

PATENT LAW

Royal Decree No. 82/2000 Promulgating the Patent Law

We, Qaboos Bin Said, Sultan of Oman

After viewing the Basic Law of the Country, promulgated by Royal Decree No. 101/96, and the resolution of the High Council of the Arab Gulf Cooperation Countries, at its twentieth session held from 27-29 November in Riyadh, Kingdom of Saudi Arabia, concerning the amendments on the Patent Law for the AGCC, and

For the public interest.

Decreed the following:

Article 1:

The enclosed patent law is to be implemented.

Article 2:

The Minister of Commerce and Industry shall issue the executive bylaws and decision for this law.

Article 3:

Whatever contradicts this law, or is in conflict with its provisions is null and void.

Article 4:

This Decree is to be published in the Official Gazelle and implemented as from the date of publication.

Qaboos Bin Said
Sultanate of Oman

Issued on: 24 Jamada Al Awla 1421 AH.
23 September 2000 AD.

Article 1 :

In implementing the provisions of this law, the following words and expressions shall have the meaning specified for it, unless otherwise specified.

The Minister:

The Minister of Commerce and Industry

The Ministry:

The Ministry of Commerce and Industry

The Department:

The Department of Agencies and Intellectual Property (Patent Office).

Patent:

The document awarded by the Department to the patent owner in order of invention, to enjoy the legal protection in accordance with this law and its bylaws.

Contractual License:

The license issued on the basis of the patent owner's approval for others to use the patent.

Compulsory License:

The license issued by a decision from the Minister without the patent holder's approval, for the cases specified in this law.

Article 2:

An invention is eligible for a patent if it is new, includes an innovative concept, and is industrially applicable, be it for new industrial products, used industrial methods and means or by a new application for known industrial methods and means, and is not violating the public order and morals, affecting national security or conflicting the principles of the Islamic Shari' aa.

Article 3:

In the case of more than one application, the patent is granted to the first application, bearing priority in date.

If the invention was the result of a joint work of several persons, the patent is granted for all of them equally, if they had not agreed otherwise. Anyone who has not participated in the invention but whose efforts have only been limited to the implementation of ideas is not regarded as a participant in the patent.

The patent's ownership is to the employer, if the invention was a result of the implementation of an agreement or commitment for the exercise of efforts in innovating, or if the employer gave evidence that the employee could not have achieved this invention without the use of capabilities and aides or data available at work.

This does not jeopardize the right of the employee to a fair award. An application for patent from an innovative employee two years after leaving the service is regarded as if still at work.

Anyone having an interest may complain against the decision to accept or refuse the patent registration, before a committee to be formed and its functions specified by a ministerial decision.

The committee's decision shall not be final until approved by the Minister.

Article 4:

The following are not regarded as inventions according to the regulations of this Law:

- (a) Scientific theories, mathematical methods, computer programs, pure mental

activities and playing game.

(b) Plant and animal research, or biological methods for the production of plants, animals or types of plant and animal. Exempted from this Article is minute biology and its produce.

(c) Methods of surgical or medical treatment of human and animal body, and methods for diagnosis of illnesses applied to humans or animals.

Article 5:

Patent applications are submitted to the Patent Office by the inventor or his accredited agent, or by one to whom the rights for invention have been transferred, in accordance with the conditions stipulated in the bylaws. The applicant may withdraw the application at any time as long as it has not been decided. Withdrawing registration application shall not result in recovering the application documents nor any fees paid.

Article 6:

Patent application may contain the inventor's desire to consider the priority for an application submitted in a country that is a party to an agreement or a convention with the Sultanate of Oman. The bylaws shall stipulate the data and conditions required in the application.

Article 7:

The Department shall examine the registration applications, and may request completion of whatever is necessary to award patent.

The applicant may complain against the rejection of the application within fifteen days from being notified by a registered letter. The complaint shall be submitted before a committee to be formed and its functions specified by a ministerial decision. The committee's decision shall not be final until approved by the Minister.

Article 8:

Once a patent has been accepted, it shall be registered by the Department, and publicized as stipulated in the bylaws.

Whomsoever has an interest may, within sixty days from the date of publication, submit a written complaint to the Department, the Department should decide on the complaint within thirty days, not deciding during this period shall be considered as rejecting the complaint.

Patent shall be handed over to the patent holder, and it should clarify the patent number in the register, the date of issue and any other details as stipulated in the bylaws.

Article 9:

The patent entitles its holder the right to utilize the invention by manufacturing, usage, import whatever is being manufactured and offer it for sale, whether the subject of the invention was material produce, industrial operation or manufacturing process. Others may not utilize the patent without the patent holder's permission.

Article 10:

In the event of a bona fide person did manufacture the produce, utilized the patented process or took serious arrangements for this utilization or manufacturing, within the Sultanate of Oman, prior to the date of a patent registration application, or priority for this application, then the same business may continue. This right may not be assigned or transferred to third parties without the rest of the establishment's elements.

Article 11:

Patent protection period is twenty years, starting from the date of obtaining the patent. During the time from the date of submitting the application, until receiving the patent, the invention enjoys the same protection stipulated for the patent.

Article 12:

Patent ownership, together with all its resulting rights, shall pass to legal heirs, unless otherwise willed, whomever is concerned may apply to amend the patent's details to the Department, supported by necessary documents. Patent ownership may be transferred from the date of approving the amendment in the register and made public.

Article 13:

Patent holder may assign all, or some, of the utilization rights stipulated in Article 9. The assignment may not be taken as a proof until after being registered in the Patent Register, and made public, in accordance with the conditions and regulations stipulated in the bylaws.

Article 14:

Awarding contractual license may not result in denying the patent holder from utilizing it personally, or awarding another license, for the same patent, unless otherwise stipulated in the license contract.

Article 15:

Three years after awarding the patent, whomever is concerned, may request a compulsory license to utilize the invention for any of the following reasons:

- (a) Not utilizing the patent actively and seriously within three years from being awarded.
- (b) Suspension of the utilization of the invention protected by the patent, by the patent utilizer, for two consecutive years.
- (c) The patent holder's refusal to grant license contract to utilize it, which may impact the establishment, or development, of industrial or commercial activities within the Sultanate of Oman. In all cases, compulsory license may not be issued if patent holder justified the position.

Import of the produce is not considered a justified reason. The Minister issues compulsory license and the patent holder may complain against this decision before the committee, as stipulated in Article 7, in accordance with the conditions and regulation stipulated in the bylaws.

Article 16:

Compulsory license grants the licensee the right to initiate some, or all, the activities entrusted to the patent holder, in accordance with the license conditions, with the exception of the right to import the produce. License holder may use the civil and penal rights associated with the patent holder, to protect and utilize the invention, in the event of failure despite of being notified.

Article 17:

Compulsory license to utilize an invention may not be awarded until after the license applicant submits a proof of notifying the patent holder, by a registered mail, of the request to obtain a license, and not arriving to an agreement within the time frame stipulated in the bylaws.

Article 18:

Compulsory license shall be awarded only to the applicant who provides necessary guarantees that the invention will be fully utilized to deal with the shortage, or meet the requirements, that have lead to requesting the compulsory license. It is not permitted for those who have been awarded a compulsory license to assign the patent, or its use, to others. The Minister may cancel the license if the licensee violates the license conditions, or if the reasons justifying its award have been removed. The licensee may complain against this decision before the committee, as stipulated in Article 7, and in accordance with the conditions and regulations stipulated in the bylaws.

Compulsory license may not be assigned without the licensee's installation, or part therefrom utilized for the invention. The assignment shall be with the Minister's approval, otherwise it is null and void.

Article 19:

Compulsory licenses, and whatever decisions, verdicts and related applications, shall be registered in a special register at the Department, in accordance with the conditions and regulations stipulated in the bylaws.

Article 20:

Whoever is concerned may apply to the competent court to revoke the patent, or compulsory license, if:

- (a) The patent, certificate or license was awarded without the provisions of the conditions stipulated in this law, or its bylaws.
- (b) The patent, certificate or license was awarded without taking into consideration the priority of previous applications.

The patent/compulsory license holder, and whomever's right has been suspended, should be notified of the date of the court session. In the event of a verdict to revoke, then it should be registered in the special register, and made public as stipulated in the bylaws.

Article 21:

In the event of any illegal act, or violation of this law or the license awarded in accordance with its provisions, the patent holder, or whomever some or all the patent's rights have been assigned to, in accordance with this law, may request the competent court to issue a provisional seizure on the invention and the installation used or utilized for the invention, or part therefrom.

Article 22:

The Minister shall issue a decision specifying the fees related to the services rendered by the Ministry to implement this law, and its executive bylaws, in conjunction with the Ministry of Finance.

Article 23:

Anyone requesting a provisional seizure should deposit a bond, to be specified by the court, prior to the seizure order. The confiscator should raise the subjective case within eight days from the court's order, otherwise it shall be considered as null and void.

The distrainee may raise a case for compensation within sixty days from the end of the specified period, or from the date of the final verdict to reject the subjective case raised by the confiscator. The said bond shall not be refunded until after the final verdict in the case of the confiscator, or the compensation case raised by the distrainee.

Article 24:

Without prejudice to any greater penalty stipulated by another law, anyone submitting false or incorrect documents or information to obtain a patent, or anyone forging an invention or manufacturing process, or encroached intentionally upon any right protected by this law, shall be punished by imprisonment for not more than two years and/or a fine not exceeding Rial Omani two thousand.

The court may order the seizure of confiscated items, or its destruction, together with the machinery and equipment used in the forgery.

