

# ACT

## AMENDING THE PATENTS ACT (1967:837)

(Act 1994:234, of April 14, 1994)

In accordance with the decision by the Parliament, it is prescribed that Articles 57, 57a and 59 of the Patents Act (1967:837) shall read as follows.

**Article 57.** Anyone who infringes the exclusive right conveyed by a patent (patent infringement) shall, where the infringement is committed wilfully or with gross negligence, be sentenced to fines or imprisonment for not more than two years. A person who has violated a prohibition under penalty of a fine ordered under Article 57 a may not be adjudicated to criminal liability for the infringement covered by the injunction.

Attempts to commit acts mentioned in the first paragraph, and the preparation of such acts, shall be punishable according to the provisions of Chapter 23 of the Criminal Code.

A public prosecutor may institute a criminal action in respect of acts mentioned in the first or second paragraphs only where there is a complaint from the injured party and such an action is, for special reasons, called for in the public interest.

**Article 57 a.** At the request by the owner of a patent or by a person who, on the basis of a license, has the right to exploit the invention, the Court may order a prohibition, under penalty of a fine, for a person who commits a patent infringement to continue that infringement.

If the plaintiff shows a probable case that an infringement takes place and it can reasonably be assumed that the defendant, through the continuation of the act, diminishes the value of the exclusive right in the patent, the Court may order a prohibition, under penalty of a fine, for the time until the case has been finally adjudicated or otherwise is decided. No such prohibition may be ordered before the defendant has been given an opportunity to respond, unless a delay would entail a risk of injury.

An injunction as mentioned in the second paragraph may be issued only if the plaintiff deposits a security with the Court for the injury which may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him from making a deposit. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has accepted it.

When the case is adjudicated, the Court shall decide whether a prohibition under the second paragraph shall continue to apply.

The provisions on appeal against decisions in Chapter 15 of the Code on Judicial Procedure shall apply as regards appeals against decisions under the second and third paragraphs and as regards proceedings in higher Courts.

A request for the imposition of a fine may be made by the person who has requested the prohibition. In connection with such an imposition, a request may be made for a new prohibition to be ordered under penalty of a fine.

As regards the contents of wireless broadcasts and broadcasts by wire, the provisions of the Radio Act (1966:755) shall apply.

**Article 59.** At the request of a person who has suffered injury from a patent infringement, the Court may, to the extent considered reasonable in order to prevent the continuation of the infringement, decide that an object protected by a patent which has been manufactured without the authorization of the patent owner, or an object the use of which would constitute a patent infringement, shall be altered in a certain manner or taken into custody for the remainder of the time of the validity of the patent, or be destroyed, or, as regards an object protected by a patent, be surrendered, against compensation, to the person who suffered the injury. These provisions do not apply in respect of a person who has in good faith acquired the property or a specific right in it and who has not himself committed a patent infringement.

Property as referred to in the first paragraph may be seized, where it can reasonably be assumed that a violation under Article 57 has been committed. As regards such seizure, the provisions on seizure in criminal cases in general shall apply.

Without prejudice to the provisions of the first paragraph the Court may, where there are extraordinary reasons, upon request, decide that the owner of a property referred to in the first paragraph may have the right to use the property for the remainder of the time of the validity of the patent, or part of that time, against the payment of an equitable compensation and subject to other reasonable conditions.

The provisions of the first to third paragraphs apply also in relation to acts of attempts or of preparation referred to in Article 57, second paragraph.

This Act enters into force on July 1, 1994.