themselves or through others, applications for obtaining patents, or

applications for the registration of industrial designs or models, unless after three years of leaving service in that mentioned Office.

Article No. 53:

The Minister of National Economy shall issue an Implementing Regulations indicating the provisions for the implementation of this law. This Implementing Regulations shall specifically include the following:

- 1- Establishing conditions and dates related to administrative procedures.
- 2- The situations and conditions relating to publications mentioned in this law.
- 3- The fees relating to the issuance of photocopies, certificates and various works and endorsements.

Article No.54:

Concerned people may request application of provisions of international conventions related to the industrial property which Libya has joined if they provide more care to their interests more than the provisions of this law.

Article No.55:

The Minister of National Economy shall implement this law which shall be effective after six months from publication in the official gazette.