

# PATENTS OF INVENTION LAW 773

of September 3, 1925

## TITLE I GENERAL PROVISIONS

### *Article 1—*

Every discovery or invention in every kind of industry made in this country or abroad, gives its inventor the exclusive right of exploiting the said discovery or invention to his advantage under the conditions and for the time hereinafter determined. This right shall be verified by certificates granted by the Government under the name of Patents of Invention.

### *Article 2—*

The following shall be considered as new discoveries or inventions: The invention of new industrial products;

The invention of new means or the new applications of known means for the attainment of a new result or an industrial product.

### *Article 3—*

The following are not susceptible of being patented:

1. The discoveries, inventions or applications that do not present any industrial character, such as plans and combinations of credits or financial matters, of advertising or of publicity.
2. The discoveries, inventions or applications that are obviously contrary to the public order and safety, or the morals.
3. Pharmaceutical compositions or medicines of all kinds. These objects are subject to the laws and special regulations concerning the matter.

### *Article 4—*

The patent shall last fifteen years. Each patent shall pay an annual tax of five pesos. The interested parties may anticipate the payment of one or more annuities at their own will.

(NOTE: Annuities are not paid any more. Patent fees are paid at the time of the granting of Letters Patent.)

### *Article 5—*

The personnel of the Patent Office, which shall be dependent to the Ministry of the Treasure, shall be composed of a Director, a Secretary, and other employees whose number shall be determined by the law of the general budget and expenses.

(NOTE: At present the Patent Office is dependent to the Ministry of Industry and Commerce.)

## **TITLE II**

### **SECTION 1**

#### **FORMALITIES RELATIVE TO THE GRANTING OF PATENTS**

##### *Article 6—*

Whosoever wishes to obtain a patent of invention must file his application at the Patent Office.

The following must be filed:

- a) An application;
- b) A receipt stating that the first annuity has been paid (now revoked);
- c) A description in duplicate of the discovery, invention, or application that constitutes the object of the requested-patent;
- d) Drawings in duplicate to illustrate the description. Common paper shall be used for all the documents intended for the action of obtaining a patent of invention.

##### *Article 7—*

The application shall state whether the invention has already been patented abroad; if it were so, it shall indicate the date and the country of the first application.

It shall not contain restrictions, conditions, or reservations.

It shall bear a title stating the summarized and exact designation of the object of invention.

The description shall be limited to a single main object, as well as the objects of which it is composed and the utilizations which have been stated.

It shall not be written in a foreign language.

All the documents shall be signed by the applicant or his representative.

The power of attorney for patent applications does not need to be legalized, and can be written on common paper with the inventor's signature.

##### *Article 8—*

No patent application shall be considered without previous payment of the first annuity. (Now revoked)

##### *Article 9—*

The term of the patent shall be computed from the day on which the application is filed at the Patent Office.

### **SECTION 2**

#### **GRANTING OF PATENTS**

##### *Article 10—*

The applications received at the Patent Office shall be stated by means of a brief record that indicates in summary, their contents and the day and hour of the filing. The record shall be signed by the Director, Secretary, and the applicant. A receipt of the filed documents stating the record number shall be given to the applicant without any charge.

*Article 11—*

The patents which have been requested orderly, shall be granted if the examination practiced by the technicians from the Patent Office indicates that the object for which the patent is applied, is comprised in [Article 2](#), and it is not included under the limitations of [Article 3](#).

The patent shall be granted by a decision signed by the Director and the Secretary, stating the good order of the application, and a copy of the specifications and claims, and the drawings mentioned in [Article 6](#) shall be attached to it. A copy of [Articles 12](#) and [21](#) of this law shall be included in the Letters Patent.

There shall be no limitation to the number or certified copies the applicant may request, as long as he furnishes the copy of the specifications, claims, and drawings, and pays a fee of 5 pesos for each authenticated certificate.

*Article 12—*

The granting of the patent shall not withstand the promotion of the actions as referred in [Article 21](#).

*Article 13—*

Every application which does not fulfill the requirements of [Articles 6](#) and [7](#) shall be given back to the inventor so that he can file a new application in good order within a term which shall be set. This term can be extended in case of justified necessity at the applicant's or his representative's request.

The application corrected within the said term shall keep the date of the first application.

If it is verified that a specification has not been limited to a single invention, the applicant shall be authorized to restrict his application to a single main object, or to file as many specifications as different inventions the former comprised.

The new documents filed shall be considered as bearing the same date at the first application and shall be accompanied by receipts proving the payment of the fees corresponding to the first annuity for each of the inventions.

(NOTE: The part referring to annuities has been revoked.)

In case the applicant does not file the documents as required within the established term, the application shall be rejected.

*Article 14—*

No patent application can be rejected as irregular unless a technical opinion so advises, and after the applicant or his agent has given the corresponding explanations.

*Article 15—*

In case of waiver or rejection of a patent application, the fees paid shall remain for the Treasury.

*Article 16—*

All decisions of the Patent Office can be appealed to the Ministry of the Treasury within the term of ten days.

(NOTE: The appeal is taken before the Ministry of Industry and Commerce at present.)

*Article 17—*

The Patent Office shall publish an annual list of all the patents granted with an extract of the same.

*Article 18—*

The validity term of the patent can be extended only by a special law.

**SECTION 3  
ASSIGNMENT OF PATENTS**

*Article 19—*

Any patent owner can assign his patent property or the right to exploit it, totally or partially, freely or onerously, or he can give it in guaranty. Each patent assignment or license for its exploitation, or guaranty, must be recorded at the Patent Office, so that it can affect third parties.

**SECTION 4  
THE COMMUNICATION OF THE SPECIFICATIONS, CLAIMS AND  
DRAWINGS OF PATENTS**

*Article 20—*

The specifications, claims, drawings, samples and models of the granted patents shall remain at the Patent Office where they can be examined by anybody. Any person may obtain authentic copies of the said specifications and claims upon payment of five pesos, and at his own expenses.

**TITLE III  
NULLITY AND CADUCITY OF THE PATENTS AND ACTIONS  
THAT CAN BE TAKEN**

**SECTION 1  
NULLITY AND CADUCITY**

*Article 21—*

The patents granted in the following cases, shall be void:

1. If the discovery, invention or use is not new;

2. The ones obtained in transgression to what [Article 3](#) or the National laws state. This is without detriment to the penalties that the infringing might incur by manufacturing or selling forbidden objects.
3. The ones which refer to theoretical or purely scientific principles, methods, systems, or discoveries whose industrial applications have not been sufficiently indicated.
4. If the specifications attached to the patent are not enough to work the invention, or if the true means used by the inventor are not completely and honestly indicated.

*Article 22—*

Any discovery, invention, or use, already exploited in Paraguay at the time of the application for the patent, or when there has been enough publicity prior to the application so that it can be put into practice, shall not be considered new.

Any kind of official publications of a Patent Office of a foreign country made within a year prior to the opposed application, shall not be considered publications under the provisions of the Article.

*Article 23—*

The patents shall expire:

If their owner does not pay the annuity before the beginning of every year of the patent term. However, the interested party shall have a maximum of three months to pay his annuity legally, but in such a case, he shall also pay a supplementary fee of two pesos.

(NOTE: Revoked. Annuities are not paid any more.)

The Patent Office shall publish the list of patents voided and lapsed in the Official Bulletin every month.

*Article 24—*

The inventor is not compelled to exploit his invention, but in case his inactivity becomes longer than a three year term, he shall have the obligation of giving licenses whenever an interested party requests him to. In case they do not arrive at an agreement, arbitrators shall settle the conditions.

## **SECTION II ACTIONS OF NULLITY AND CADUCITY**

*Article 25—*

The nullity or caducity actions can be initiated before the Court by any person who is interested in it or by the District Attorney.

*Article 26—*

The trial shall be a summary proceeding. All kind of evidence shall be admitted; however, the patentee can not submit evidence against what is stated in the documents granted by the Patent Office, justifying his privilege.

The term for submitting evidence shall reasonably be determined by the judge, but it shall never exceed a period of three months. This term shall be granted exceptionally when one of the parties resides overseas, through bond on the part of the applicant. Within the peremptory term of ten days after the expiration of the evidence term, the judge shall render his decision with expressed order for the defeated to pay costs. Within three days, the defeated party may take an appeal before the Court of Appeals, which shall render a decision after the report from the Patent Office with no further formalities.

*Article 27—*

When the nullity or caducity has been declared in trial by final sentence, the Patent Office shall be notified.

## **TITLE IV FALSIFICATION AND ITS PENALTIES**

*Article 28—*

A crime of falsification is any damage caused to the patentee's rights, whether it is by the manufacturing of products or by the use of the same, or similar to, those which are the object of the patent. This crime shall receive a penalty of 100 or 1.000 pesos fine or imprisonment from three months to one year.

*Article 29—*

The accomplices in the crime and those who sell, offer for sale or introduce in Paraguay one or more falsified objects, shall receive the same penalty stated in the previous Article.

*Article 30—*

In case of second offense the fine and imprisonment penalties shall accumulate. In this case, the penalty shall not be redeemable.

There is second offense whenever a sentence has been pronounced against the defendant for any of the crimes foreseen in this law within the previous five years.

*Article 31—*

The Court before which a trial for falsification is started, shall be competent to state the nullity, caducity, or any matter in relation to the patent property, if their validity was opposed as a defense by the accused.

*Article 32—*

The owners or licensees of a patent can, by mandate of a competent authority, proceed by themselves or by their agents to the description or inventory of the objects denounced as falsified with or without seizure.

The mandate shall be issued at simple request and at sight of the Letters Patent. An expert may be appointed for the description of the patent, if necessary.

*Article 33—*

The seizure shall be without effect if the applicant does not bring the corresponding action within a term of 15 days after the description or seizure has taken place.

*Article 34—*

The objects stated as falsified and the instruments or devices specially intended to their manufacture, shall be seized even in the case that the persons charged as falsifiers, accessories or sellers, were acquitted.

The seized objects shall be returned to the owner of the patent without his losing the right to bring action for losses and damages.

*Article 35—*

The person who appears as a patentee in advertisements, prospectus, trademarks, etc., without having a patent granted according to this law, or after the lapse of a previous patent, shall receive a penalty of a fine ranging from twenty to five hundred pesos.

## **COMPLEMENTARY PROVISIONS**

*Article 36—*

Foreigners shall have the same benefits of the present law if in the country where their factories are located, the local laws establish, directly or indirectly, the reciprocity for Paraguayan Patents, or if this equality is accorded by diplomatic conventions.

## **REMARKS**

The Patent Law has undergone the following amendments:

**Annuities:** Annuities are not paid any more. Taxes are paid at the time of the granting of Letters Patents.

**Appeal:** The decisions of the Director of the Patent Office can be appealed before the Minister of Industry and Commerce. The decisions of the Minister can be appealed before the Exchequer Court.