

Intellectual Property Law

Law No. 19 for the Year 1994
Official Gazette No. 20 issued on 27 Jumada I, 1415 A.H.
corresponding to 31 October, 1994

Presidential Law Decree No. 19 for the Year 1994
in respect of Intellectual Property

The President,
After perusal of the Constitution of the Republic of Yemen,

At the presentation of the Prime Minister,
And with the approval of the Council of Ministers,

Resolved,

Article 1

The Law of Intellectual Right aims at protecting the right of the author, discoverer and inventor to ensure the freedom of creation, enhancing technological development, regulating their utilization of their works, and protecting the society's interest in making benefit of the fruits of literary, scientific and artistic innovation.

PART ONE

Author's Right

Chapter 1

The Author & His Rights

Article 2

The subject of the author's right shall be the creative works distinguished by innovation in the fields of literature, arts and science, whatever the form of the work, its purpose, production, importance or method are, and whether the work can be classified into a branch of the known branches of creation or not.

Article 3

A subject of copyright shall be each work in which expression is made in

writing, sound, drawing, modeling and the like, in particular the following:

- Written scientific, literary and artistic works.
- Works included in the arts of drawing, painting, carving, sculpture or architecture.
- Works delivered verbally, such as speeches, lectures, preachments and the like.
- Dramatic works and musical plays.
- Music whether accompanied with words or not.
- Photographic and movie works.
- Maps, geographical drawings and sketches.
- Model works whatever is the art related thereto.
- Works prepared for broadcasting by radio or television.
- Works related to applied arts, and in general every work in which expression is made in writing, sound, drawing modeling, movement and the like.

The right of the writer shall include the title of the book if it has an innovative quality and is not a common term used to indicate the subject of the book.

Counterfeiting of drawings, symbols and all elements which distinguish the form of innovated products shall be prohibited if this leads to causing confusion to the public as regards the reality of the innovated work.

The right of the author shall include the translator of the work into another language as well as who changed it from its original colors to another color, who summarized, altered or explained it or commented on it in any manner that would render it in an innovated or new form, without prejudice to the rights of the original author.

The right of the author shall include the photographic product. However, this shall not prohibit others from taking new photographs of the photographed thing, even if the new photographs were taken under the same circumstances in which the first photograph was taken.

Article 4

The right of the writer shall not extend to:

Compiled words which include works other than those of the compiler, such as poetry, prose and music anthologies, as well as other compiled works, without prejudice to the rights of the original authors.

Every book whose author's rights have become public property.

Collected official documents, such as the texts of governmental and political announcements; texts of laws, decrees, regulations; courts decisions and all official documents. However, protection shall include the above-mentioned works if they appear to have a distinguishing quality of their compiler, which deserves protection, or if they are characterized by innovation or distinctive order.

Works which are not fit to be the subject of the right of an author, such as works which contain anthologies from the tradition or folklore, or whose author is unknown.

Article 5

The author's right shall include the following:

The translator of a work previously translated.

Who verified works of the tradition or commented thereon, even if they were previously verified or commented on.

Who verified a set of folks innovations whose author is unknown, provided the reissue or verification contains a personal element characterized by creation or innovation. In all cases, this shall not prejudice the rights of the original author, translator or verifier.

Article 6

The Yemeni author's right to a creative work published in Yemen or abroad shall be recognized, and the non-Yemeni author's right shall also be recognized if the law of his country accords the same treatment to Yemenis, or according to international agreements in which the Republic of Yemen is a part thereto.

Article 7

The author's rights shall be established once the work is created. The drafts and excerpts shall be the right of the author if they have an innovative value. The same applies to works of art completion phases.

Article 8

Any one, whether he is a natural or legal person, who publishes a work attributing it to himself, by mentioning his name on the work or by any other way, shall be considered the author, unless the contrary is proved.

Article 9

Provision of the previous article shall apply to pseudonym; symbol or surname used to indicate a certain author, provided there is not the least doubt as to the identity of the author.

Article 10

A work may be published anonymously at the author's request.

Article 11

The author of a work who published his work under a pseudonym, a symbol, a surname or anonymously, may at any time reveal his identity, even if he previously agreed otherwise.

Article 12

The author shall have the right to the following:

To decide publishing a work and indicate the method of its publication.

Immunity and protection of a work.

To obtain remuneration commensurate with the nature of the work and its type, for its use by others, with the exception of the cases provided for by the law.

Article 13

The author shall have the right to utilize his production in the appropriate methods, in particular:

Printing an unspecified number of copies in any method, such as handwriting, by printing machines, offset, sound recording or movie or video recording.

Public performance of the creative work in seminars, music halls, stage, movie or paintings and photographs exhibitions.

Circulation in markets and national and international exhibitions.

Translation of a work to another language or other languages.

Reprinting a work.

Article 14

The rights contained in the previous article shall be independent of each other , and exercising one of them shall not affect exercising the other rights . These rights shall include the whole of the work as well as each part thereof.

Article 15

Third parties may not make benefit of the unpublished work except with the express approval of the author, even if this does not constitute an infringement upon the moral or financial rights of the author.

1. Making benefit of a published work shall be by reading it, quoting paragraphs or chapters from it or summarizing them for personal knowledge or for using them in studies a research and reference should be made to the work and to the author, in particular to the following:
2.
 - a. Work title.
 - b. Author's name.
 - c. Place of issue.
 - d. Date of issue.
 - e. Chapter, paragraph or page number.

Article 16

Without the approval of the author and without paying the authorship remuneration but with referring to the name of the quoted author, a published work may be used for forming a new independent work as regards innovation, except converting a novel to a play or to a scenario or vice versa, and also except converting a play into a scenario or vice versa, as well as except changing a poem to a song and vice versa. The copyright in this case to the new work shall be to the person who made this new work by using other's work. Such right shall not prohibit others from using the work.

Article 17

1. A work shall be considered published if it was issued, publicly performed, publicly exhibited, broadcast by radio or television, or conveyed to an unlimited circle of people, or by other means whatever they are.
2. A work shall also be considered published if the industrial products containing the work of art were put on the market, or if a building was constructed according to an engineering design, and the like.

3. Informing about a work and presenting the contents or photocopies thereof shall not be considered a publication of the work. The right to a work shall be maintained as long as the work itself did not pass to an unlimited circle of people.

Article 18

It shall be prohibited to issue a creative work without the author's name, unless it is an express wish of the author.

Article 19

When publishing a work or performing it in any manner, it shall be prohibited to make any modification or change thereto by deletion or addition without the author's consent, whether in the work itself, its title or the author's name. This includes the introductions, conclusions, explanations, comments, footnotes and illustrations by photographs. An exception shall be the works which require modifications which are necessary during execution, such as architectural works.

Article 20

The author may appoint a person who will be in charge of the protection of his works' immunity after his death. Such person shall exercise his authorities for the whole of his life. If the author does not appoint any person for such purpose, protection of the author's works after his death shall be exercised by his sons and wife as well as the competent party. The competent party shall also exercise works immunity protection if there are no heirs, or if the author's right has expired with respect to them.

Article 21

The Council of Ministers shall specify in consultations with the concerned parties the authors' remuneration rates for the others' use of their works. If there is no approved rate, remunerations for the use of a work shall be determined as agreed by the two parties.

Article 22

The author's works may not be attached for settling his debts.

Article 23

The author's right for the economic use of his work or obtaining a remuneration shall extend for the whole of his life.

Article 24

After the death of the author, the author's right to the economic utilization shall be transferred to the heirs according to the rules of salaries and service benefits, and for a period of thirty years calculated as from January 1st of the year in which the author died.

Article 25

A movie or T.V. film producer shall have the right to the economic utilization of his work or obtaining remuneration for a period of twenty-five years as from the date of production which shall be calculated as from January 1st of the production year.

Article 26

The owner of the author's rights to photographs shall have the right to their economic utilization or obtaining from those who use them remuneration for (10) years as from the date of issue, and such remuneration shall be calculated from January 1st of the year of issue.

Article 27

The broadcasting right to broadcasting programs shall be for two years, and shall be for three years for TV programs. The rights of authors, performers and their heirs shall be according to the general period.

Article 28

Quotation from a published work without reference to the work according to article (15) paragraph (2) shall be considered an infringement upon the author's rights, and shall deserve penalty and paying the appropriate compensation.

Chapter 2

Collective Works

Article 29

If many persons participate in making a creative work, each of them shall become entitled against others to the author's rights for the whole work. However, the right of each author to his work individually shall not abate.

Article 30

The relationship between co-authors shall be determined by agreement among them in a written contract.

Article 31

If the participation of all authors is listed under a different type of arts, each one of them shall have the author's right to the part pertaining to him, without prejudice to his right to the whole of the work.

Article 32

When many persons participate in lyrical music works, all the participants together shall have the right to a license for the public performance of the whole work, issuing it and making copies thereof.

The author of the literary part, as well as the composer of the music shall have the right to publish the part pertaining to him alone, provided this will not aggrieve the others.

License may be granted to the performer for public performance, recording and making copies, with the consent of the author of the literary text and the composer of the music.

Article 33

The financial rights for the movie and TV film as a whole shall be for the producer, and each author shall maintain his moral right to the part pertaining to him.

Article 34

If a group makes a creative work under the supervision of a body or institution which undertakes to publish it under its management and name, and the work of the participants is for an intended purpose, the rights of the author to the whole work shall be for the body or institution which issues it, and each editor or author shall have the author's rights to the research or articles he writes.

Chapter 3

Registration Procedures

Article 35

For each creative work required to be registered, an application shall be submitted to the competent party, together with a copy of that work and the documents proving the right of ownership thereof.

The competent party shall notify the applicant of the acceptance of the application for examination, rejecting it or requesting the completion of the necessary procedures for carrying out the registration.

After making sure about the ownership of the creative work and its benefit, the competent party shall register it in its own documents, indicating the name of the creator or creators, work address and the registration date according to the method specified in the regulations

Article 36

Registration shall result in protecting the creative work and prohibiting its use by any person without the consent of the holder of the registration certificate.

Article 37

The competent courts shall decide the validity of registration or its nullity in case of conflict in respect of the creative work required to be registered or used.

Chapter 4

Transfer of a Creative Work to the State Ownership

Article 38

According to a resolution by the Council of Ministers, it may be announced to be the ownership of the State the work whose copyright term has expired. The Council of Ministers shall determine the system of using such works.

Article 39

The bodies and institutions which issue scientific, literary and artistic magazines and periodicals and daily, weekly and monthly newspapers shall maintain all the author's rights pertaining to them in a continuous manner if such bodies or institutions have a continuing status.

Article 40

In case the public body or institution ceases to exist, the copyrights shall be directly transferred to the ownership of a similar governmental or private body or institution.

Chapter 5

Authorship Contract

Article 41

For the purpose of using his creative work, the author may conclude an authorship contract with the beneficiary, under which the author undertakes to present a work and hand it over to the beneficiary on the date specified in the contract, for using it in the method stipulated in the contract. The beneficiary shall undertake to make such use during the period specified in the contract and to pay remuneration to the author.

Article 42

An exception to the provision of the previous article shall be the works published in the newspapers and magazines. However, publication in a newspaper or a magazine shall not be considered a relinquishment of the copyright except according to a written contract published in the same newspaper or magazine accompanying the published work.

Article 43

Any condition contained in the contract concluded with the author which leads to placing him in a worse position compared with the provisions stipulated by law or the standard contract shall be considered null & void. In such case, the condition shall be canceled and replaced by the provisions stipulated by law or the standard contract.

Article 44

The contract shall be considered concluded once it is signed. In case the person or party, which benefits from the work violates the contract, the author shall be entitled to remuneration. If the violation is due to reasons beyond the control of the beneficiary or to force majeure, the author shall have the right to recover the work and publish it.

Article 45

1. If the author violates the authorship contract in such a manner as to result in rescinding the contract by the beneficiary, the author shall return to the beneficiary the remuneration he had received.
2. This is valid in particular if the author, as a result of his error, did not hand over the work on the date specified in the contract, performed the work not to the contract's conditions, showed dishonesty or indifference, violated his duty by not personally executing the contractor or allowed others to use the work during the prohibition period.

Article 46

Agreement to a print, prints, recording, performance or a certain execution shall not be considered a relinquishment of other prints recordings, performances or execution, except if this is expressly contained in the contract, unless there is a defect of will in the agreement. Relinquishment of a certain right shall not be considered a relinquishment of another right.

Article 47

The amount of remuneration to be paid according to the authorship contract shall be decided by the agreement of both parties.

Article 48

Authorship contracts are:

1. Publication Contract – publishing the work or reprinting it.
2. Production Contract – the public performance of an unpublished work.
3. Artistic Assignment Contract – creation is a work of fine arts for the purpose of public performance.
4. Scenario Contract for using the work in a movie or a TV film, or broadcasting it by radio or TV
5. Industrial Ornamentation Contract –for using ornamentation art works in the industry.
6. Translation & Conversion Contract – for using creative works in literature, arts and sciences.

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PART TWO

The Right to a Discovery

Article 49

Discovery is to obtain knowledge of an existing matter previously unknown in the fields of laws, characteristics and phenomena related to the material world, including the discovery of materials or living things.

Article 50

Each Yemeni who obtains knowledge of an existing matter previously unknown in the fields of laws, characteristics and phenomena of the material world shall be considered as having made a discovery, and shall enjoy the rights provided for in this law, in particular the following:

1. His name or any name he deems appropriate shall be given to the discovery.
2. The person who made the discovery shall be paid on incentive remuneration whose amount shall be determined by a resolution by the Council of Ministers, and shall be paid to the discoverer as a lump sum.
3. The discoverer shall be granted a certificate proving that he has made the discovery, and that he has priority on the discovery.
4. After the remuneration is paid to the discoverer or to his successor, the discovery shall be the right of all. However, in the case of applying the discovery in the field of industrial or agricultural investment, the discoverer shall continue to enjoy the financial right according to the provisions of this law.

Article 51

The application to obtain the discovery certificate shall be submitted to the competent party by the discoverer or his successor, containing information on the discovery and supported by the necessary documents.

Article 52

The competent party shall indicate in the application within 15 days as from the date of its submission that the applicant is accepted to make the examination or that the necessary papers should be completed and advise him thereof. In all cases, he shall be referred to examination 10 days after the completion of procedures. In case the set period has elapsed without a notice or making an examination, the applicant may resort to the judicial authorities

to request examination and claim compensation.

Article 53

When the application is accepted for examination, the application shall be referred during the period specified in the previous article to the concerned scientific centers to decide within three months as from the date of reference whether there is a discovery or not.

Article 54

After the concerned scientific centers decide on the discovery, they shall issue a resolution to register the discovery with the competent party, specify the date of its precedence, and advise the competent party about it in the methods stipulated in the regulations.

Article 55

The certificate of discovery shall be granted if there is no opposition within one year as from the date of the notice referred to in the previous article.

Article 56

Priority of a discovery shall be determined to be the date of its first drafting in a magazine, report, meeting, statement, broadcasting by radio or TV or the like. If there is no such announcement of the discovery draft, the date of submitting the application to the competent party shall be adopted.

Article 57

The courts shall decide on the dispute relating to the position of the discovery and the participation of many persons in making one discovery.

PART THREE

The Right of the Inventor

Chapter 1

Invention & Creative Proposal

Section 1
Substantive Conditions

Article 58

1. Invention is an innovation which contains a solution for a technical assignment, characterized by substantial newness and has a positive result in any field of economy, culture, health or defense, such as innovating work tools, manufacturing material, finding a new industrial method or the technical of a scientific principle that gives direct industrial results.
2. It shall also be considered on invention the innovation not connected with technology, such as obtaining new types of seeds or discovering new methods for the treatment of diseases.

Article 59

1. The newness of an invention means that it has not been used before, in the sense that the invention is new in the light of international technology, considering the scientific research achievements in Yemen and abroad.
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2. Newness should be connected with the essence of things and not with secondary and side elements.

Article 60

1. The invention should be applicable i.e. can be manufactured or used in industry or agriculture.
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2. The invention should also have actual benefit which would increase the rate of production or improve the quality of products and the like.
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3. The benefit of the invention may be realized immediately or in the future.

Article 61

1. The invention may be complementary to an original invention which still enjoys legal protection, and so it is based on it and contains a development or improvement thereto. In this case, the patent of the relating invention shall be granted for the remaining period of the patent of the original invention.

2. Granting of the related invention patent shall not affect the rights of the patent owner of the original invention.

Article 62

1. The creative proposal for developing production aims at finding solutions to improve the applied technology, manufactured products, production technology, control systems, research or industrial safety technology, for the purpose of increasing work productivity and using energy, equipment and material more effectively.
2. It is sufficient for a creative proposal to contain local newness in the light of production quality at a certain time. It is also not stipulated that newness is substantial.

Article 63

1. Each Yemeni, whatever his age, domicile or work are shall enjoy the legal protection stipulated for the inventor or proposer.
2. The right of invention shall be decided for the Yemeni bodies and institutions in the following cases:
 - a. If the invention is the result of collective creation or if it is impossible to determine the role of each individual who shared in the invention patent shall be issued in the name of the body or institution at which or with the assistance of which the invention was made.
 - b. If the invention is made as a result of a matter related to service, according to an assignment or assistance from the state, body or institution. In such case the patent of invention shall be issued in the name of the person who made the invention or who assisted in making it. Reference should be made in the patent to the name of the person who made the invention.

Article 64

1. The rights of inventor or proposer shall be decided for foreigners abroad according to an international agreement concluded between the Republic of Yemen and the state to which they belong, according to similar treatment. The same provision shall apply to foreign legal persons.
2. The Council of Ministers shall regulate the rules related to foreigners residing or working in Yemen.

Article 65

1. Granting an invention patent for inventions which violate the Yemeni

social system and the provisions of the Islamic jurisprudence shall be prohibited.

2. A patent may not be granted for:

- a. Non-chemical inventions related to foodstuff, medicines or pharmaceuticals. If these products are manufactured in special chemical methods, a patent may be granted for the method of its manufacture, and not for the products themselves.
- b. New methods for the treatment of diseases.
- c. Biological methods for the production of new type of animals or plants.

Article 66

If a person presents a creative proposal for developing production and his proposal is accepted for application, he shall be granted a certificate attributing the proposal to him.

Article 67

The inventor or the person who submits the creative proposal for developing production should cooperate effectively with the concerned parties in the application of the invention or proposal and in its development in future. He may participate in practicing the works related to the application of the invention or proposal according to the procedures stipulated in the regulations.

Section 2

Registration Procedures

Article 68

1. The inventor or his successor shall submit an application to the concerned parties containing a description of the invention and supported by the necessary documents.
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2. The concerned party shall notify the applicant within ten days of the acceptance of his application for examination, or ask him to complete the required papers. Priority for the invention shall be decided as from the date of submitting the application, and this shall be indicated in the notice addressed to the applicant.
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3. The invention shall be examined for its newness and the benefit expected from it, in the manner decided in the regulations.

Article 69

1. The owner of the patent for whom legal protection is decided and who wishes to make benefit of the priority of a previous application submitted in another country, should attach to his application submitted in Yemen a written statement of the date and number of the previous application and the country in which he or his predecessor submitted this application. He should submit within three months as from the date of the last application a photocopy of the previous application certified by the country in which it was submitted.
2. In this case the priority of the application submitted abroad shall be determined when the application is submitted in Yemen within one year as from the date of the application submitted abroad.

Article 70

1. A person who exhibits his invention in a Yemeni or international exhibition officially approved, and then submits an application in Yemen to obtain a patent of an invention, priority shall be decided for his application which shall be the date of opening the exhibition to visitors, if he submits the application in Yemen within six months as from the date of opening the exhibition.
2. The applicant should attach the required documents to his application, and these documents shall contain a certificate from the exhibition management indicating that his invention has been exhibited in the exhibition and specifying the date of opening the exhibition for visitors.

Article 71

1. The competent party shall issue within three months as a maximum as from the date of notifying the applicant of accepting his invention for examination a decision accepting his application together with a draft of the content of the invention, or rejecting the application and indicating the reasons thereof.
2. The applicant may in both cases within one month of notifying him of the decision oppose the decision in relation to the draft of the content of the invention or the reasons for rejecting the application. The competent party concerned with the opposition shall take a decision in this regard within two months as from the date of making the opposition.

Article 72

1. In case of accepting the invention, the competent party should announce

- it in the methods decided in the regulations once it is accepted.
2. Any interested party may within six months as from the date of announcing the invention object to the competent party for the registration of the invention.
 3. Upon objection, the competent party shall notify in writing the person who submitted the registration application of the objection. The applicant should answer in writing to the objection within one month notifying him thereof, otherwise he shall be considered as having relinquished the application.

Article 73

1. With the exception of the cases of confidential inventions, patents of invention should be registered in the patents register prepared for this purpose.
2. The patents of invention and the actions related thereto should be announced in the methods decided in the regulations.
3. Each relinquishment of a patent or a license to use the invention shall have no effect for the parties to the contract and vis--vis third parties unless it is recorded on the margin of the invention patent registration. The same shall apply to the assignment of right through inheritance.

Article 74

1. The patents register shall be an evidence of the information contained in it, unless the contrary is proved.
2. Any person may have access to the patents register, or obtain an extract thereof or a photocopy of the registrations contained there in.

Article 75

1. The application for the creative proposal for developing production shall be submitted to the project relating to the proposal and its activity. If the proposal is applicable to many projects, the application shall be submitted to the ministry or to the competent administration.
2. The application shall contain a description of the proposal supported by the necessary documents.
3. The party to which the application is submitted shall send within ten days a notice to the applicant accepting his application for examination or asking him to complete the documents.

Article 76

1. The party to which the application is submitted should take within one month a decision accepting or rejecting the proposal, and indicate the

reasons therefore, if such party is the same project to which the proposal is related, and within two months if the party is a ministry or an administration.

2. The applicant may oppose the decision within one month of notifying him thereof, and the party to which the application is submitted shall decide on this opposition within one month of its submission.

Section 3

Effects of Registration

Article 77

The inventor for whom the inventor's rights are decided may request granting him a patent of invention pertains to him and arranging a monopoly for him on the invention.

The patent shall be granted for fifteen years calculated as from the date of the application submission. After that, the invention shall be the ownership of the state.

Third parties shall be prohibited from using the invention without the consent of the patent owner.

Article 78

A patent of invention may not be granted to the personnel working in the competent parties concerned with patents, whether they themselves have submitted the application or through others, up to the elapse of three years as from the date of the expiry of their relationship with their work.

Article 79

1. A person who used the invention independently of the inventor within the boundaries of Yemen before submitting his application, as well as who made the necessary arrangements for this purpose shall have the right to use the invention in future without paying a remuneration, and the judicial authorities shall decide on a dispute relating to this issue.
2. Such a right shall not be transferable except with the project, which makes benefit of it.

Article 80

1. The patent owner may grant a license to use the invention or completely

relinquish the patent.

2. Relinquishment or granting a license should be made in writing.
3. The regulations shall regulate standard contracts for granting the license.

Article 81

1. If no agreement is reached with the patent owner in respect of granting a license under reasonable conditions, a person who wishes to use the invention may submit an application to the court for granting him a license to use the invention according to conditions determined by the court.
2. If the invention is of great importance to the state, and no agreement is reached with the patent owner in respect of relinquishing the patent or granting a license, the state may at a resolution by the Council of Ministers purchase the patent forcibly.

Article 82

All license contracts for the patents of invention shall be subject to the approval of the competent parties before contracting for them, whether these contracting parties are governmental or non governmental.

Article 83

The judicial authorities shall decide on the dispute in relation to attributing an invention to its maker and the participation in an invention, as well as in relation to priority in a creative proposal for developing production if the dispute is not resolved administratively.

Article 84

1. The court, at the request of any person, shall decide that an invention patent is null in the following cases:
 - a. If the substantive conditions are not satisfied.
 - b. If an application for a patent had been previously submitted.
 - c. If it is revealed that the applicant has usurped the elements of the invention from the efforts of another person. In this case, the person whose efforts were usurped may request transferring the patent to him.
2. The decision that a patent is null shall result in its cancellation retroactively. The decision, when it becomes unobjectionable should be recorded on the margin of the patent registration and should be announced according to the procedures specified in the regulations.

Chapter 2

Industrial & Trade Marks and Industrial Drawings & Designs

Section 1

Industrial & Trade Marks

1] Substantive Conditions

Article 85

1. An industrial or trademark is the one taken as a sign to distinguish the products of an industrial, agricultural or commercial project, or to indicate the services of a project.
2. Elements of a mark.
 - a. A mark consists of one element or more, which is either a drawing, expression, shape, object or other things.
 - b. The mark may consist of a certain drawing, such as lines, inscriptions, pictures and symbol, or from specific terms, such as letters, figures, words and names.
 - c. The mark may be composed of the shape of a distinctive object, even if this object is the outer covering of the products.

Article 86

1. A mark shall not be separated from the products or services which it distinguishes.
2. A mark may not be accepted for registration unless it is actually prepared for use.
3. A mark may not be registered except for a production or service project.

Article 87

1. The public sector's bodies and institutions may register a mark for controlling the products or services of the units attached to them as regards the source of products, elements of their composition and the method of their manufacture or characteristics, or as regards the type of services or any other characteristic to indicate making control and examination.
2. A collective mark may not be disposed of except with a license from the

concerned minister.

Article 88

1. A mark devoid of any distinguishing characteristic shall not be accepted.
2. The same shall also apply if the mark consists of shapes imposed by nature or by the function of products or services, or if it consists of a sign used in trade to determine products or services, or from the indication of a common name of products or services.
3. In all cases, a mark shall not be accepted if it is not possible, for any reason, for the mark to be clearly distinguished from the products or services of various projects.

Article 89

A mark should be substantially distinguished from other marks. Accordingly, the following shall not be accepted for registration:

1. A mark similar to a mark filed or registered to the benefit of a third party, or if it is after that filed by a third party which has special priority for similar products or services.
2. A mark similar to an unregistered mark previously used by others in Yemen for similar products or services, if the use of the mark required to be registered results in confusion for the public.
3. A mark which is fully or partially identical with a famous mark or a well-known commercial name, or if it is an imitation or a translation of such mark or name, so that the use of the mark required to be registered will result in confusing the public.

Article 90

The following shall not be fit to be a mark:

1. Public logos, symbols, flags, medals and seals and the like pertaining to Yemen or to one of the countries, governments or international organizations, symbols of the red crescent, red cross and geographical names if their use causes confusion with respect to the source of the products, and photos of others unless their use is approved.
2. Any mark that may mislead the public as to the source or quality of the products or services.
3. Any mark which violates the Yemeni social system.

Article 91

1. Each Yemeni who has a production or service project, and each foreigner

who has a similar project can request registration of his industrial or trademark.

2. The foreigners who have projects abroad and the legal foreign persons whose major activity is abroad shall have the right to register their industrial and trade marks according to article (120) of this law.

2] Registration Procedures

Article 92

1. The application for the registration of a mark shall be submitted to the competent mark shall be submitted to the competent party. The application shall contain a description of the mark and a statement of the products or services for which the mark is required to be registered. It shall be referred in the registration application to the project for which the mark is required to be registered as regards its products or services, and the supporting documents shall be submitted.
2. The competent party shall notify the applicant within ten days that his application is accepted to be examined, or ask him to complete the necessary documents.
3. The application shall be examined in the method stipulated in the regulations.

Article 93

1. The competent party shall issue within one month as from the date of accepting the application for examination a decision approving the application, making modifications to the mark to make it clearer in order to avoid confusion with another mark, or that it is not fit for registration.
2. The applicant may oppose the decision of the competent party within one month as from the date of notifying him thereof. The competent party shall decide on this opposition within one month as from the date of its submission. Its decision may be opposed in the courts within a maximum period of one month as from the date of notifying the decision to the person who filed opposition.

Article 94

1. The competent party, in case the mark is accepted for registration, should announce it immediately when it is accepted, in the methods decided in the regulations.
2. Any interested party may file an opposition to the registration of a mark

at the competent party within six months as from the date of the announcement.

3. The competent party shall notify the applicant immediately when there is an opposition. The applicant shall answer in writing to the opposition within one month as from the date of notifying him thereof, otherwise he shall be considered as having relinquished the application.

Article 95

1. The mark shall be registered in the register prepared for this purpose.
2. The application shall be granted a certificate of the mark's registration.
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3. Registration shall have its effect as from the date of submitting the application. Cases of priorities shall be taken into consideration.
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4. The effect of registration shall be limited to the products and services for which the mark was registered.
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5. Registration shall be announced in the methods decided in the regulations.

Article 96

The provisions of articles 69 & 70 of this law shall apply to priority of the applications related to industrial and trademarks registered abroad, which are submitted by foreigners for whom legal protection is decided. These provisions shall also apply to applications related to industrial and trademarks exhibited in an exhibition.

Article 97

1. The marks register shall be evidence of the information contained therein unless the contrary is proved.
2. Any person may have access to the marks register and obtain an extract or photocopy of the registrations contained therein.

3] Registration Effects

Article 98

Registration of an industrial or trademark shall result in prohibiting others from using it without the consent of the holder of the registration certificate. This applies to the products or services distinguished by the

mark.

Article 99

1. Registration shall result in protecting the industrial and trade mark for a period of ten years starting from the date on which registration starts to have its effects, unless this period is renewed within the last year for another period, and so on.

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2. The competent party shall notify the holder of the registration certificate in writing, within two months as from the expiry date of the period to renew the registration. If three months elapse after the expiry of the period without renewal, the competent party shall automatically cancel the registration.

Article 100

1. A mark may not be disposed of except with the project for which it is used to distinguish its products or services.

2. Disposal of a mark shall be made in writing.

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3. Disposal of a mark shall not be valid between two parties or vis--vis third parties except from the date of recording the disposal on the margin of the mark's registration and announcing the disposal in the methods stipulated in the regulations.

Article 101

A mark may be canceled at the request of the holder of the registration certificate.

The court shall decide canceling a mark at the request of any interested party, or if its use ceases for five consecutive years without an acceptable excuse.

Article 102

1. The court shall decide that a registration is null at the request of any interested party, or if substantive conditions are not satisfied for a registering a mark.

2. The decision that a registration is null shall result in canceling the registration certificate retroactively. When the decision becomes unobjectionable, the competent party shall cancel the registration, and this shall be announced in the methods decided in the regulations.

Section 2

Industrial Drawings & Designs

1] Substantive Conditions

Article 103

An industrial drawing or design is an innovated external form distinguished by newness, and aims at giving a type of industrial products a distinctive ornamentation by using a certain order of lines or colors, or by choosing a certain shape, whether this is made in a mechanical, manual or chemical method.

Article 104

The industrial drawing or design should be distinguished by absolute newness. It should be distinguished by absolute newness. It should not be one of the shapes included in the tradition or the usual exhibited shapes, whether as regards the industrial products required to be distinguished or others. The publication of creative innovated works in the field of arts shall not prohibit using them as industrial drawings or designs.

Article 105

1. Yemenis, wherever they reside, and foreigners residing in Yemen shall enjoy legal protection with respect to industrial drawings and designs.
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2. As for foreigners residing abroad, protection shall be decided for them according to article (120) of this law.

2] Registration Procedures

Article 106

1. The maker of a drawing or design or who succeeds him in his rights shall submit an application for the registration of a drawing or design to the competent party, containing copies of the drawing or design, to which shall be attached the required documents. The application may extend to include a number of drawings or designs, which are similar to each other. The type of industrial products for which the drawing or design is required to be registered shall be indicated in the application.
2. The competent party shall notify the applicant within days that his

application is accepted to be examined or ask him to complete the required documents.

3. The application shall be examined in the method stipulated in the regulations.

Article 107

1. The Administration shall issue within one month as from the date of accepting the application for examination a decision approving the application or rejecting it for lack of substantive conditions for the drawing or design, or because the drawing a design violates the Yemeni social system.
2. The applicant may oppose the decision of the concerned party within one month as from the date of notifying him thereof. The party shall decide on this opposition within one month as from the date of its filing. Its decision may be challenged at the courts within a maximum period of one month as from the date of notifying it to the party, which filed the opposition.

Article 108

1. The industrial drawing or design shall be registered in the register prepared for this purpose, and registration shall be announced in the methods decided in the regulations.
2. The effect of registration shall start as from the date of submitting the application, and cases of priority shall be taken into consideration.
3. The applicant shall be granted a certificate of registration in which shall be indicated the date of application, the number of drawings and designs and a statement of the products.

Article 109

Provisions of articles 69 & 70 shall apply to the priority of applications related to industrial drawings and designs registered abroad, which are submitted by foreigners for whom legal protection is decided, as well as to the applications for industrial drawings and designs which were exhibited in the exhibitions.

3] Effects of Registration

Article 110

Registration of a drawing or design shall result in prohibiting others from

using any of them without the consent of the holder of the certificate of registration. This applies to industrial products distinguished by the drawing or design.

Article 111

1. Registration shall result in protecting the drawing or design for five years starting with the date on which registration becomes effective. Renewal of registration may be made two consecutive times, each for five years, by an application to be submitted during the last year of the period.
2. The competent party shall notify in writing the holder of the registration certificate, within one month as from the date of the period expiry, to renew the registration. If three months elapse after the expiry of registration without renewal, the competent party shall automatically cancel the registration.

Article 112

1. A drawing or design may not be disposed of except in respect of industrial products distinguished by such a drawing or design.
2. Relinquishment of a drawing or design as well as granting a license for its use shall be made in writing. The competent party shall issue standard contracts to regulate granting of licenses.
3. Disposal of a drawing or design shall have no effect between the contracting parties or vis--vis third parties except after so indicating on the margin of the drawing or design registration and announcing the disposal in the methods decided in the regulations.

Article 113

1. The court shall decide that a registration is null at the request of an interested party in the following cases:
 - a. If substantive conditions are not satisfied for the drawing or design registration.
 - b. If the holder of the certificate or his predecessor usurped the elements of the drawing or design. In this case, the party whose effort was usurped may request transferring the registration certificate to him.
2. The decision that a registration is null shall result in canceling the registration certificate retroactively. When the decision becomes unobjectionable, the competent party shall cancel the registration. The cancellation shall be announced in the methods decided in the regulations.

Section 3

Violation of Protection

Article 114

Any one who knowingly imitates or counterfeits a registered drawing, design or mark, uses a registered drawing, design or trade which is imitated or counterfeited, fixes on his products or attaches to his services a drawing, design or mark registered for others, sells or offers for sale or circulation or acquires for the purpose of sale products on which there is unlawfully imitated, counterfeited or fixed it, shall be considered as having violated the legal protection decided for the industrial and trade drawing, design and mark, and the provisions of the next articles shall apply to him.

Article 115

The holder of the registration certificate may request from the courts one of the following:

1. Remove the infringement by publishing in the newspapers or by other means the committed violation.
2. Seize the products, goods, coverings, papers and others on which the drawing, design or mark was fixed, or for which imitation or counterfeiting was used.
3. Confiscate these things and deduct their sale proceeds from the compensations or fines.
4. Destroy these things when necessary.
5. Order the infringer to refrain from using the mark in future.

Article 116

1. The holder of a registration certificate may also request compensation for any harm he has sustained because of violation of the protection decided for the drawing, design or mark.
2. The judicial authorities may appoint an expert to determine the proceeds resulting from the unlawful use of the drawing, design or mark, and seize these proceeds.

Article 117

1. All registrations of industrial and trade marks which were issued before issuing this law shall be valid in the Republic of Yemen, unless there are many owners of one mark. The mark shall continue to be valid, the

same as it was, until otherwise is indicated in the marks register.

2. Owners of one mark should settle this condition among themselves by a written agreement certified within one year as from the date this law becomes effective, and the competent party shall be notified thereof.

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3. After the elapse of one year in case of disagreement, the competent party shall take the appropriate decision on the issue within six months. The owners of the mark shall be notified of the decision of the mark shall be notified of the decision of the competent party.

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4. In case the mark owner opposes the decision of the competent party, he may resort to courts within three months as from the date of receiving the decision.

PART FOUR

General & Conclusive Provisions

Article 118

If many persons participate in the authorship of one work or making one discovery, one invention or one proposal, each one of them shall have right in the authorship, discovery, invention or proposal, and to obtain a certificate proving his right, with a reference that the discovery, invention or proposal was jointly made.

Article 119

A person who assisted the author, discoverer or inventor shall not be considered a participant in the authorship, discovery or invention. An example to this is the person who made preparatory works, carried out secretarial work, assisted in technical work, supervised work progress or the like.

Article 120

The rights of a discoverer, inventor and proposer shall be decided for foreigners abroad according to an international agreement concluded between the Republic of Yemen and the country to which they belong, or according to the same mutual treatment. The same provision shall apply to foreign legal persons. The Council of Ministers shall regulate the rules relating to

foreigners residing or working in Yemen.

Article 121

All the rights of an author, discoverer, inventor or proposer shall be transferred by succession according to the rules of remuneration and termination benefits.

Article 122

Where there is no provision for the issues of discovery and invention, the rights of authorship shall apply.

Article 123

The courts shall have jurisdiction to try all lawsuits resulting from the application of the provision of this law.

Article 124

1. Without prejudice to any severer penalty provided for in this law or any other law, any one who commits one of the following acts shall be punished with a fine of not less than Riyals 10,000 or with imprisonment for a period not exceeding six months:
 - a. Infringement upon a right of the author's, discoverer's or inventor's rights provided for in this law.
 - b. Attributing to oneself by way of publication a book, invention, discovery or creative proposal made by others.
2. All the above shall be without prejudice to the right of compensating the aggrieved party.

Article 125

Agreement to violate the provisions of this law shall not be allowed, unless this is to the benefit of the author, discoverer or inventor.

Article 126

The competent party shall issue a decision specifying the fees charged against

the services rendered according to the provisions of this law.

Article 127

Any provision which is in conflict with the provisions of this law, in particular with the resolution of the Command Council enacting law No. (45) for 1976 in respect of trade marks and names issued in Sana'a.

Article 128

This Law Decree shall go into effect as from the date of its issue, and shall be published in the Official Gazette.

Issued at the Presidency, Sana'a

On 25 Jumada I, 1415 A. H.

Corresponding to 29 October, 1994

Abdul-Aziz Abdul-Ghani Lieutenant General

Prime Minister Ali Abdalla Saleh

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