

**Law No. 82 of 2002
Pertaining to the Protection of Intellectual Property Rights**

The People's Assembly has passed the following law, and it is hereby promulgated:

Article One

The protection of intellectual property rights shall be governed by the attached law.

Article Two

The following laws shall hereby be repealed

- A) Law # 57 of 1939 pertaining to Trademarks and Commercial Data.
- B) Law # 132 of 1949 pertaining to Patents of Invention and Industrial Drawings and Designs; with the exception of the provisions of patents of inventions regarding foodstuff - related chemicals and pharmaceutical chemicals, which shall be repealed as of January 1st, 2005
- C) Law # 354 of 1954 pertaining to Copyright Protection.
Any provisions that contradict with the provisions of the attached law shall be hereby repealed.

Article Three

Upon recommendation of the competent Ministers, the Cabinet shall issue the implementing regulations, within a term not exceeding one month as from the date of enactment of the law herein.

The competent Ministers shall issue, according to their jurisdiction, the decisions required for implementing the provisions of the attached law.

The Ministers, according to their jurisdiction, shall adopt measures necessary to protect the public health and nutrition; or to promote sectors of vital importance to the socio-economic and technological development; within the limits specified by the provisions of the attached law.

The Ministers, according to their jurisdiction, may undertake the procedures necessary, within the limits of the law herein, to prevent the misuse of intellectual property rights by right holders or to resort to practices, which unreasonably restrain trade or adversely affect the international transfer of technology, in accordance with the attached law.

Article Four

This law shall be published in the Official Gazette and shall come into force as from the date following the publication date.

However provisions for patents of inventions concerning foodstuff - related-chemicals, pharmaceutical chemicals and microorganisms and products that were not previously subject to protection, before the issuance of the law herein, shall come into force as from January 1st, 2005; without prejudice to articles 44 and 45 of the attached law.

The law herein shall hold the seal of the State, and shall come into force as one of

the laws thereof.

Issued in the Presidency of the Republic on Rabia'a 1st 21, 1423 H
(concurrent with June 2; 2002 A.D.)

Hosni Mubarak

The section included below contains the part about patents within the above law.

Part I

Patents of Invention, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information

Chapter one

Patents of Invention and Utility Models

Article 1:

Patents of invention shall be granted pursuant to the provisions of the law herein for each invention, which is industrially applicable, novel and involves an inventive step, either concerning new industrial products, innovated industrial methods, or new application of known industrial methods
Patents shall be independently granted for each amendment, modification or addition to an invention already granted a patent; provided that the conditions of novelty, innovation and industrial applicability are fulfilled in such invention, as illustrated in the preceding paragraph. Patents shall be granted to the owner of the amendment, modification or addition, pursuant to the provisions of the law herein.

Article 2:

Patent of invention shall not be granted for the following:

- 1- Inventions, whose exploitation, may result in prejudice to national security, breach of public order or morality or seriously damage the environment or the life or health of human, animal or plant.
- 2- Scientific theories and discoveries, mathematical methods, programs and layouts.
- 3- Diagnosis, therapeutic and surgical methods for man or animal.
- 4- Plants and animals, whatever the level of rareness or strangeness thereof; and biological processes for the production of plants or animals; with the exception of micro-organisms and the non - biological and microbiological processes for the production of plant or animal.
- 5- Living organisms, tissues, cells, natural biological materials, deoxyribonucleic acids (DNA) and genomes.

Article 3:

The invention shall not be deemed novel, whether in whole or in part, in the following cases:

1- If, before the date of filing the patent application, an application has already been submitted for issuing a patent of invention, or a patent has been issued for part or whole of the invention, in A.R.E or abroad

2- If the invention has been publicly used or exploited in A.R.E or abroad; or if the description thereof has been disclosed to the extent that enables those skilled in the art to use such invention, before filing the patent application.

The disclosure mentioned in the preceding paragraph does not include revealing the invention in the national or international exhibitions, within six months, before the date of filing the patent application.

The Executive regulations implementing the law herein shall determine the conditions and procedures for disclosing the invention.

Article 4:

Without prejudice to the provisions of international agreements in effect in A.R.E., every natural or corporate body, either Egyptian or foreigner, who belongs to or have an actual and active place of business in one of the States or entities that are members of the World Trade Organization; or that treat A.R.E on reciprocal basis, shall have the right to apply for a patent of invention to the Patent Office in A.R.E. and shall be entitled to the rights resulting therefrom, pursuant to the provisions of the Law herein.

With regard to the rights provided for in the present chapter, any advantage, favor, privilege or immunity granted to nationals of any state, under any other law, shall be accorded immediately to all nationals of all member states of the World Trade Organization. Exempted from this obligation are any advantage, favor, privilege or immunity originating from the following:

(A) International agreements on Judicial assistance or law enforcement of a general nature;

B) Intellectual property rights agreements, which were applicable before January 1st, 1995

Article 5:

The Patent Office shall hold a register specified for the recordation of applications for patents of invention and utility models, and all data related thereto and related to the exploitation and transactions made thereupon pursuant to the provisions of the Law herein and as indicated in the implementing regulations thereof.

Article 6:

The right to the patent shall be upheld to the inventor or his successors in title. In case that the invention has resulted from a joint effort of several persons, the right to the patent shall jointly and equally be confirmed to all of them, unless otherwise agreed upon.

In case that the invention has been made by several independent persons, the right to the patent shall be confirmed to the person who first applies for the patent.

Article 7:

In case that a person has assigned another to achieve a particular invention, all the rights resulting from such invention shall be granted to the former. The employer shall be entitled to all rights resulting from the inventions that have been achieved by the employee or the worker while being bound by the employment or recruitment relationship; so long as the invention falls within the scope of the contract or the employment or recruitment relationship.

The name of the inventor shall be mentioned in the letters patent. The inventor shall, in all cases, receive fair remuneration for the invention thereof. In case that such remuneration has not been agreed upon, the inventor shall be entitled to fair compensation from the above assignor or employer.

In cases other than those mentioned above, and whenever the invention falls within the field of activity of the public or private establishment, in which the inventor works, the employer shall have the option of either exploiting the invention or purchasing the patent, in return for fair compensation to be paid to the inventor. The choice shall be made within three months beginning from the date of notification of the grant of the patent.

In all cases, the invention shall remain attributed to the inventor.

Article 8:

An application for a patent of invention, which is submitted by the inventor, within one year as of the date of quitting the public or private establishment, shall be deemed to be filed within the validity period of the contract or the employment or recruitment relationship, in which case the inventor and employer shall be entitled to all the rights provided for in the preceding article as the case may be.

Such period shall be extended to three years, should the worker establish or join a competitive establishment and the invention was a direct yield of his activities and experiences in the previous establishment.

Article 9:

The protection period prescribed for a patent of invention shall be twenty years starting from the date of applying for the patent in A.R.E.

Article 10:

The patent shall confer upon the proprietor thereof the right to prevent third parties from exploiting the invention in any manner.

The right of the patentee to prevent third parties from importing, using, selling or distributing the goods shall be exhausted, should the patentee market such goods in any State or grant license to third parties in this respect.

The following acts shall not be deemed infringement on such right:

- 1- Scientific research - related acts.
- 2- Third parties' manufacturing of a product, usage of a method for manufacturing a certain product, or adoption of serious measures to this aim in A.R.E, unless in mala fide, before a patent application in respect of the same product or a method of manufacturing thereof has been submitted. The above third parties may continue the same activities in favor of the establishment thereof only, without expansion despite the issuance of the patent. The right to exercise such activities may not be assigned, or transferred unless in association with the whole establishment.
- 3- Indirect usage of the method of production that constitutes the subject of the invention for the purpose of obtaining other products.
- 4- Using the invention in the transportation means in land, sea or air in one of the member States or Entities of the World Trade Organization, or the States or Entities that treat Egypt on reciprocal basis, in case that any of such means temporarily or contingently exist in A.R.E.
- 5- The manufacture, installation, usage or sale of the product by third parties during its protection period, for the purpose of obtaining a license for marketing thereof; provided that marketing shall not begin before the end of the protection period.

6- Acts undertaken by third parties, other than the acts mentioned above, provided that such acts do not unreasonably contradict with the general usage of the patent and do not unreasonably damage the lawful interests of the patentee, without prejudice to the lawful interests of third parties.

Article 11:

A fee shall be due upon submitting the application for a patent of invention. A progressive annual fee shall also be due beginning from the second year and lasts for the termination of the period prescribed for the patent.

The implementing regulations shall determine the value of such fees, which shall not exceed two thousand Egyptian pounds, upon submitting the application, and shall not exceed one thousand pounds for the annual fee.

The implementing regulations shall also determine the rules of reducing such fees and the cases of exemption therefrom.

The applicant for a patent shall pay the remunerations of the experts whose assistance is sought by the Patent Office, in addition to the examination fees.

Article 12:

The inventor or his successor in title shall apply for a patent to the Patent Office, pursuant to the terms and conditions prescribed by the implementing regulations of the Law herein. The application for a patent may not include more than one invention. The group of inventions forming an integrated innovated idea shall be deemed one invention.

Article 13:

The application for patent, in respect of each of the goods and the methods applied for, shall be accompanied by a detailed description (specifications) of the invention including full elaboration of the subject thereof, and of the best method that enable those skilled in the art to carry it out.

The description shall clearly include the new elements (claims) that the interested party seeks to protect. The application shall further be accompanied by engineering drawing(s) of the invention, when necessary.

In case that the application is related to an invention including biological botanical or zoological materials or conventional knowledge in the field of medicine, agriculture, industry, vocation, or environmental or civilizational heritage, the inventor shall obtain the sources thereof by lawful methods.

In case that the application is related to micro-organisms, the applicant shall disclose such organisms, and shall deposit a live culture thereof at the entity to be determined by the implementing regulations implementing the law herein. Subject to the provisions of article 38 of the law herein, the applicant shall, in all cases, abide by presenting full information and data about the applications that have been previously submitted abroad in respect of the same invention or in relation to the subject whereof; as well as the outcome of the examination of such application.

The executive regulations implementing the law herein shall determine the attachments to the application for a patent; the period within which the same shall be submitted; and the cases that entail the rejection thereof.

Article 14:

The Patent Office may request the applicant for patent to effect the amendments or fulfillment, it deems fit, on the application, in accordance with the provisions of article (13) of the law herein, as indicated in the executive regulations. Should the applicant fail to do so, within three months as of the date of being notified,

the applicant shall be deemed to have abandoned the application. The applicant may petition against the decision issued by the Patent Office, regarding such demand, before the committee provided for in article 36 of the law herein, within thirty days, in accordance with the procedures indicated by the executive regulations.

Article 15:

The applicant for a patent may submit, at any time before the acceptance of the patent application is announced, an application for amending the specifications or engineering drawing of the invention, accompanied by a statement about the nature and reasons of the amendment; with the proviso that such amendment shall not alter the essence of the invention itself. The same procedures followed for the application for a patent shall apply to such case.

Article 16:

The Patent Office shall examine the application for a patent and the attachments thereto in order to verify that the invention is novel, involves an inventive step and industrially applicable, pursuant to the provisions of article (1), (2) and (3) of the law herein.

If the invention fulfills the above mentioned conditions, and the provisions stipulated in articles 12 and 13 of the law herein were observed in the application for a patent, the Patent Office shall proceed to publish the acceptance of the application in the Patents Gazette, in the manner prescribed in the executive regulations.

Any interested party may oppose in writing, within sixty days from the date of announcing the acceptance of the application in the patents gazette, against proceeding with the issuance of the patent, through a notification to the Patent Office including the reasons for the opposition, pursuant to the conditions defined by the executive regulations implementing the law herein.

The opposer shall pay a fee prescribed by the executive regulations implementing the law herein not less than one hundred pounds and not exceeding one thousand pounds. Such fee shall be refunded, in case that the opposition has been accepted.

Oppositions shall be examined by the committee provided for in article (36) of the law herein, in accordance with the conditions and procedures prescribed by the executive regulations.

Article 17:

The Patent Office shall deliver to the Ministry of Defense, the Ministry of Military Production, the Ministry of Interior or the Ministry of Health, as necessary, copies of the applications for patents pertaining to defense, military production, or public security or patents of military, security or health value; together with the attachments to such application, within ten days after the date of completion of the examination.

The applicant shall be notified in this respect, within seven days from the date of delivery. The Minister of Defense, the Minister of Military Production, the Minister of Interior, or the Minister of Health, as necessary, may oppose against the announcement of the acceptance of the patent application, within ninety days from the date of delivery.

The Competent Minister, as the case requires, may oppose, after announcing the acceptance of the patent application, against proceeding with the issuance of the patent, if it appears to the Minister that the application relates to defense, military production or public security affairs; or that the application has military, security or health value. Opposition shall be lodged within ninety days from the

date of publishing the acceptance of the application for Patent in the Patents Gazette.

Oppositions in the above mentioned cases shall result in the stay of procedures of issuing the patent.

Article 18:

A fund for supporting the prices of medicines, other than those prepared for export shall be established, and shall have the corporate personality. Such fund shall be governed by the Minister of Health and Population, for the purpose of achieving development in health and ensuring that such prices shall not be affected by variable conditions. The President of the Republic shall issue a decision of regulating the fund and specifying its resources. Such resources shall include contributions, which are approved by the State, from the Granting States and international governmental and non - governmental organization.

Article 19:

The announcement of the acceptance of the application for a patent shall not be made, unless after the lapse of one year as from the date of filing. Such application shall remain confidential during such period.

The patent shall be granted pursuant to the decision of the competent Minister or authorized representative thereof. Such decision shall be published in the patents gazette in the manner prescribed by the executive regulations implementing the law herein.

Article 20:

After announcing the acceptance of the application, any person may view such application as well as the documents thereof and the particulars relating thereto recorded in the patents register. Any person may further obtain a copy of the above, in return for a fee prescribed by the executive regulations implementing the law herein, not exceeding one thousand pounds, and in accordance with the terms and procedures stipulated by the executive regulations.

Article 21:

The Patent may be assigned in whole, or in part, with or without compensation, and it may as well be subject of mortgage or usufruct.

Without prejudice to the provisions of selling and mortgaging commercial establishments; patents shall not be assigned, and the mortgage or usufruct thereof shall not be enforceable against others, unless after the date of the recordation thereof in the patents register. The assignment, mortgage or usufruct of a Patent shall be published in accordance with the terms and procedures prescribed by the executive regulations.

Article 22:

The creditor may sequester the patent of his debtor, pursuant to the rules specified for sequestration of the movables in the possession to debtor and held by third parties. The patent office shall not observe the provisions relating to the declaration made by the sequester regarding the properties thereof held by the sequestered party.

The creditor shall inform the Patent Office of the sequestration and the minutes of the auction knock down, for the purpose of recordation in the register. Neither of the above shall be enforceable against third parties, unless after the date of such recordation.

Sequestration shall be published in the manner prescribed by the executive regulations implementing the law herein.

Article 23:

The Patent Office - after the approval of a Ministerial Committee established by a decree from the Prime Minister - shall grant compulsory licenses for the exploitation of the invention. The committee shall determine the financial rights of the patentee upon the issuance of such licenses, in the following circumstances:

First- If the competent Minister - as appropriate - established that the exploitation of the invention may accomplish the following:

1- Purposes of non-commercial public utility; such as the maintenance of national security, health and safety of the environment and food.

2- Facing emergencies or cases of extreme urgency.

The compulsory license shall be issued to face the cases aforementioned in items (1) and (2), without any need for pre-negotiations with the patentee, or for the lapse of a certain period of time since negotiating with him, or the proposal of reasonable prerequisites to obtain his approval of the exploitation.

3- Supporting national efforts in the sectors that are vital for the economic, social and technological development, without unreasonable violation of the rights of the patentee, and taking into consideration the legitimate interests of others.

The patentee shall be promptly notified with the decision of the compulsory license in the cases provided for in items (1) and (3), and in the nearest reasonably available opportunity in the cases aforementioned in item (2).

Second- Upon the request of the Minister of Health in case of the failure of the available amounts of the drugs protected by patent to meet the needs of the country, the decrease in the quality thereof, the abnormal increase in the prices thereof, or if the invention relates to drugs used for critical conditions, chronic, incurable or endemic diseases, or to the products utilized in the prevention from these diseases, and regardless of the invention being related to the drugs, the method of the production thereof, the primary raw materials used in the production thereof, or the method of the preparation of the raw materials necessary for the production thereof.

In all such cases, the patentee shall be promptly notified with the decision of compulsory license.

Third- If the patentee refuses to license others for the exploitation of the invention - for whichever purpose of exploitation - though suitable prerequisites have been offered to him and a reasonable period of negotiations has lapsed.

In such case, the applicant for the compulsory license shall prove that he has made serious efforts to obtain the voluntary license from the patentee.

Fourth- If the patentee does not exploit the patent in the Arab Republic of Egypt by himself or upon his approval, or it has not been sufficiently exploited, in spite of the lapse of four years from the date of submitting the patent application, or three years from the date of the grant thereof - whichever is longer - and also if the patentee ceases the exploitation of the invention without an acceptable reason for a period exceeding one year.

The exploitation may be achieved by the production of the protected product in the Arab Republic of Egypt, or by the utilization of the method of manufacture protected by a patent of invention therein.

Yet, if the Patent Office - in spite of the lapse of either of the two periods referred to above - considers that the non-exploitation of the invention is due to legal, technical or economic reasons, out of control of the patentee, he may be granted another grace period to exploit the invention.

Fifth - If the abuse of the patentee has been proven, or if it has been proven that he practiced his rights afforded by the patent in an anti competitive manner, and these include the following:

- 1- Overpricing the products protected by a patent, or the discrimination among the clients in respect of the prices and the selling conditions thereof.
- 2- Not supplying the market with the protected product, or providing it with unfair conditions.
- 3- Ceasing the production of the protected commodity or producing such in a quantity that does not bring about the proportion between the productivity and the market needs.
- 4- Acting or behaving in a way that has a negative effect on the freedom of competition, in accordance with the declared legal constraints.
- 5- Practicing the rights entitled by law in a way that has a negative effect on the transfer of technology.

In all the previous cases, the compulsory license shall be issued without need for negotiations, or the lapse of a certain period of time in negotiations, even when the compulsory license does not aim at meeting the needs of the domestic market.

The Patent Office may reject to terminate the compulsory license, if the conditions leading to the issuance thereof, are persistent and may predictably occur again.

The damages caused by the abusiveness and non-competitive practices of the patentee shall be taken into account when due compensation for the patentee is estimated.

The Patent Office may invalidate the patent, if evidence arises that, after a period of two years from granting the compulsory license, the said license has not been sufficient to make up for the negative effects which have afflicted the national economy due to the abusiveness of the patentee in using his rights, or his anti-competitive practices.

Any interested party may petition against the decision of the patent invalidation before the committee provided for in article (36), in accordance with the terms and procedures determined by the executive regulations implementing the law herein.

Sixth - If the right holder of the patent of invention cannot exploit such except with the exploitation of another invention necessary therefor, and the invention represents a significant technical progress and a technical and economic importance compared to the other invention, the right holder may obtain a compulsory license from the other licensee, and in such case the said other may have the same right.

The licensed exploitation of one of the two patents may not be assigned except with the assignment of the exploitation of the other patent.

Seventh - In the case of the inventions relating to the technology of semi - conductors, the compulsory license shall not be granted except for the purposes of the public and non commercial interest, or for the remedy of the effects which are proven to be anti - competitive.

The compulsory licenses in the cases provided for in this article may be granted in pursuance to the rules and procedures determined by the executive regulations implementing the law herein.

Article 24:

Upon the issuance of the compulsory license, the following shall be taken into account:

- 1- The application for the issuance of the compulsory license shall be resolved in accordance with the independent circumstances of each case, and the license

shall primarily aim at meeting the domestic market needs.

2- The applicant for the compulsory license shall prove that he has exerted, during a reasonable period of time, serious efforts to obtain voluntary license from the patentee in return for equitable remuneration, but he failed.

3- The patentee shall have the right to petition against the decision of granting the compulsory license for a third party before the committee provided for in article (36) of the law herein, within thirty days starting from the date of his notification of the issuance thereof, in accordance with the terms and procedures determined by the executive regulations.

4- The applicant for the compulsory license, or licensee shall be able to exploit the invention in a serious manner in the Arab Republic of Egypt.

5- The licensee who obtains the compulsory license shall be committed to utilize the invention in the scope, according to the prerequisites, and within the period determined by the decision of granting the said compulsory license.

If the period of the compulsory license has come to an end without achieving the purpose of the said exploitation, the Patent Office may renew the period.

6- The exploitation of the compulsory license shall be limited to the applicant. However, the Patent Office may grant it to another party.

7- The licensee who obtains the compulsory license shall have no right to assign such to others except with the establishment, or with the part thereof pertaining to the utilization of the invention.

8- The patentee shall have the right to obtain an equitable compensation in return of the exploitation of his invention, the economic value thereof shall be taken into consideration in the estimation of the compensation.

The patentee shall have the right to petition against the decision of the estimation of the compensation before the committee provided for in article (36), within thirty days from the date of his notification of the decision, and in accordance with the terms and procedures determined by the executive regulations implementing the law herein.

9- The compulsory license shall end by the expiry date thereof. However, the Patent Office may decide to cancel the compulsory license before the expiry date thereof, if the reasons for granting are no longer valid, and probably will not be valid. The procedures provided for in the executive regulations shall be followed in this respect.

10- The patentee may request the termination of the compulsory license, prior to the termination date, if the reasons for obtaining it are no longer valid and will probably not be valid.

11- The legitimate interests of the licensee shall be taken into consideration upon the termination of the compulsory license before the termination date thereof.

12- The Patent Office shall modify the prerequisites of the compulsory license or cancel such, on its own initiative or in response to the request of any interested party, if the licensee has not used the license within two years from the date of the grant thereof, or if he violates the obligations provided for in the license.

Article 25:

The patent of the invention may be expropriated for reasons relating to national security, and in cases of extreme urgency in which compulsory license may not be sufficient to cope with them based upon a decision from the competent Minister - and after the approval of the Ministerial Committee referred to in Article (23) of the law herein.

The expropriation may be limited to the expropriation of the right of the exploitation of the invention for the needs of the State.

In all cases, the expropriation shall be in return of equitable compensation. The estimation of the compensation shall be through the Committee provided for in article (36) of the law herein, and in accordance with the prevalent economic value at the time of issuance of the expropriation decision.

The expropriation decision shall be published in the Patent Gazette. The appeal of the expropriation decision and of the decision of the committee relating to the estimation of the compensation shall be before the Administrative Court, within sixty days from the date of the notification of the interested party with the decision pursuant to a letter delivered by registered mail with a return receipt. The court shall promptly settle such appeal.

Article 26:

The rights resulting from the patent shall be terminated, and thus fall in the public domain in the following cases:

- 1- The termination of the protection period in accordance with article (9) of the law herein.
 - 2- The patentee's waiving of his rights without any prejudice to the rights of others.
 - 3- A final judgment issued for the invalidation of the patent.
 - 4- Not paying the annual fees or the lateness fine which are (7%) of the due fees, within one year from the due date, after being notified to pay, in accordance with the procedures determined by the executive regulations implementing the law herein.
 - 5- Non - exploitation of the invention in Egypt within the two years following the grant of the compulsory license, and based upon an application filed by any interested party to the Patent Office.
 - 6- Abusiveness of the patentee in the exploitation of his rights in the cases where the compulsory license may not be sufficient to make up for such abusiveness.
- The patents, for which the rights of their owners have terminated in accordance with the foregoing provisions, shall be published in the Patent Gazette in the manner determined by the executive regulations.

Article 27:

The Administrative Court shall be competent for examining the cases related to the issued decisions regarding patents.

Article 28:

The Administrative Court may, upon the request of the Patent Office or any interested party, order the addition to the register of any particulars whose recording has been omitted or the amendment of any particulars appearing in the register contradicting with the reality, or the cancellation of any particulars in case it has been unlawfully recorded.

The Patent Office or any interested party may request the court to nullify the patents granted in conflict with the provisions of articles (2) and (3) of the law herein. The abovementioned Administration shall cancel such patents once a final decision to this effect is presented thereto.

Article 29:

Utility model patents shall be granted in accordance with the provisions of the law herein on every new technical addition in constructing or constituting the means, tools, equipment or parts thereof, products, compositions or methods of producing all the abovementioned, and other matters utilized in the current usage thereof.

The applicant may transfer his application into an application for patent of an invention, and the applicant for a patent of invention shall have the right to transfer his application into an application for utility model patent.

In both cases, the recordation shall go back to the date of the original application.

The Patent Office may - on its own initiative - convert an application for a utility model patent into an application for a patent of invention when the conditions thereof are fulfilled.

Article 30:

The protection period for a utility model shall be seven non - renewable years starting from the date of filing the application for a utility model patent to the Patent Office in the Arab Republic of Egypt.

Article 31:

A fee shall be due upon the application for a utility model patent, and an annual fee shall be also due, gradually increasing from the second year and until the expiry of the patent.

The executive regulations of the law herein shall determine the value of these fees which shall not exceed one thousand pound for each application, and also the rules for the reduction thereof and the cases of the exemption therefrom.

Article 32:

Without prejudice to the provisions of Article (10) of the law herein, any party which commits any of the following shall be penalized by paying a fine not less than twenty thousand pounds and not exceeding one hundred thousand pounds:-

- 1- Counterfeits with the aim of commercial circulation the object of a patent or a utility model granted a patent in accordance with the provisions of the law herein.
- 2- Sells, offers for sale or for circulation, imports or possesses with the aim of trading imitated products while knowing that they are so, for which, or for the methods of production thereof, a patent of invention or a utility model patent is granted, and valid in the Arab Republic of Egypt.
- 3- Unlawfully places on products, advertisements, trademarks, packaging materials or other matters, data leading to the belief that such party had registered a patent of invention or a utility model patent.

In case of recurrence, an imprisonment term of not more than two years and a fine not less than forty thousand pounds and not exceeding two hundred thousand pounds shall apply.

In all cases, the court shall order the confiscation of the counterfeit products subject of the crime and the tools used therein, and the judgment shall be published at the expense of the convicted, in one or more daily newspaper.

Article 33:

The patentee or the owner of utility model may submit a request to the Head of the competent court, as the case may be, to issue an order of precautionary measure regarding the alleged counterfeit products or goods of the patentable product, in accordance with the specification disclosed in the letters patent or utility model. An order shall be issued specifying the precautionary measures necessary for maintaining these products and goods in a manner that ensures that they will remain as they are.

The aforementioned order may be issued before filing the action, and it shall become void if the case has not been filed within eight days from the date of the issuance thereof.

Article 34:

The identical product shall be considered to be obtained by using the method protected by a patent if the claimant proves in his civil action that:

1- The identical product has been obtained by the direct usage of the method protected by a patent.

2- The claimant has exerted reasonable effort to uncover the method used in the production.

In such case, the court may order the defendant to prove that the procedures used to obtain the identical product is different from the procedures protected by the patent owned by the claimant.

The court shall take into consideration, while conducting proceedings of proving the right of the claimant to protect his industrial and commercial secrets.

Article 35:

The Head of the competent court, pursuant to the request of any concerned party and in accordance with a written injunction, may order one or more of the appropriate precautionary measures to fulfill payment of the adjudged fines or compensations, and he may further order, if necessary, that the seized products be destroyed.

Article 36:

Pursuant to a decree of the competent Minister, a committee competent in reviewing the petitions against the decisions issued by the Patent Office, pursuant to the provisions of the law herein, shall be established headed by a judge from the Court of Appeal or one of the same degree among the members of the jurisdiction authorities, and the membership of an assistant judge from the State Council and three experts.

The petition shall be filed before the committee in return of a fee determined by the executive regulations implementing the law herein of not more than five hundred pounds.

The committee shall adjudge the petition in a period not exceeding sixty days from the date of filing the petition, and the decision thereof shall be final.

Except for the applications for cancellation coupled with the requests for the suspension of execution, the lawsuits may not be accepted before the courts concerning the decisions of the Patent Office, unless after adjudging the petition or the lapse of sixty days as from the date of filing the application therefor without adjudging it.

The executive regulations of the law herein shall regulate the procedures of such committee.

Article 37:

The Patent Office and the interested parties may challenge the decision issued by the committee provided for in article (36) of the law herein, before the administrative courts within sixty days from the date of the notification of the Patent Office or the interested parties thereof, by a registered letter with a return receipt. The court shall decide promptly upon that appeal.

Article 38:

If an application for a patent of invention is filed in a member State or Entity of the World Trade Organization (WTO) or which treats the Arab Republic of Egypt on a reciprocal basis is filed, the applicant or the successors thereof may, within the year following the date of the application, apply to the Patent Office in the Arab Republic of Egypt, for a similar application concerning the same subject, in accordance with the conditions and terms provided for in the law herein and the executive regulations thereof. In such case, the date of the first application in the foreign country shall be the basis for determining the priority.

Article 39:

The employees of the Patent Office may not file, directly or through an intermediary, applications for patents of invention except after the lapse of at least three years as from the date they cease working at the Patent Office.

Article 40 :

The provisions for the patents of invention shall apply in all the cases where there is no special provision concerning utility model patents.

Article 41:

The provisions of the law herein shall apply to all applications submitted to the Patent Office and no patent of invention have been issued therefor, before the date of entry into force of the law herein, and the applicant may amend his application to conform with the provisions of the law herein.

The specified protection period of the law herein shall apply to all patents of invention whose protection period did not terminate at the date of entry into force of the law herein, so as to complete the protection period provided for in article (9) of the law herein.

Article 42:

The Minister of Justice, in coordination with the competent Minister, shall issue a decision to determine those who are law officers with respect to the execution of the provisions of the law herein.

Article 43:

The Patent Office shall receive applications for patents of invention concerning the agricultural chemical products associated with the nutrition, and the chemical pharmaceutical products to keep them together with the applications pertaining to the same type of products which were filed starting from the first of January 1995, until the said office begins examining them starting from the first of January 2005 A.D.

In the case of granting patents for the inventions related to the products provided for in the preceding paragraph, the protection thereof shall start from the grant date and till the termination of the period provided for in article (9) of the law herein, starting from the date of filing the application.

Article 44:

Taking into consideration the specified date for beginning the examination of the applications for patents of invention related to the products provided for in article (43) of the law herein, the applicant for the patent shall have the right to request the competent governmental authority to grant him exclusive marketing rights for his product in the Arab Republic of Egypt, in accordance with the following conditions: -

- 1- The applicant has filed an application for that product in the Egyptian Patent Office starting from the first of January 1995.
- 2- The same product has acquired a patent of invention to protect it in a Member State of the World Trade Organization (WTO), based on an application filed in that state starting from the first of January 1995.
- 3- The applicant has obtained approval for the circulation of this product in the same country in which he had obtained the patent starting from the first of January 1995.
- 4- The applicant has acquired the approval of the competent Ministry to circulate

such product in the Arab Republic of Egypt.

The Egyptian Patent Office shall grant a certificate for the exclusive marketing right, after the approval of a ministerial committee established for this purpose upon a decree from the Prime Minister.

The exclusive marketing right shall not be granted, if it is obvious prima facie from the papers submitted to the Patent Office in order to acquire a certificate for the exclusive marketing rights, that the application submitted to the Office to obtain the patent has been published a year prior to the filing date of that application.

The applicant shall enjoy the exclusive marketing rights of his product, which the competent governmental authority has approved to grant therefor until the Egyptian Patent Office shall decide upon the application for the patent, or for five years calculated from the date of the approval to grant him these rights, whichever period is shorter.

The exclusive right of marketing, previously granted, shall be cancelled by cancellation of the previous decision of circulation issued by the competent Ministry, or if the right holder has abused his rights.

Chapter Two ***Layout Designs of Integrated Circuits***

Article 45:

The term "integrated circuit" shall, in the application of the provisions of the law herein mean any goods, in its final or intermediate form, where the elements therein, at least one of which is an active element, and some or all of the inter - connections are integrally formed in and / or on a piece of insulating material and which is intended to perform with some or all the connections an electronic function.

The term "layout design" shall, in the application of the provisions of the law herein, mean any three dimensional disposition prepared for an integrated circuit intended for manufacture.

Article 46:

New layout designs of integrated circuits shall enjoy protection pursuant to the provisions of the law herein.

The layout design shall be deemed novel, so long as it results from an intellectual effort exerted by the creator thereof and is not among the general information known by those skilled in the subject industrial art.

Nevertheless, the layout design, shall be deemed novel if the coupling and connecting of the components therein are new in essence; in spite of the fact that the components thereof may fall within the general information known to those skilled in the subject industrial art.

Article 47:

Any concept, method, technical system or encoded information that may be included in the layout - design of integrated circuit, shall not be subject to protection.

Article 48:

The Protection Period for layout designs of integrated circuits shall be ten years calculated from the date of applying for registration in A.R.E, or from the date of the first commercial exploitation in A.R.E. or abroad, whichever is earlier.

The protection period prescribed for layout - designs shall terminate, in all cases, after the lapse of fifteen years calculated from the date of preparing the design.

Article 49:

The right holder shall apply for registration of layout - design to the Patent Office. The application shall be accompanied by a photograph or drawing of such design; a sample of each integrated circuit, which has been commercially exploited; and the information indicating the electronic function of such design.

The applicant may exclude one or more parts of the design, had the submitted parts thereof been sufficient to define and specify the function of such design.

A register shall be set up in the Patent Office, for recording the applications for registration, pursuant to the terms and procedures prescribed by the executive regulations implementing the law herein. A fee shall be due for each application to be determined by the executive regulations not exceeding one thousand pounds

The application shall not be accepted, if it is submitted after the lapse of two years as of the date of the first commercial exploitation of the design on the part of the right holder, either in Egypt or abroad.

Article 50:

Any natural or juridical person may not undertake any of the following acts without prior written approval from the right holder of the protected layout-design:

- 1- Copying the layout-design, in whole or a new part thereof, either by incorporation in an integrated circuit or by any other means.
- 2- Importing, selling or distributing for the purposes of trading a layout - design, either independently from an integrated circuit or incorporated therewith, or which constitutes an element of a good.

Article 51:

Without prejudice to the provisions of protection prescribed in the present chapter; any natural or juridical person may undertake one or more of the following acts, without obtaining a license from the right holder:

- 1- Copying or commercially exploiting in the manner of importing, selling, or distributing an integrated circuit containing protected layout-design or a good used in the manufacture thereof such integrated circuit, if such person did not know or had no reasonable grounds to know at the time of performing such act that a protected layout - design is incorporated in such integrated circuit or good. In which case, the person in control of such integrated circuit may dispose of the stock on hand or product ordered before such time, liable to payment of a fair compensation to the right holder, after being notified by the right holder by registered mail with return receipt requested, indicating that the integrated circuit or good held by same includes a protected layout-design.
- 2- Using a protected layout-design either in a personal manner or for the purpose of testing, examining, analyzing, teaching, training or conducting scientific research on a protected layout-design. In case that such usage results in innovating a new layout-design, the innovator shall be entitled to the right of protecting it.
- 3- Innovating a layout-design that is identical to another protected layout-design, as a result of independent efforts.
- 4- Importing a protected layout-design or the integrated circuit produced by using a protected lay out - design, whether such circuit is independent or incorporated in a good; or otherwise importing the product that includes an integrated circuit, incorporating a protected layout - design, provided that either is being circulated in A.R.E or abroad.

Article 52:

The Patent Office may grant compulsory licenses to third parties for using a protected layout-design, in virtue of the provisions of compulsory licensing in respect of patents, stipulated in articles 23 and 24 of the present law herein.

Article 53:

The violation of article (50) of the law herein shall be punishable by a fine not less than twenty thousand pounds and not exceeding one hundred thousand pounds.

In case of recurrence the penalty shall be imprisonment for a period not exceeding two years and a fine not less than forty thousand pounds and not exceeding two hundred thousand pounds.

Article 54:

Provisions of articles (4), (33), (35) and (42) shall apply to the present chapter.

Chapter Three
Undisclosed Information

Article 55:

Undisclosed information shall be protected pursuant to the provisions of the law herein; so long as such information:

- 1- Is secret, in the sense that it is not, as a body or in the precise configuration and assembly of its components generally known among, or readily accessible to, persons within the circles that normally deal with the kind of information in question;
- 2- Has a commercial value for the reason of being secret; and
- 3- Has been subject to reasonable steps taken by the person lawfully in control of the information, to keep it secret.

Article 56:

The protection provided for in the provisions of the law herein shall extend to undisclosed information, the origination of which involves a considerable effort, and which is presented to the competent authorities, upon request therefor, as a condition of approving for marketing of chemical pharmaceutical or agricultural products that use new chemical formations and which is essential to conduct compulsory testing before allowing the marketing of the said products

The competent authorities receiving such information shall protect such data against disclosure and unfair commercial use; as from the date of receiving the information up to the termination of the secrecy thereof; or for a period not exceeding five years, whichever is less.

The disclosure of such information by the competent authorities, where necessary to protect the public, shall not be deemed infringement on the rights of the holder of such information.

Article 57:

The person lawfully in control of such undisclosed information shall undertake the necessary steps for protecting such information to prevent circulation thereof, by incompetent parties.

The person lawfully in control of such information shall further regulate the circulation of such information within the establishment and restrict such circulation to persons legally competent for safeguarding and preventing disclosure of such information to third parties.

The person lawfully in control of such information shall be held accountable for third parties infringement on such information, unless it has been proven that such person has exerted considerable and reasonable efforts for safeguarding such information.

The information shall remain deemed secret and the resulting rights to prevent third parties from infringement thereon shall remain valid, so long as information remains undisclosed pursuant to the provision of article (55) of the law herein.

The rights of the person lawfully in control of such information shall be restricted to prevent third parties from infringement thereupon by any act contrary to honest commercial practices, referred to in article (58) of the law herein. Such person may further resort to judicial authorities in case of proving that third parties have committed any such acts.

Article 58:

The following acts shall, in particular, be deemed contrary to honest commercial practices; and the commitment thereof shall imply unfair competition:

- 1- Bribing workers at the body in control of the information, aiming at obtaining same;
- 2- Instigating workers to disclose information, had such workers attained such information ex officio;
- 3- Disclosing by one of the contractual parties to a "secrecy of information contract" the information relating thereto that came to his knowledge;
- 4- Obtaining information under control, by any unlawful manner such as larceny, espionage or otherwise;
- 5- Obtaining information by adopting fraudulent methods; and
- 6- Third parties' usage of information obtained by adopting any of the acts mentioned herein above, while being aware of the secrecy thereof; and of being obtained by any of the above-mentioned acts.

The disclosure, acquisition or usage of such undisclosed information by third parties through adopting any of the above acts, without authorization from the person lawfully in control of such information, shall be deemed infringement on such undisclosed information.

Article 59:

The following acts shall not be deemed contrary to honest commercial practices:

- 1- Obtaining information from public accessible sources, such as libraries, including patent libraries, governmental registers that are open to the public, researches, studies and reports that have been already published;
- 2- Obtaining information as a result of exerting personal and independent efforts, aiming at extracting information through examination, testing and analysis of the product in circulation at the market which embody undisclosed information;
- 3- Obtaining information as a result of the efforts that have been exerted, in the areas of scientific research, innovation, invention, development, modification and improvement, in a manner independent from the holder of undisclosed information.
- 4- Acquiring and using information that is generally known, readily accessible or otherwise circulated among persons within the circles that normally deal with the kind of information in question.

Article 60:

The holder of undisclosed information or his successor may assign such information to third parties, with or without compensation.

Article 61:

Without prejudice to any severer penalty provided for in any other law; a penalty of a fine not less than ten thousand pounds and not exceeding fifty thousand pounds, shall be imposed upon any person unlawfully disclosing, acquiring, or using protected information, pursuant to the provisions of the law herein, while being aware that such information is secret and has been unlawfully obtained. In case of recurrence, the penalty shall be imprisonment for a period not exceeding two years and a fine not less than fifty thousand pounds and not exceeding one hundred thousand pounds.

Article 62:

Provisions of articles (4), (33), (35) and (42) shall apply to the present chapter.