

**Draft Law**  
**No. (    ýý) For The Year 1999**  
**Patent Law**

**Article (1):**

This Law shall be named (The Patent Law for the Year 1999), and shall come into force 30 days after its publication in the Official Gazette.

**Article (2):**

The following terms and phrases wherever mentioned in this Law, shall have the meanings designated hereunder, unless otherwise indicated by context:

<b>Ministry:</b>	Ministry of Industry and Trade.
<b>Minister:</b>	Minister of Industry and Trade.
<b>Invention:</b>	Any creative idea reached by an inventor, which is related to a product, process or to both, and which provides a practical solution to a particular problem in any field of technology.
<b>Patent:</b>	The certificate granted for the protection of an invention.
<b>Patentee:</b>	The natural or juridical person who is granted a Patent.
<b>Register:</b>	The Patent Register.
<b>Registrar:</b>	The Patent Registrar in the Ministry.

### **Article (3):**

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An invention shall be granted a patent protection if the following conditions are met:

- A.     1.If the invention is new in terms of industrial technology and previously undisclosed to the public in any part of the world, whether in written or verbal description or through use or any other means which affect knowledge of the invention, prior to the date of filing a patent application or prior to the priority date of a patent application as determined according to the provisions of this Law.  
       2.Disclosure of an invention to the public shall not be taken into account if it takes place within twelve months preceding the date of filing the patent application or the date of filing the priority claim, if such disclosure was a result of the applicant's act or the result of an unlawful act against the applicant.
- B.     If the invention involves an inventive step, which reaching is not obvious to a skilled person in the art familiar with the prior state of the technology in the field of the invention.
- C.     If the invention is capable of industrial application whereby it is capable of being manufactured or used in any field of agriculture, fishing, services, or industry broadly defined including hand crafts.

### **Article (4) :**

The following shall be excluded from patent protection:

- A.     1.     Inventions the exploitation of which would be contrary to public order or morality.  
       2.     Inventions, the prevention of its commercial exploitation, is necessary to protect life and health of humans, animals, or plants, or to avoid serious prejudice to the environment.

The application of the provisions of subparagraph (1) and (2) of this paragraph is conditional on the fact that the exclusion of protection is not made merely because the invention's exploitation is prohibited by other legislation in force.

- B.     Scientific discoveries or theories, and mathematical methods.

- C. Diagnostic, therapeutic and surgical methods for the treatment of both humans or animals.
- D. Animals and plants, other than microorganisms.
- E. Biological processes for the production of plants or animals other than non-biological and microbiological processes.
- F. Inventions, whose applications for registration for the first time outside the Kingdom, have been filed by the owner more than eighteen months prior to the date of filing for registration in the Kingdom.

**Article (5):**

The right to a patent shall be granted as follows:

- A. To the inventor or to whomever the patent ownership passes thereafter.
- B.
  - 1. If the invention was a result of a joint effort of more than one person, each of them shall have the right to the patent jointly and equally, unless they agree otherwise.
  - 2. If the invention was independently made by more than one person, the right to a patent shall be granted to the person who was the first to file his application at the Register.
- C.
  - 1. To the employer, if the invention was a result of an employment contract which requires the employee to carry out a particular inventive activity, unless otherwise stipulated by contract.
  - 2. If the economic value of the invention was not foreseen by the employer and employee upon concluding the contract, then the employee who makes the invention shall be entitled to a fair compensation proportionate to the patent's value. If the two parties fail to reach an agreement regarding the amount of compensation, it shall be determined by the competent court.
- D. 1.If the invention of relevance to the field of activity of the employer is made by an employee not required to carry out an inventive activity by the employment contract and if such an invention was made through use of expertise, documents, or tools of the employer placed under the employee's disposal, then the employee shall immediately notify the employer in writing of the invention, and the employee in such a case

shall be entitled to the patent if the employer does not express an interest in owning the patent after the lapse of four months from the date of notice, or the date the employer becomes aware of the invention, whichever is earlier.

2. If the employer expresses interest in owning the invention within the period stipulated in subparagraph (1) of this paragraph, then the employer shall be entitled to the patent as of the date the invention was made, and the employee shall be entitled to a fair compensation which takes into account the significance and the economic value of the invention, and all benefits accruing therefrom to the employer. If the two parties fail to reach an agreement regarding the amount of compensation, the compensation shall be determined by the competent court.

#### **Article (6):**

Paragraphs ( C ) and ( D ) of Article (5) of this Law shall be applicable notwithstanding any other legislation. Moreover, any contractual agreement which detracts from the rights of the employee as stipulated in these two paragraphs shall be deemed void.

#### **Article (7):**

- A. A Register named the “Patents Register” shall be established at the Ministry, under the supervision of the Registrar, in which records shall be maintained of all information related to the invention, and the names of owners, addresses and the patents granted thereto, and any changes thereto resulting from procedures and legal acts and measures thereof, including:
  - 1- Any assignment or transfer of ownership or license to use the patent granted by the patentee to others subject to the provisions of confidentiality in the license agreement.
  - 2- The attachment or hypothecation placed upon the patent or any restriction on the use of the patent.
- B. The Register shall be available to the public in accordance with instructions issued by the Minister for this purpose which shall be published in the Official Gazette.
- C. The Ministry may maintain computerized records of patents and information related thereto; such data and documents retrieved therefrom and certified by the Registrar, shall be effective against third parties.

## **REGISTRATION OF THE PATENT**

### **Article (8):**

- A- Any person may apply for registration of a patent on an application form designated for this purpose according to the following procedures:
- 1- The patent application shall be filed with the Registrar enclosing a clear and complete disclosure of the invention sufficient to enable a person skilled in the art to carry out the invention, together with an indication by the inventor of the best mode for carrying out the invention known to the inventor at the filing date, or at the priority date of the application.
  - 2- The patent applicant shall be required to submit complete information about any patent applications in other countries for the same invention filed before or at the same time, and the results of such applications. If the applications filed are related to biological materials or microorganism, the applicant shall provide proof of submitting samples to specialized facilities.
  - 3- If other than the owner of the invention, the applicant shall provide proof of the right to the patent.
  - 4- The application shall determine the specifications for which protection is sought in a clear and complete description. Graphical drawings may be used to illustrate such specifications if needed.
  - 5- The application shall include a brief summary description of the invention, new specifications for which protection is sought, name of the inventor and applicant and their addresses for purposes of publication in the Official Gazette.
- B. The date of receiving the application by the Registrar shall be considered the date of filing, provided that the application is complete and encloses all documents required by the regulation issued for this purpose.
- C. The Registrar may request the applicant to amend the application, and to complete information required by this Law or the regulation issued in its accordance, provided that such amendments do not exceed the information

disclosed in the original application. Should the applicant fail to fulfill the Registrar's request within the period determined by the regulation, the applicant would be deemed to have abandoned the application and a decision shall be issued by the Registrar in this regard. The applicant may appeal this decision to the High Court of Justice within sixty days from the date of the decision's notification.

**Article (9):**

- A. The application shall be limited to only one invention, or a group of interrelated inventions representing one creative concept.
- B. The applicant may amend the application submitted to the Registrar at any time prior to issuance of the patent, provided that the amendment shall not exceed the information disclosed in the original application.
- C. The applicant may divide the application into sub-applications, prior to issuance of the patent decision, provided that each sub-application shall not exceed the information disclosed in the original application, whereby the date of filing the sub-application shall be considered the date of filing the original application, or the priority date.

**Article (10):**

- A. 1.The applicant may claim priority in the application, for an application submitted by the applicant or predecessor in title, and filed on a prior date in a country with which Jordan is party to a bilateral or multilateral treaty for protection of industrial property, provided that the application is filed in Jordan within a period not more than twelve months from the day following the date of filing the first application.  
  
2.If the application includes a priority claim, the Registrar may request the applicant, within the period specified in the regulation, to submit an authenticated copy of the first filing issued by the office at which the application was filed. The date of filing for registration in this case shall be the same as the date at which the application was filed in the foreign country, as determined according to the Paris Convention for Protection of Industrial Property.
- B. If the applicant fails to prove priority according to paragraph (a) of this Article, the application shall be registered as of the date of filing with the Registrar.

**Article (11):**

Subject to the provisions of this law, the heirs of an inventor who dies before filing an application for patent may file a patent application in their names, provided that the name of the real inventor is mentioned in this case.

#### **Article (12):**

The patent applicant may, at any time prior to the publication in the Official Gazette, request to make amendments to the invention specifications or the graphic illustrations thereof, and shall indicate the nature and reasons for the amendment, provided that such amendments do not modify essentially the invention, or the information disclosed in the original application. The procedures applied in the original application shall apply to the amendments.

#### **Article (13):**

- A. If the application meets all the provisions specified in this Law, the Registrar shall announce his acceptance and grant the applicant a preliminary approval. The Registrar shall publish an announcement of the approval in the Official Gazette, which shall include an abstract of the specifications, and any designs or related information if applicable. The period for publication and the information to be published shall be specified in a regulation issued for this purpose.
- B. 1. Subject to the provisions of Article (36) of this Law, the applicant shall be granted temporary protection for the period between the date of acceptance of the application and the date of granting the patent. The applicant may exploit the invention within this period and take legal measures to prove any infringement on the invention.
- 2. After being granted the patent, the applicant may take any legal measure to stop any infringement on the patent and claim compensation if the infringement persists.

#### **Article (14):**

Any person shall be entitled to oppose a Patent at the Registrars' Office within a period not exceeding three months from the date of publication in the Official Gazette of the preliminary approval of the application. The procedures for oppositions, notifications and conditions for extending the period for oppositions shall be determined in a regulation issued for this purpose.

#### **Article (15):**

- A. If no opposition is submitted against the registration of the invention, or if oppositions are denied, the Registrar shall issue a decision to grant a patent after collecting the required fees.
- B. If the applicant dies prior to granting the patent, the patent shall be granted to the successors in title, upon submission of appropriate documents of proof.

**Article (16):**

The Registrar shall not bear liability for the novelty of the invention or its creativity or its industrial applicability or conformity with the actual specifications of the invention or any benefits resulting therefrom, all of which shall be borne by the Patentee.

**Article (17):**

The period of protection shall be twenty years beginning from the date of filing the application for registration pursuant to the provisions of this Law.

**Article (18):**

- A. The Patentee shall be entitled to an additional patent for improvements or changes to the original invention, in which case the period for protection of the additional patent shall be the remaining period of protection for the original patent, so long as the original patent is valid.
- B. The additional patent shall be subject to the provisions of this Law concerning the original patent.

**Article (19):**

Fees for patent applications; patents and additional patents shall be determined in accordance with regulations issued for this purpose.

**Article (20):**



- A- The procedures and basis for temporary protection of inventions displayed at exhibitions held in the Kingdom or abroad shall be determined according to a regulation issued for this purpose.
- B- The temporary protection stated in paragraph (A) of this Article shall not result in extending the period of priority stated in this Law.

### **The Rights of the Patentee**

#### **Article (21):**

- A. The Patentee shall acquire the following rights:
  - 1-Where the subject matter of the patent is a product, the right to prevent third parties from making, exploiting, using, offering for sale, selling, or importing the product, without the patentee's consent.
  - 2- Where the subject matter of the patent is an industrial process, the right to prevent third parties from using the process, or using the product produced by such process, or offering for sale, or selling, or importing the product directly manufactured by that process, without the patentee's consent.
- B- The right to assign, or transfer the patent to others, and to conclude licensing contracts for its exploitation.
- C- Notwithstanding the provisions of this Law or any other legislation, carrying out of research and development, and submitting applications for approval of marketing the product prior to the expiry date of the patent protection shall not be considered a civil or criminal infringement act.

## **License to Exploit the Invention**

### **Article (22):**

The Minister may grant licenses for exploitation of an invention to other than the patentee and without his consent in any of the following cases:

- A- For government departments or third parties, if the invention is exploited for national security, emergency situations, or for non-commercial public benefit, provided that the patentee shall be notified whenever possible;
- B- If the patentee fails to exploit his patent, or if exploitation is insufficient within three years after being granted the patent, or within four years from the period of filing the patent application, whichever period lapses later. However, the Minister may decide to grant the patentee extension period, if the reasons for non-use or insufficient use are beyond the patentee's control.
- C- If it is determined by a judicial or administrative authorities decision that the Patentee practices his rights in a manner to deter third parties from fair competition.

### **Article (23):**

The following shall be taken into account upon issuing licenses:

- A- The merit of the application for license on a case by case basis;
- B- Whether the license applicant has sought to obtain a license from the patentee to exploit the patent at a reasonable price and terms, and has failed to reach an agreement with the patentee within a reasonable period of time in the cases stated in Paragraph (B) of Article 22 of this Law.
- C- The scope and duration of the license shall correspond to the purpose for which the license is granted. In case of license application related to semi-conductor technology, a license shall only be granted for public non-commercial use or to remedy practices, which are determined to be anti-competitive by judicial or administrative authority.
- D- The license to exploit a patent shall not be exclusive.
- E- The license shall not be capable of assignment.
- F- The license is granted to meet local market demand, if in cases other than that provided for in paragraph C of Article (22) of this Law.
- G- The patent applicant shall be paid adequate remuneration, which takes into account the economic value of the invention.

### **Article (24):**

The Minister may, upon own initiative or request of the Patentee, shall annul the license if the reasons for granting it are no longer applicable, and this shall not prejudice third party rights.

**Article (25):**

The procedures for issuing a license to exploit a patent shall be stipulated in a regulation issued for this purpose.

**Article (26):**

Decisions to license a patent may be appealed to the High Court of Justice within sixty days from the date of notification of concerned parties.

**Article (27):**

A- Ownership of a patent may be transferred completely or partially with or without consideration and a patent may be placed as hypothecation or attachment.

B- The patent and all rights attached thereto may pass by succession.

**Article (28):**

Any transfer, hypothecation or attachment of a patent shall not be effective against third parties prior to being registered. The same shall be published in the Official Gazette.

**Article (29):**

Procedures applicable to hypothecation, attachment and transfer of a patent and all other legal acts relating thereto shall be stipulated in instructions issued by the Minister for this purpose. Such instructions shall be published in the Official Gazette.

## **Expiry and Nullification of Patents**

### **Article (30):**

- A. A patent and all the rights arising therefrom shall lapse in any of the following cases:
1. Lapse of the term of protection as stipulated in the provisions of this law.
  2. Issuing a final and conclusive court decision nullifying the patent by the competent judicial authority.
  3. Non payment of annual fees and any additional fees relating thereto within six months from their due date.
- B. The Registrar shall declare the expired patents according to paragraph (A) of this Article in the manner stipulated in the regulation.
- C. 1. Any interested party shall be entitled to file a cancellation at the High Court of Justice against the patent granted in violation of the provisions of this Law.
2. The Registrar may cancel any patent granted in violation of this law. The Registrar's decision may be subject to appeal at the High Court of Justice provided that the protection continues during this period.

## **Industrial Property Registration Agents**

### **Article (31):**

- A-** 1- No person may practice the profession of an industrial property registration agent or represent oneself as such, other than persons registered at the designated register for this purpose, or lawyers registered at the Bar Association.
- 2- Any person violating subparagraph (1) of this paragraph shall be fined not less than one thousand Jordanian Dinars and not more than five thousand Jordanian Dinars by the competent court.
- B-** The conditions for practicing as an industrial property registration agent shall be stipulated in a regulation issued for this purpose.

## **Crimes and Penalties**

### **Article (32):**

- A.** Any person committing in bad faith any of the following acts shall be subject to imprisonment for a period of not less than three months and not more than one year or to a fine not less than one hundred Dinars and not more than three thousand, or with both penalties:
1. Copied a patented invention pursuant to the provisions of this Law for commercial or industrial purposes.
  2. Sold, acquired for sale purposes, offered for sale or use, or imported from abroad, counterfeit products of the patent subject if the invention was registered in the Kingdom.
  3. Placed misleading data to use on his products, trademarks, advertisements, or his packaging material causing the public to believe that he has obtained a patent or a license.
- B.** Paragraph (A) of this Article shall be applied on the attempting, assisting, or inciting to commit any of the acts stated therein.
- C.** The Patentee shall be entitled to claim compensation resulting from any damages suffered from any of the acts provided for in paragraphs (A) and (B) of this Article.

## **Provisional Measures and Other Penalties**

### **Article (33):**

- A. The Patentee having a patent registered in the Kingdom when filing a civil or criminal lawsuit or during the hearings, may request the court to take any of the following measures, provided the request is attached with a bank guaranty or a cash deposit accepted by the court:
  - 1. Cease the infringement.
  - 2. Place a provisional attachment on the product subject of infringement wherever found.
  - 3. Preserve the evidence related to the infringement.
- B. The Patentee alleging infringement upon his patent may, prior to filing a civil or criminal lawsuit request the court to take any of the measures provided for in paragraph (A) of this Article without notifying the counter-party if he proves that he is the patentee and that his rights have been infringed or that such infringement is imminent and there is a possibility to cause damages of irreparable harm, or where there is a demonstrable risk of evidence being destroyed or disappearing, provided that such requests are attached with a bank guaranty or a cash deposit accepted by the court. The counter-party may have the right to appeal this decision within eight days of notification, and the decision of the court of appeal in this regard shall be final.
- C. If the Patentee fails to file the case within eight days from the date at which the court approves this request, all measures taken in this regard shall be nullified
- D. The court may, upon request of the counter-party, attached with a bank guaranty or a cash deposit accepted by the court, nullify the provisional measure taken to close down the commercial store or the factory or any other place. This decision may be subject to appeal within eight days from the date of notification, and the decision of the Court of Appeal in this regard shall be final.
- E. The counter-party may claim just compensation if the court determines that the plaintiff's claims are invalid, or if the plaintiff fails to file a lawsuit within the specified period.
- F. The court may request expert opinions for purposes of implementing the provisions of this Article.
- G. The court may order the confiscation of the products, tools, and main materials used, or resulting in infringement and the court may also order destruction of same, or their use for non-commercial purposes.

### **Article (34):**

- A. The court may require the defendant in any civil procedure regarding an infringement of the rights of the Patentee provided for in this Law, to prove that the process of producing the product identical to the product produced by the Patentee, is different from the process protected by the patent, if the production was made without the Patentee's consent and there was a substantial likelihood that the identical product was made by the process protected by the patent, and the patentee was unable through reasonable effort to determine the process actually used.
- B.
  - 1. The court shall consider the legitimate interests of the defendants to protect their industrial and commercial secrets when requesting evidence according to paragraph (A) of this Article.
  - 2. If such secrets are disclosed during a lawsuit based on an unjust claim, the defendant may claim compensation for the damages on the basis of a court decision.

### **Final Provisions**

### **Article (35):**

This Law shall apply to all patents granted in accordance with the Patents and Industrial Designs Law No. (22) for the year 1953 and amendments thereof which are in effect after the coming into force of this law.

### **Article (36):**

- A. Patents shall be granted for manufacturing and special chemical operations related to chemical products, medications, pharmaceuticals compound, or food.
- B. Patent applications for the protection of chemicals related to medications, or pharmaceutical or food final products may be filed after the coming into effect of this law.
- C. Decisions regarding applications referred to in Paragraph (B) shall not be made prior to coming into force of this Article.
- D. Subject to the provisions of any other law, the Minister may grant the patent applicant in the Kingdom an exclusive right to market the chemical products related to medical drugs or pharmaceutical compounds, or food

products which relate to an invention, for a period of five years or until the period of granting or denying the patent, whichever is less, if the following occurs after the provisions of this Article come into force:

1. An application is filed for a patent in the Kingdom for products mentioned in this Article
2. An application is filed at another member country in the World Trade Organization, which was granted a patent.
3. A marketing approval has been granted in the said country.
4. A permit to register the drug in the Kingdom is granted from the Ministry of Health

- E.
1. The provisions of paragraphs (C) and (D) of this Article shall come into force one Month after the issuance of a decision to this effect by the Cabinet during a period which does not exceed three years from the date of Jordan's accession to the World Trade Organization.
  2. If the decision referred to in subparagraph (1) of this paragraph is not issued, the provisions of the said paragraph shall come into force automatically upon the lapse of the said three years period.

#### **Article (37):**

Nothing in this law shall bar any person from importing any products or materials from a third party if this party was subject to the legal protection by a patent similar to the one patented in the Kingdom, if the importation was legal and complies with the fair commercial competition principles and takes into account the economical value of the protected patents in a fair manner.

#### **Article (38):**

The Council of Ministers shall issue the necessary regulations for implementing the provisions of this Law including the fees to be collected.

#### **Article (39):**

The Patents and Industrial Design Law No. (33) for the Year 1953 shall be repealed along with its amendments and any other legislation to the extent it conflicts with this Law.

#### **Article (40):**



The Prime Minister and the Ministers shall be responsible for implementing the provisions of this Law.