

PATENT LAW OF TURKMENISTAN

Section 1. General Provisions

Article 1. The Sphere regulated by the Patent Law

The Law regulates property and related private non-property issues arising in connection with the creation, legal protection and use of inventions, industrial patterns, trade marks and service marks (hereafter – the objects of industrial property), and also issues related to the recognition of authors rights to a rationalization proposal.

Article 2. The Patent Department at the Cabinet of Ministers of Turkmenistan

The Patent Department at the Cabinet of Ministers of Turkmenistan (hereafter – Turkmenpatent) in accordance with the present Law accepts for consideration the application for the objects of industrial property, carries out expertise, issues the patents (temporary patents), certificates, makes official publications of protective documents and performs other related functions according to

the regulations passed by the Cabinet of Ministers of Turkmenistan.

Article 3. The Objects of Industrial Property,

Rationalization Proposals and their Legal Protection

1. According to the Law inventions, industrial patterns, trade marks and service marks are objects of industrial property, for which have been requested and obtained the legal protection in Turkmenistan in the form of a patent, temporary patent (on invention and industrial pattern) and certificates (on trade marks and service marks) issued by Turkmenpatent.

Rationalization Proposals get legal protection in the form of a certificate on a rationalization proposal in an enterprise, an institution or organisation (hereafter – enterprise) where it was recognized as a rationalization proposal.

2. The right on the objects of industrial property as well as rationalization proposals is protected by law. In Turkmenistan natural persons and entities are entitled to legal protection of inventions, industrial patterns, trade marks and service marks.

3. Legal protection in accordance with the Law is not granted to the objects of industrial property under state secrets. The procedure of applying for inventions and industrial patterns under secrets is subject to special legislation.
4. Foreign natural persons and entities have the same rights under the Law and other acts of Turkmenistan's legislation as natural persons and entities of Turkmenistan concerning the protection of objects of industrial property under international agreements of Turkmenistan.
5. Should international agreements of Turkmenistan stipulate other rules than those in the Law, the rules of international agreements shall apply.

Section 2. The Conditions of Patentability

Article 4. The Conditions of Patentability of an Invention

1. The technical solution of a task, being new, useful and having invention level, is recognized as an invention.

An invention is recognized to be new if it is not a part of an achieved level of science and technology.

The level of science and technology is determined by using

all information sources available in Turkmenistan and abroad up to the date of invention priority.

An invention is recognized to be useful if it provides a new and higher result which the society obtains when using the invention in comparison with the known level of science and .tecnology. Invention has the level of invention, if for a specialist it does in this work–aspect not result from the level of science and .technology.

2. The objects of invention are:

- devices;
- processes;
- substances;
- microorganic strains;
- cell cultures of plants and animals;
- the use of a known device, process, substance, strain in a new application.

3. Not recognized to be patentable are inventions of:

- scientific theories;
- mathematic methods;
- methods of organization and management in the economy;
- conventional signs, schedules, rules;

- methods of performing mental processes;
- algorithms and programs for calculating machines;
- standardization of integrated microschemes;
- projects and schemes for the planning of facilities, buildings, territories;
- varieties of plants and breeds of animals;
- proposals regarding only external decoration of articles and aimed at meeting aesthetic requirements;
- solutions contradicting social interests, principles of humanity and morality.

4. The public revelation of information regarding invention by an applicant (author) or other person directly or indirectly receiving from him this information, is not recognized as the circumstance affecting invention patentability, if the request for the invention is made not later than 12 months from the date of revelation.

The burden of proof for this fact bears the applicant.

Article 5. The Conditions of Patentability of Industrial Pattern.

1. Concerning an industrial pattern, the artistic-

constructive solution of a work is determined by its external appearance.

An industrial pattern is provided with legal protection if it is new, original and industrially acceptable.

An industrial pattern is recognized to be new, if the entire material appearance composing the aesthetic and (or) ergonomical features of a work, is not known from information generally available in the world up to the date of industrial pattern priority.

When determining the newness of an industrial pattern there are to be considered earlier applications in Turkmenistan, filed by other persons and not recalled, on the same industrial patterns, and also industrial pattern patented in Turkmenistan.

An industrial pattern is recognized to be original if essential features constitute the creative character of aesthetic peculiarities of a work.

Industrial pattern is recognized to be industrially acceptable if it can be repeatedly produced in the way of producing corresponding goods.

2. Not recognized to be patentable solutions for industrial

patterns are:

- constituting only a technical function of a work;
- contained in objects of architecture (except small architectural forms), industrial, hydrotechnical and other stationary plants;
- printing production as such;
- objects of unstable forms from liquids, gas, granular and similar substances;
- contradicting to public interests, the principles of humanity and morality.

3. The public revelation of information of an industrial pattern by an applicant (author) or other person directly or indirectly receiving from him this information is not recognized as a circumstance affecting industrial pattern patentability, if the request for the industrial pattern is made not later than 6 months from the date of revelation.

The burdon of proof for this fact bears the applicant.

Article 6. The Conditions of Protectability of Trade Marks and Service Marks

1. A trade mark and service mark (hereafter referred to as –

trade mark - signs providing relatively the difference of goods and services of one entities or natural persons from the same type of goods and services (hereafter referred to as -goods) of other entities or natural persons.

2. Legal protection for trade mark in Turkmenistan is provided on the basis of state registration in the order established by the Law or in the force of international agreements of Turkmenistan.

Trade mark may be registered in the name of entity and natural person as well carrying on the business activities.

3. Verbal, graphic, volume and other signs or their combinations may be registered as the trade marks. Trade mark may be registered in any color or color combination.

4. There is not permitted the registration of trade marks consisting only of the signs:

- having no features of difference;
- preventing themselves state emblems, flags and

contracted or full names of international, intergovernmental institutions official control, guarantee and hall marks,

stamps, award decorations and other signs may be included as non-protected elements in trade mark if there is the consent of relative competent body or their owner;

- entered into general use as the signs of certain type

goods;

- being universally adopted symbols and terms;

- indicating type, quality, quantity, specifications,

industrial patternation, value of goods and also the place

and time of their manufacturing or supply;

- being false or capable to delude a consumer regarding

goods, service or the production;

- contradicting in its content, to the public interests,

the principles of humanity and morality.

5. There can not be registered as trade marks, the signs,

before their mixture, being identical with or similar to:

- the trade marks before registered or requested for

registration in Turkmenistan in the name of other person, in

the respect of the same type goods; the trade marks of other

persons, protected in Turkmenistan on the basis of

international agreements;

- the firm titles (or their part) following to other persons got the right on these titles before the request on trade mark in the request of the same type goods;

- the place names of goods origin protected in Turkmenistan, besides the cases when they are included as non-protected element in trade mark being registered in the name of person being entitled to use such a title.

6. The signs are not registered as trade marks which reproduce:

- the industrial patterns, the right on which belongs to other person in Turkmenistan;
- the names of known in Turkmenistan works of science, literature and art or the quotation from them, the works of art of fragments without the consent of copyright owner or corresponding competent body.

Article 7. The Conditions of Rationalization Proposal
Protectability

1. Proposal is recognized to be rational if being new or useful for enterprise which it was made to and foreseeing creation or changing the construction of article, the technology of production and techniques used or composition

of material.

Rationalization proposal is new for an enterprise which it was made to it according to the sources of information available at the enterprise, this or similar to made proposal was not known to the extent being enough for its practical utilization. Its use under the author's initiative in the course of not more than three months prior to application lodging, is not recognized as the circumstances affecting the newness of rationalization proposal.

Rationalization proposal is useful for enterprise which it was made to if its use allows to increase economic efficiency of enterprise or gain new positive effect in its activity.

2. The proposals are not recognized to be rational which reduce the safety and other indicators of product quality or worsen the labor conditions, work quality and also cause or increase environment pollution.

Section III. The authors and owners of Security Documents.

Article 8. The author of invention (industrial pattern,

rationalization proposal).

The author of invention (industrial pattern, rationalization proposal is recognized to be natural person due to the creative work of whom it has been made. If

invention (industrial pattern, rationalization proposal)

has been made with joint creative work of several natural persons, all of them are recognized to be the co-authors.

The procedure of exercising the rights on the invention (industrial pattern, rationalization proposal) created in collaboration, is defined with the agreement among them. The

natural persons are not recognized as the authors, who did not make personal creative contribution in the creation of

invention (industrial pattern, rationalization proposal)

delivering the author only technical, administrative or material assistance or promoting to draw up the rights on

invention (industrial pattern, rationalization proposal)

and its utilization.

The author of invention (industrial pattern, rationalization proposal) has the copyright which is

inalienable personal right.

The authorship an invention (industrial pattern, rationalization proposal) is protected permanently.

Article 9. The Owner of Patent (temporary patent) on Invention, Industrial pattern.

The owner- of patent (temporary patent) on invention or industrial pattern are:

- author (co-author);
- heir (heirs) of author (co-author);
- Turkmenistan Fund of Invention if author (co-authors)

assign it the exclusive right on the patent use;

- employer if between the author (co-author) of invention or industrial pattern and employer there was made the agreement on the author's (co-author's) assignment of the right on the patent (temporary patent).

In this case the author (co-author) is entitled to use the invention or industrial pattern. in his own production.

Should above mentioned agreement between the author (co-author) a .and employer has not been made or the employer has not made the request for issuing the patent (temporary patent) within three months period after written notification by the author (co- author) on the invention

created by him or industrial pattern, the right on obtaining the patent (temporary patent) is reserved for the author (co-authors).

The employer has the right to use this invention or industrial pattern under conditions coming from the licensing arrangement, other natural person or entity, to author (co-authors) assigned under the agreement, the right on obtaining the patent (temporary patent) before the object being inserted in the state Register of Turkmenistan.

Article 10. The Owner of Certificate on Trademark.

The owner of certificate on trademark can be natural person or entity carrying on business, and also association of enterprises delivering goods and services having general characteristic features .

Article 11. The Invention Fund of Turkmenistan.

The Invention Fund of Turkmenistan established at Turkmcnpatent promotes natural persons and entities in protecting their interests regarding the legal protection of the objects of industrial property in the production and realization of scientific-technical developments and in patent-licensing activity, both on arrangement basis and for the account of state budget.

The Invention Fund of Turkmenistan carries out the selection of inventions, industrial patterns for their realization and acquires the patent-owner rights on the arrangement basis, paying the author (oo-authors) lump amount .compensating-sating the costs on the object realization – not less than 20% of profit without counting before payed amounts for inventions and industrial patterns.

The Invention Fund of Turkmenistan carries on its activity in accordance with the statute approved by Turkmenpatent.

Section IV. Security Documents and Exclusive Right on the Use of Objects of Industrial Property and Rationalization Proposals.

Article 12. Legal Protection of Invention, Industrial pattern.

1. The right on invention, industrial pattern is certified with patent or temporary patent. Temporary patent is issued after preliminary expertise. Patent is issued after making request expertise regarding the essence.

Temporary patent and patent identify the priority, authorship and exclusive right on the use of invention, industrial pattern.

2. Temporary patent on invention, industrial pattern is valid for five years from the date of request coming in Turkmenpatent.

The patent on invention is in force for twenty years, on industrial pattern – not more than ten years from the date of request coming in Turkmenistan.

Article 13. The exclusive Right on the Use of Invention, Industrial pattern.

1. Patent possessor has the exclusive right on the me of invention or industrial pattern protected by patent (temporary patent), on its own discretion, if such use does not violate the rights of other patent possessors, including the right to prohibit the use of mentioned objects by other persons, besides the cases, when such use according to the Law is not violation of patent possessors right. The interrelations regarding the use of object of individual property, the patent (temporary patent) on which belongs to several persons, are determined by the arrangement among them. When the lack of such arrangement each of them can use protected object at his discretion, but is not entitled to present the license on it or assign the patent (temporary

patent) to other person without the consent of other owners.

Patent possessor can use warning marking indicating that utilized objects of industrial property are patented.

2. The product (article) is recognized to have been manufactured with the use of patented invention, and the method protected with patent (temporary patent) on invention – applied, if each feature of inventiori included in independent point of formula or its equivalent feature has been used in it .

Article is recognized to be manufactured with the use of patented industrial pattern if it contains all its essential features.

3. The unsanctioned manufacturing, use, import, offer for sale, sale, other bringing in economy turnover to the custody of product for this purpose, containing patented invention, industrial pattern are recognized to be the violation of exclusive right of patent possessor and also the use of method protected with patent (temporary patent) on invention either bringing in economy turnover or the custody product for this purpose manufactured immediately in the way protected with patent (temporar y patent) on

invention. Moreover, new product is deemed to be got in patented way when the lack of evidence of the contrary.

4. When .using or partial using invention or industrial pattern by patent possessor for five years from the date of date publication on issuing temporary patent, the person, wishing and being ready to use protected object of industrial property, in case of patent possessor's surrender to make licensing arrange-ment, can apply to the Appeal Commission of . Turkmenistan with the petition to issue him the forced license. Should the patent possessor have failed to prove that .using of industrial property object was caused with valid reasons. the Appeal Commission of Turkmenpatent grants mentioned license with the determination of use range, size, periods of payment order. The amounts of license payments must be established not below market price of license.

5. Should Patent holder is not able to use an invention and industrial pattern not violating rights of other patent holder he is entitled to demand the latter to conclude license contract.

6. Patent holder may assign obtained patent (temporary patent) to any nattual person or entity. Contract on assignment of patent (temporary patent) is subject to registration by Turkmenpatent. Not registered contract is invalid.

7. Patent (temporary patent) for invention or industrial pattern and right thereto are transferable according legacy.

Article 14. Actions being not violation of exclusive rights of patent holder

The following cases:

- utilization of facilities which includes objects of industrial properties covered by temporary patents or patents, in construction or exploitation of transport means (sea or river vessels, aircraft, inland vehicles and space ones) of other countries provided the indicated facilities are temporarily or occasionally located in the territory of Turkmenistan and used for transport needs. Such actions are not considered to be breach of exclusive right of patent

holder should transport means are owned by natural person or entity of the states giving the same rights to Turkmenistan owners of transport means;

- carrying out scientific research or experiment on facilities which includes object of industrial properties; utilization of such facilities under the extraordinary circumstances (natural disasters, catastrophes, accidents) with the following compensation payable to patent holder;

- single producing medicines in drug-stores under the doctor prescription are not recognized as violation of patent holder's right.

Article 15. The right of preusage.

Any natural person or entity which before the date of invention or industrial pattern priority, irrespective of its author, created identical decision to the invention or industrial pattern and used it in the territory of .

Turkmenistan or made some preparation necessary thereto, preserves the right on further free utilization of the same without expanding volume. The right of preusage may be assigned to natural persons or entities only together with production line where there was utilized identical decision

or made some preparations necessary thereto

Article 16. Legal protection for trademark.

The right on trademark is justified by Certificate valid from the date of enlisting trademark into The State Register of Turkmenistan, but during no more 10 years. The Trademark Certificate evidences the fact of registration of trademark, its priority and exclusive right of patent holder to utilize trademark for labeling goods listed in certificate and contains a picture of trademark. Validity of the Certificate on trademark may be extended every time for consequent 10 years under request of its owner provided such request was submitted to Turkmenpatent during last year of 10 years period or (provided payment of additional fee) not later than six months from the date of expiring previous term.

Article 17. Exclusive right on usage of trademark.

Owner of Trademark Certificate has exclusive right to use trademark and to dispose it as well as to prohibit its usage by other persons.

Nobody is entitled to use trademark protected in Turkmenistan without permission of Trademark Certificate's

owner . The violation of Trademark Certificate owner's rights are: nonsanctioned actions such as utilization of trademark in advertisement, press, on sight-board, when demonstration at exhibition and Fairs held in Turkmenistan, etc., and import, sale proposal, sale as well as other putting goods in circulation identified by trademark protected in Turkmenistan.

Article 18. Legal protection of rationalization proposal.

Author of rationalization proposal will be given certificate which proves the recognizing proposal, date of its submission and authorship as well.

Author's right based on rationalization proposal certificate are valid withing those enterprises which issued the certificate. Should the certificate was issued by ministry or other authority author's right are valid at enterprises subordinated to such ministry or other authority.

Author's rights based on the certificate cover also the enterprise as well which received rationalization proposal from enterprise issued the certificate based of contract.

Article 19. Patenting objects of industrial property in

foreign countries.

1. Natural persons and entities of Turkmenistan are entitled to patent invention, industrial pattern in foreign countries. Prior to submission of application for invention, industrial pattern to foreign countries applicant has to make application on this invention, industrial pattern to Turkmenpatent and inform of an intention to patent the invention, industrial pattern overseas. In case there are no prohibition during three months since the date of receiving said notification, the application for invention, industrial pattern may be submitted to foreign countries. Turkmenpatent is entitled in special cases to permit patenting invention, overseas before the submission of application in Turkmenistan.

2. Natural persons and entities of Turkmenistan are entitled to register trademark in foreign countries or to hold its international registration. Application for international registration of trademark will be submitted in accordance with international treaties where Turkmenistan is involved.

3. Expenses related to patenting said objects of industrial properties in foreign companies are for account of applicant

or other natural person or entity under agreements with applicant.

Section V. Taking out of secure documents for objects of industrial property and rationalization proposal

Article 20. Submission of request on issuing secure documents.

Request on issuing patent (temporary patent) for invention or industrial pattern or trademark certificate will be submitted to Turkmenpatent. Application on rationalization proposal will be submitted at the enterprise where it is proposed to use it.

1. The requirements to documents to be enclosed to the application on objects of industrial properties are to be determined by Turkmenpatent, on rationalization proposal – by the enterprise's administration the following persons:

- author of invention or industrial pattern
- legal heir of author or other natural person or entity

obtained from author or his heir the right on submission of

application on the basis of contract

· employer of author under the conditions specified in

Section 5, Article 9 of this Law, have right-to make

application for patent (temporary patent) for invention or industrial pattern.

2. Application for registration of trademark will be submitted by natural person or entity producing goods or rendering services.

3. Application for patent (temporary patent) on invention will relate to one invention or group of inventions linked between themselves, so that they create single inventive idea (unity of invention requirement).

4. Application for patent (temporary patent) on industrial pattern will relate to one industrial pattern and may include modifications of this industrial pattern (unity of industrial pattern requirement).

5. Application for trademark certificate will relate to one trademark.

6. Application for rationalization proposal will relate to one decision.

7. Application for issuing secure documents may be submitted through patent trustee. Turkmenpatent will register patent trustee, determine their functions.

Article 21. Content of application for patent (temporary patent) on invention.

Application for patent (temporary patent) on invention (hereinafter invention application) will include

- Application for issuing patent (temporary patent) stating name of author of invention and person(s) on name of which patent (temporary patent) is requested as well as place of residence or location;

- description of invention discovering the details sufficient for implementation;

- formula of invention expressed its essence and fully based on description;

- drawings and other materials if required for understanding essence of invention;

The document, confirmed payment of fee in extent to be

determined or evidence of exemption from fee payment or of decreasing fee amount will be enclosed to application for invention

Article 22. Content of application for patent (temporary patent) on industrial pattern.

Application for issuing patent (temporary patent) on industrial pattern (hereinafter industrial pattern application) will include:

Application for issuing patent (temporary patent) stating name of author(s) of industrial pattern and person(s) on name of which patent (temporary patent) is requested as well as place of residence or location; set of photos of article, model or picture, giving the full and detailed notion of article appearance;

- article general drawing, ergonomic scheme, confection map if they are required for discovering essence of industrial pattern;
- description of industrial pattern, including the list of essential features

The document, confirmed payment of fee in extent to be determined or evidence of exemption from fee payment or of

decreasing fee amount will be .enclosed to application for invention

Article 23. Content of application for trademark certificate.

Application for trademark certificate will include:

- application for registration of symbol as trademark stating name of applicant and the place of its resident or location:

- symbol requested and its description;
- list of goods and services to which registration of trademark is requested according groups of international classification of goods and services for registration of marks.

- The document confirmed fee payment in extent to be determined or evidence of exemption from fee payment or decreasing fee amount; statute of collective mark in case application will be submitted for collective mark should be .enclosed to trademark application.

Article 24. Application for rationalization proposal.

In order to take recognizing of proposal to be .rationalized

author will make written application describing essence of proposal enclosing drawings, schemes or sketches signed by author (co-author) if necessary.

Application for rationalization proposal will be submitted to those enterprise to which activity this proposal relates whether author works at this enterprise or not.

Should the proposal may be used at the different enterprises author is able to apply to ministry or other authority to which enterprise is subordinated.

Article 25. Priority of invention industrial pattern, trademark, rationalization proposal.

1. Priority of invention, industrial pattern, trademark will be established on the date of application for invention, industrial pattern, trademark in Turkmenistan.

(1) Priority may be established on the date of receiving additional materials if they are executed as independent application by applicant, which was submitted before the expiration of three months period from the date of receiving notification by applicant from Turkmenpatent of impossibility to accept additional materials as they was recognized as modifying the essence of requested decision.

(2) Priority may be set up on the date of more earlier

application described invention or industrial pattern of the same applicant received by Turkmenpatent provided the application requested such priority have been received not later twelve months from the date of receiving more earlier application for invention and six months from the date of earlier application for industrial pattern. Priority may be established on the basis of several earlier submitted applications under observation of conditions of each one. Priority may not be established on the date of receiving application which requested more earlier priority.

(3) Priority of invention under the selected application will be set up on the date of receiving by Turkmenpatent of preliminary application described this invention provided the selected application has been received prior to the decision on withholding patent under the preliminary application and when the possibilities to appeal have been exhausted but in case of granting patent under the said application before the date of registration of invention in Turkmenistan Invention Register.

(4) Should there was determined in the process of expertise that identical objects of industrial property have the same dates of priority than patent will be issued under the

application which more earlier date of dispatching to Turkmen-patent was approved and in case of coinciding dates - under the applications having more earlier registration number of Turkmenpatent.

(5) Priority of rationalization proposal will be determined under the date of its receiving by enterprise, and in case of proposal submitted to ministry or other authority - under the date of its receiving by the said institution. Priority will be given to that author who first submitted proposal in due course even

(6) in the case that initially the proposal was unreasonably withheld, and that withholding was not appealed by author.

Article 26. Expertise of application for invention.

1. Upon expiration of two months from the date of application receiving Turkmenpatent carries out the preliminary expertise of it. The preliminary expertise can be started prior to the said period under the written request of applicant. In this case applicant .forfeits a right to amend applications. In a course of implementation of preliminary expertise of application the availability of

necessary documents will be checked up, as well as observing main requirements and the question will be considered whether proposal relates to object subjected to legal protection or not.

2. In case applicant shall have submitted additional materials to application there will be checked up in the process of expertise whether they modified the essence of requested decision or not. Additional materials will change the essence of requested invention if they ..contain features to be included in invention formula that were absent in preliminary materials of application. Additional materials modified the essence of requested invention are not taken into account when considering application and may be executed by applicant in form of independent application.

3. On application the requirements of which execution were failed the request will be sent to applicant to present amended or missing documents witching two months from the date of receiving request. In case applicant shall have not submitted materials required in due time or request for extending the term application will be recognized to be revoked.

4. On application submitted with violation of unity requirement applicant will be requested to inform during two months of proposal to be considered and accordingly to clarify documents of application.

Other proposals included into materials of preliminary application may be executed as independent applications.

Should such execution shall have been made within three months from the date of notification of the necessity to divide application, priority of the selected applications may be established on the date of receiving application by Turkmenpatent.

In case applicant shall have not informed of proposal to be considered and shall have not presented clarified documents during two months from the date of receiving notification on violation of unity requirement, there will be studied the object indicated first in formula.

5. If as result of preliminary expertise there will be determined that application was executed for proposal is not related to patentable objects than the decision on withholding patent will be made. Applicant may appeal to

Commission of Appeal of Turkmenistan against the decision on withholding temporary patent during two months period from date of decision. Appeal will be considered by the Commission during two months from the date its receiving .

In case of disagreement with the decision of the Commission applicant may apply to court.

6. Turkmenpatent on application passed the preliminary expertise with positive result will grant temporary patent not later than six months from the of receiving application by Turkmenpatent.

7. Turkmenpatent will publish the information on application in official bulletin simultaneously with granting temporary patent. The content of published information will be determined by Turkmenpatent . Any person is entitled to review the application materials upon the publishing information thereof . The author of invention has the right to reject to be mentioned as author in published information.

8. Turkmenpatent will carry out expertise of application

stick to facts under the request of applicant or third persons to be submitted in any time during five years from the date of application . Should applicant shall have not submitted reasonable request for expertise in due period legal protection for invention under application will be terminated upon expiration of temporary patent validity.

9. In the process of expertise of application stick to facts Turkmenpatent is entitled to request additional materials from applicant without which to make expertise will be impossible, including modified formula of invention.

Additional documents under request of expertise will be submitted during two months period from the date of receiving request without modification of invention formula.

Additional materials in the part modified the essence of invention are covered by procedures stipulated in point of this article.

If as a result of application Turkmenpatent will establish that the declared proposal in the volume of legal security requested by applicant corresponds to the terms of patentability of invention, defined by article 4 of present Law, the decision to issue a patent is made with formula of

invention offered by the applicant. Upon identifying noncorrespondence of declared proposal in volume of legal security requested by applicant with terms of patentability of invention, a decision is made on waive of issue of patent.

The applicant may make objection to Turkmenpatent regarding decision on waive of issue of patent within three months from the date of its receipt. The objection should be considered by Appeal committee within four months from the date of its receipt.

10. Upon disagreement of the applicant with the decision of Appeal committee of Turkmenistan, he may appeal to the court within 6 months from the date of its receipt. Decision of court is a final one.

11. Applicant and third persons may solicit for making information investigation under accepted application in order to define the level of machinery in comparison with which the evaluation of novelty and inventive level of declared proposal will be made. The order of making such investigation is defined by Turkmenpatent.

12. The applicant has right to know all materials indicated in the decision of commission of experts or in the report on investigation. The copies of patent materials requested by applicant are sent by Turkmenpatent within one month from the date of receiving the request with relevant prolongation of terms set by the present Law for applicants.

13. Terms provided for by this article, besides terms, defined by section 10 and missed by the applicant may be reinstated by Turkmenpatent upon confirmation of availability of valid reasons and payment of duties. Solicitation for restoration of term can be made by applicant not later than twelve months from the day of expiry of missed term.

Article 27. Application examination for industrial pattern

1. Under application for industrial pattern Turkmenpatent holds preliminary examination and examination in essence. Upon holding preliminary examination of application for industrial pattern provisions are applied respectively contained in the sections 1-7 of article 26 of the present

Law.

2. Upon making examination of application in essence provisions are applied contained in sections 8, 9, 10, 12 and 13 of Article 26 of this Law.

Article 28. Publication of data on patent

Within six months from the day of making decision on issue of patent if the payment of the duty is made for issue of patent Turkmenpatent publishes data about issued patent, including name of the author (authors), if the latter did not refuse to be mentioned as such, patent holder, name and the formula of invention or list significant features of industrial pattern and its picture. Completeness of published data is defined by Turkmenpatent

Article 29. Registration of invention, industrial pattern and issue of patent. Recall of application

1. Together with publication of data on issue of temporary patent or patent Turkmenpatent enters an invention and industrial sample in to the State register of Turkmenistan and issues to patent holder respectively temporary patent or patent.

2. The form of patent, list of included data is set by Turkmenpatent, approved by the Cabinet of Ministers of Turkmenistan.

3. Turkmenpatent issues official certificate to the author of industrial property which confirms his authorship.

4. Under the request of patent holder Turkmenpatent makes corrections of obvious and technical mistakes in the issued patent.

5. The applicant has right to recall application prior to publication of data about application for invention, industrial pattern but not later than the date of their registration.

Article 30. Examination of application for registration of trade mark

1. Examination of application for registration of trade mark (hereafter referred to as application for trade mark) is effected by Turkmenpatent and includes preliminary

examination and examination of declared signs in essence.

2. Within two months from the date of application receipt for trade mark the applicant has right under its own initiative to clarify and correct materials of application.

3. In the period of making examination of application for trade mark the applicant may be suggested to make clarifications or corrections in the application. Under the request of examination commission additional materials should be presented within two months from the date of application receipt. Under the request of applicant the term may be prolonged if the request was received prior to expiry of this term. If the applicant violated indicated term or left the request of examination commission without reply, the request is considered recalled and the applicant will be informed of it.

4. During making preliminary examination the content of the application and availability of enclosed documents thereto is checked as well as their correspondence with established requirements. Under the results of preliminary examination,

the applicant is informed of acceptance of application for consideration or non acceptance of it for consideration.

Preliminary examination of application is made within one month from the moment of its receipt by Turkmenpatent.

5. In case of accepting the application for consideration the applicant is informed of establishment of priority trade mark.

6. Upon disagreement with the decision of preliminary examination commission about refusal to accept the application for consideration, the applicant has right to make objection to Appeal committee of Turkmenpatent within two months from the date of receiving such decision. The objection should be considered within two months from the date of its receipt.

Decision of Appeal committee will be the final one.

7. Examination of the application for trade mark in essence is made upon completion of preliminary examination. During examination of application for trade mark in essence, the correspondence of declared sign with terms defined by article 6 of

present Law is checked. Under the results of examination of application for trade mark in essence the decision is made on registration or waive to register the trade.

8. Upon disagreement with decision of examination commission the applicant has right to make objection to Appeal commission within three months from the day of receiving decision. The objection should be considered within four months from the day of its receipt.

9. Under the request of the Chairman of Turkmenpatent the decision of Appeal committee may be reconsidered. In this case the decision of Appeal committee is the final one.

Article 31. Registration of trade mark. Issue of evidence

1. Turkmenpatent makes registration of trade marks in the State register of Turkmenistan where the picture of trade mark, data about the holder of evidence for trade mark, date of priority, date of its registration, list of goods and services for which trade mark is registered are entered.

Such other data are also entered into State register of Turkmenistan which are related to registration of trade mark, prolongation of validity and cancellation of evidence for trade mark as well as subsequent changes of these data.

2. Issue of evidence for trade mark is made by Turkmenpatent on basis of registration of trade mark within six months after receipt of document on introduction of established duty.

Article 32. Publication of data on registration of trade mark

Data related to registration of trade mark and entered into the State register of Turkmenistan in accordance with article 31 of present Law are published in the official bulletin within six months from the date of registration of trade mark. Also publication is made of all subsequent changes in data, related to trade mark. Data about businessmen which have the right to use collective mark are entered into the State register of Turkmenistan and also into the evidence for collective mark in addition to data provided for in Article 31 of present Law. These data as

well as statement from the Statute of collective mark about common characteristic features of goods and services for which this mark is registered are published in the official bulletin by Turkmenpatent.

Article 33. Examination of application for rationalization proposal

1. Application for rationalization proposal should be registered then considered within one months and decision should be made: either to co that this proposal is rationalization one or to hold good checking or to decline it. Made decision should be informed to the author.

2. If proposal is connected with making amendments in to established normative, technical, constructor documentation it is required to have permission of relative organization.

In these cases certain monthly period is terminated for some time necessary to receive permission.

3. Decision on proposal is made by the manager of enterprise or astrators of relative subdivisions which are entrusted to do it under decree.

Under proposal made by the administrator of the enterprise

the decision is made by technical board of enterprise:
together with local board of inventors and rationalizers.
After making decision on confirming that the proposal is
rationalization, a rationalization certificate will be
given to the author.

4. For consideration of complaints about waive to confirm
that the proposal is rationalization a commission for
rationalization disputes is created which consists of the
representatives of administration and local board of the
Community of inventors and rationalizers. This commission
should consider appeal of the author within one month. The
latter has the right to participate in consideration of his
complaint.

Upon disagreement with decision made by .above mentioned
commission the author
has right to appeal to the manager of enterprise.

Section 6. Termination of validity of secured documents

Article 34. Disputing the patent (temporary patent)

1. Patent (temporary patent) during the whole period of its validity can be disputed and recognized as invalid fully or partially in case of:

a) noncorrespondence of secured object of industrial property with terms of patentability, defined by present Law;

b) availability of sufficient features of industrial pattern in the formula, features which were absent in the initials materials of application;

c) noncorrect indication of author (authors) or patent holder (holders) in the patent.

2. Objection against issue of patent on the basis provided for by the present article, section 1, points a, b should be considered by Appeal committee of Turkmenpatent within six months from the date of its receipt, patent holder should know objection.

The person who makes the objection and patent holder may participate in its consideration. Here the Appeal committee considers the objection within the motives contained in it.

3. Upon disagreement with decision of Appeal committee on objection against issue of patent (temporary patent) any of the parties may make a complaint in the court within six months from the moment of making decision. Its decision will be final.

Article 35. Advance termination of patent validity (temporary patent)

1. Validity of patent (temporary patent) is terminated before the appointed time:

- upon recognition of patent (temporary patent) invalid completely in accordance with articles 4, 26 of present Law;
- on the basis of application, made by patent holder to Turkmenpatent;
- upon nonpayment of duties in proper time for keeping the patent in force;

2. In the official bulletin Turkmenpatent publishes the data about advance termination of patent validity (provisional patent).

Article 36. Termination of validity of evidence for trade

mark

1. The evidence for trade mark may be recognized invalid fully or partially during the whole period of its validity if the registration of trade mark was made with violation of terms provided for by articles 6 and 30 of present Law.

2. At set period any natural person or entity can make objection to Appeal committee of Turkmenpatent against issue of evidence for trade mark. Objection against issue of evidence for trade mark should be considered within six months from the date of its receipt. Person which makes objections as well as the holder of evidence for trade mark has right to participate in the consideration of objection personally or through its representatives.

Decision of Appeal committee may be reconsidered under the protest of the Chairman of Turkmenpatent. In this case decision of Appeal committee will be final.

3. The validity of evidence for trade mark is terminated:

- in connection with expiry of ten year period if the holder of evidence for trade mark did not make solicitation on its prolongation provided for by article 16 of present

Law;

- upon recognition of evidence for trade mark invalid in accordance with present article;

- upon liquidation of entity, holder of evidence for trade mark;

- on the basis of application of holder of evidence for trade mark, made to Turkmenpatent;

4. Data on termination of evidence validity for trade mark is published by Turkmen patent in the official bulletin.

Article 37. Termination of validity of certificate for rationalization proposal

Certificate for rationalization proposal may be disputed by natural person or entity and recognized as invalid fully or partially in case of:

- violation of requirements, defined by present Law for recognition of proposal as rationalization;

- issue of certificate to the name of person, which has no priority to this proposal, or noncorrect indication of author or authors in the certificate.

Article 38. License

1. Any natural person or entity who wishes to use patented invention, industrial pattern or registered trade mark should have patent from the holder for invention or industrial pattern and the license from the holder of evidence for trade mark. License agreement is concluded for certain period, subject to registration in Turkmenpatent and comes into force from the date of its registration. Without registration the license agreement is considered invalid.

2. The holder of patent (temporary patent) for invention may ask Turkmenpatent to publish application on giving to any natural person or entity the right to use invention (open license). In this case duty for maintenance of patent (temporary patent) is decreased by 50% beginning from the year following the year of publication of such application.

Person who wishes to use indicated invention should conclude an agreement with patent holder on payments.

3. In the interests of defense of Turkmenistan and for

maintenance of public order the Cabinet of Ministers of Turkmenistan has the right to permit to use the object of industrial property without agreement of patent holder with payment of money compensation, which are comparable with market price of the license.

4. When issuing the state order to the enterprise on manufacturing the products with using inventions the patent (temporary patent) on which belonging to other natural persons or entities in Turkmenistan and also to foreign citizens, the body issuing the state order provides the license acquisition.

Article 39. Collection of duties

For execution of legally important actions connected with patent (temporary patent) for evidence of trade mark duties are collected. Duties are paid to Turkmenpatent. List of actions for fulfillment of which duties are collected, their sizes and terms of payment as well as basis for payment of duties, decrease of their sizes are set up by the Cabinet of Ministers of Turkmenistan.

Section 7. Promotion of creation and usage of objects of industrial property

Article 40. Privileges on usage of inventions, industrial patterns protected by patent

Profit (income) and currency earnings which are received by enterprise-patent holder are subject to taxation in the following cases:

- in the result of usage of invention in the own production;
- from sale of license for invention;
- from usage of invention to which the license is purchased;
- from making a new technology with usage of patented invention;

Forms and sizes of privileges are set up by the Cabinet of Ministers of Turkmenistan.

Article 41. Right of the authors of inventions, industrial patterns and rationalization proposal for reward

The authors of inventions and industrial patterns, the patent to which are issued to employer or its assignee as well as to the Fund of inventions of Turkmenistan and which

used in public production has right to have reward.

Reward for usage of invention, industrial pattern within validity of patent is paid to the author by the employer or its assignee and also by Fund of inventions of Turkmenistan which are patent holders. Sizes and forms of rewards are set up by the Cabinet of Ministers of Turkmenistan.

The author (authors) of rationalization proposal has right for reward within two years from the date of its usage in the enterprise which issued a certificate to the author for this rationalization proposal.

Conditions and sizes for rewards are set up by the Cabinet of Ministers of Turkmenistan.

President of Turkmenistan Saparmurat

Turkmenbashy

Ashgabat, October 1, 1993 867-XII

