

## **Law No. 1 of 2004 on Patents and Utility Models**

We, Hamad Bin Isa Al Khalifa, the King of the Kingdom of Bahrain

Having reviewed the constitution;

The Industrial Privileges Patents, Designs, and Trademarks Regulation for the year 1955; amended by the Legislative Decree No. 22 of 1977;

The Civil and Commercial Proceedings Law enacted by the Legislative Decree No. 12 of 1971 and its amendments;

Legislative Decree No. 1 of 1987 on Some Provisions on the Sale and Lease of Commercial Stores;

The Trade Law enacted by the Legislative Decree No. 7 of 1987 and its amendments

Legislative Decree No. 7 of 1994, on the Ratification of the document of the establishment of the World Trade Organization;

The Validation of Civil and Commercial Law enacted by the Legislative Decree No. 14 of 1996;

The Legislative Decree No. 21 of 1996 on the Environment; amended by Legislative Decree No. 8 of 1997;

Legislative Decree No. 31 of 1996 on Approval of the Kingdom's accession to the Paris Convention for the Protection of Industrial Property;

The Civil Law enacted by the Legislative Decree No. 19 of 2001;

The Criminal Procedures Law enacted by the Legislative Decree No. 46 of 2002;

**Decree No. 1 of 1995 on the Kingdom's Accession to the Convention of the Creation of the World Intellectual Property Organization (WIPO);**

**The Shura Council and the House of Representatives have approved the following law which we have endorsed and enacted:**

# **Title 1 Patents**

## **Chapter (1) General Provisions**

### **Article (1)**

In accordance with the provisions herein stipulated, a patent shall be given for every invention that is new, involves an inventive step and is industrially applicable whether it is related to new industrial products – imported or locally produced-, industrial methods or a new application of already known industrial methods.

The granted patent shall be given independent of any modification, improvement or addition introduced by a previously patented invention, and it shall be granted to the one who effected the modification, improvement or addition in accordance with the provisions of this law.

### **Article (2)**

a. An invention shall be considered new if not contained in a prior art. Prior art shall be constituted by everything disclosed to the public in the Kingdom or abroad, expressed in writing, oral discourse, by usage, or by any other means that realizes acquaintance with the invention before the relevant filing date of the patent.

Disclosure of the invention to the public shall be inconsiderable if it took place in national or international exhibitions within twelve months preceding the date of application for a patent, subject to the rules and conditions stipulated by the Executive By-laws.

Disclosure of an invention shall also be inconsiderable, if it occurs within the period referred to, in case it was disclosed by the applicant or its predecessors, due to a blatant abuse or illegal act by others.

b. An invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the patent application, it would not have been obvious to a person having ordinary skill in the art.

c. An invention shall be considered as industrially applicable if it is possible to apply it in agriculture, fishing, services, handcrafts or any kind of industry in the broadest sense of the word.

### **Article (3)**

None of the following may be granted a patent:

- a. Any invention which commercial use in the Kingdom of Bahrain aims to sabotage the public order and morals including the protection of human, animal, plantation life or health or to avert serious damages to the environment.
- b. Inventions, scientific theories and mathematical methods.
- c. Plants, animals – excluding microorganisms- and methods with biological bases for the production of plantations and animals.
- d. Methods of diagnostic, surgical or therapeutic treatments of the human or animal body, with the exclusion of products used in any of those methods.

### **Article (4)**

The competent administrative authority at the Ministry of Trade shall set up a register named the "Patents Register" in which it shall record patents applications, all data pertaining thereto and all acts affected thereon subject to the provisions of this law, its Executive By-laws and the decisions to be issued to implement it.

### **Article (5)**

Without detriment to any international conventions observed in the Kingdom of Bahrain, any natural or legal person shall be entitled to file a patent application and acquire the subsequent rights ensuing therefrom subject to the provisions of this law. Eligible applicants may be nationals of the Kingdom, nationals of countries that are members in the World Trade Organization or nationals of any other country who enjoy national treatment.

### **Article (6)**

In case an application for a patent was filed at any member-state of the World Trade Organization or at any other country whose nationals enjoy national treatment by virtue of the international conventions observed in the Kingdom; the applicant or the one who has acquired the rights thereof may within a period of twelve months following the date of that application submit a similar application with respect to the same patent applied for in the previous application, in accordance with the conditions, requirements and procedures stipulated by this law. In this case, the prior date of application shall enjoy the right of priority.

Notwithstanding the provision of Article (2) of this law, the application for a patent shall not be affected by the disclosure of the patent specification or

exploitation or another application thereof within the period prescribed hereinabove.

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

The right of a patent shall be granted to the inventor or the one who has acquired the rights thereof. Should the invention be a result of joint efforts of a number of persons, the ownership of the patent shall be equally assigned to them, unless otherwise agreed. He shall not be considered as a participant in the invention that whose role was confined to the mere implementation thereof.

Should there be more than one applicant for the patent, each independent from the other, the right to a patent shall be given to the first one to apply.

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

Without prejudice to the provisions of Article (631) of the Civil Law, the ownership of the patent shall be assigned to the employer provided the invention was the result of a contract or a commitment for exertion of inventive faculty, and that the name of the inventor shall be mentioned in the patent.

#### **Article (9)**

Should a worker –not entrusted with an invention activity by virtue of the employment contract- create an invention relevant to the activity of the employer using expertise, documents, tools, or raw materials put under the disposal of the same worker, belonging to the employer, he shall, immediate to his decision to file for patent for the invention in question, notify the employer of that effect in writing accompanied with a non-enveloped acknowledgment of receipt. The employer may choose within a period of three months of receiving the notification either to exploit the invention or to purchase the acquired rights thereof, either of which action shall be in return of a fair remuneration.

The employer right of choice shall expire upon conclusion of the period referred to shall the same express no intention to the worker of that effect in writing accompanied with a non-enveloped acknowledgment of receipt.

The provisions of this Article and of Article (8) of this law shall be effective vis-à-vis common nationals of the Kingdom or those receiving similar treatment.

#### **Article (10)**

Where an application for a patent is filed by an inventor within one year of leaving his job at a public or private firm, the application shall be construed as if the same were in service, in which case the inventor and the employer

shall be entitled to the all the rights prescribed in the aforementioned articles as applicable.

### **Article (11)**

- a.** The name of the inventor shall be mentioned in the patent unless the same requires in writing not to do so.
- b.** The patentee is entitled by virtue of the subject patent the right to prohibit others from any of the following actions without prior permission:
  - 1- Manufacturing, exploiting, using, offering for sale or selling the patented product or importing the same for any of the aforementioned purposes, should the subject patent be a product
  - 2- Using the manufacturing method, using the product directly made through this way, offering it to sale, selling or importing the same for any of the aforementioned purposes, should the subject patent be a method for manufacturing a product.

### **Article (12)**

Subject to the right of the adjudicated person to have his industrial and trade secrets safeguarded, the civil court may transfer the burden of proof to the adjudicated in a lawsuit pertaining to the using of a method protected by a patent for making a product without the permission of the patentee in making an identical product, should the plaintiff, having exerted reasonable efforts, failed to define the method that has been actually used and the court has felt the likelihood that the disputed identical product has been made using the patented method.

### **Article (13)**

The rights under the patent shall not extend to:

- a.** The use of the invention for personal, non-commercial, non-industrial or non-scientific purposes
- b.** Despite the grant of the patent, an establishment that, in good faith, manufactures, uses an industrial manufacturing process of a product, or makes serious preparations, before the filing date of an application by another person, shall have the right to continue such acts for the purposes of the establishment only. Assignment of the said right is only permitted with the other elements of the establishment.
- c.** The use of patent articles on land, marine or air means of transportation that is an affiliate to the International Federation for

the Protection of Industrial Property temporarily or accidentally entering the territory of the Kingdom.

- d.** The manufacture or composing by other parties of a pharmaceutical chemical product with an aim of obtaining an official approval for marketing provided that this marketing shall not take place except after the expiry of that period.

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

The term of a patent shall be twenty years as of the filing date of the application thereof in the Kingdom.

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

The patent is subject to a fee upon filing an application pertaining thereto. The patent is also subject to an annual incremental fee at the beginning of each year starting from the year following the application filing date and ending with the expiry date of protection thereof. Should the patentee fail to pay such fee within a maximum of six months from the beginning of the year, the same shall pay an additional late fee.

## **Chapter (2)**

### **Patent Application Procedures**

#### **Article (16)**

An application for a patent shall be filed by the inventor or the one who has acquired the rights thereof at the competent authority at the Ministry of Trade on a special form designed for this purpose in accordance with the provisions prescribed in this Law and the requirements, conditions and procedures defined by the Executive By-laws. One invention only shall be applied for in the application. Collective inventions serving one whole integrated inventive idea shall be considered as one invention.

The application in particular shall disclose a detailed specification of the invention that gives full account of the subject invention and the best ways for one skilful in the art to implement and use it. The specification shall include the new elements claimed by the applicant for protection and any necessary drawings thereof.

The applicant shall, in all cases, provide all data related to prior applications filed abroad for the same invention, all data pertaining thereto and all acts affected thereon.

#### **Article (17)**

The applicant shall be entitled to the exploitation of his invention as of the date of filing thereof.

#### **Article (18)**

The patent applicant may, at any time prior to disclosing the approval of the application, withdraw the application or effect any modifications to the specifications or drawings as the applicant sees fit provided that any modification shall not affect the very nature of the invention.

#### **Article (19)**

The competent administrative authority at the Ministry of Trade shall examine the patent application and the attachments thereof to verify that it meets the required conditions. It may request any modifications and conditions as it sees appropriate to decide on it.

The aforementioned authority shall issue a decision on the patent application in the manner, date and how described by the Executive By-laws as for the application to meet all conditions prescribed herein.

Upon issuing the decision of a patent registration, any person may require to view the patent and the record thereof made in the register. Any concerned person may object in writing at the competent authority to the procedures of registration decision of the patent within sixty days of the disclosure thereof in which case the objection shall be ground caused.

Fees shall be imposed on raising the objection

The rules and procedures for deciding on the objection are prescribed by the Executive By-laws.

#### **Article (20)**

Should the competent authority at the Ministry of Trade find that the subject invention concerns an important matter pertaining to defense or public security; it shall forthwith inform the Ministry of Defense or the Ministry of Interior, as the case may be, of the patent application and attachment on a confidential basis. In such a case, the Minister of Defense or the Minister of Interior, as applicable, may object to the patent application within ninety days of receiving the respective papers in return of purchasing the patent, holding an agreement of exploitation with the applicant or by applying the provisions of compulsory licensing in accordance with the provisions of this law.

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

A decision shall be issued to register a patent of invention after sixty days as of the date of approval if no objection has been filed; or within thirty days utmost from the ruling in the objection.

An entry thereof shall be recorded in the register and the said decision shall be disclosed in the matter prescribed by the Executive By-laws.

The person concerned shall receive an official document duly sealed by the Ministry of Trade showing the details of the patent in the form specially designed by the Ministry for this purpose.

**Chapter (3)**  
**Patent assignment, licensing for exploitation, mortgage  
and seizure**

**Article (22)**

Ownership of a patent may be transferred partly or fully with or without compensation including inheritance. It may also be licensed for exploitation and may be mortgaged and may be decided on in terms of the utilization thereof.

Without detriment to the provisions pertaining the sale and mortgage of commercial stores, the assignment, mortgage or utilization determination thereof shall not constitute an argument against others before the same being recorded in the register and the publication thereof in the manner prescribed by the Executive By-laws.

**Article (23)**

A patent may be seized in accordance with the rules of seizing the debtor's movables or garnishment as applicable, as may be the case. The competent authority at the Ministry of Trade shall be exempted from provisions related to the debtor's acknowledgment of the debt the same owes the creditor.

The creditor shall declare for the Competent Authority the seizure and minutes of the auction bidding to have the same recorded in the Register and neither of these shall constitute an argument vis-à-vis third parties except after they are duly recorded in the manner defined by the Executive By-laws. Fees shall be imposed for recording such entries in the register.

## **Chapter (4)** **Compulsory licensing for exploiting a patent**

### **Article (24)**

The Minister of Trade may issue compulsory non-exclusive licensing for the exploitation of the patents in the following cases:

**a.** National emergencies, persisting necessity or for the purposes of non-commercial public utility provided that the patentee shall be informed of that, when possible, after granting the license.

**b.** Where the owner has not exploited the patented invention or has insufficiently exploited it with respect to the needs of local market in the Kingdom at reasonable prices –taking into account the counterpart prices prevalent in other countries - within three years of the date of patent registration or four years of the filing application whichever is longer.

Should the Ministry of Trade deem that despite the lapse of the period stated in this clause that failure to exploit the subject invention is due to reasons that are beyond the control of the patentee, it may grant him a grace period not exceeding two years to exploit the patented invention completely or otherwise the Ministry may issue a compulsory license for any person whom the patentee either denied licensing for exploitation or bound it to unfair commercial terms.

**c.** Where the exploitation of a patent that implies a technical progress that is of great significance to industry cannot be exploited without the exploitation of another patent, the patentee of the first patent may be granted a compulsory licensing for exploiting the other patent in which case abandonment of the licensed exploitation shall not take place without the abandonment of the first patent.

The patentee of the other patent, in return, shall have the right to get a compulsory licensing to exploit the first patent with reasonable terms.

**d.** In case the patentee is exercising his rights in such a manner that would prevent others from engaging in fair competition.

## **Article (25)**

The following shall be taken into consideration upon granting compulsory licenses:

- a.** Each application for a license shall be decided separately for its specific conditions and circumstances, following the payment of the due fees.
- b.** The license shall only be granted for meeting the demand in the local market
- c.** The applicant for a license shall be able to seriously exploit the patent through a firm established in the Kingdom.
- d.** The applicant shall have tried to obtain a license from the patentee under reasonable commercial remuneration and conditions but did not reach an agreement during a reasonable period of time, notwithstanding the case stipulated in item (a) of the previous article.
- e.** The applicant for a compulsory licensing shall undertake that the scope and duration of the license shall be limited to the purpose for which it is granted by the licensing decision.
- f.** Should the invention relate to "semi-conductors" technologies, licensing shall only be permitted for public, general, and non-commercial purposes, or to rectify practices proven to be anticompetitive.
- g.** The licensee shall not assign the license of exploiting the patented invention except to the firm concerned with this exploitation or to the part related to the exploitation of the patent subject to the prior approval by the Ministry of Trade.
- h.** The patentee shall receive an equitable remuneration which takes into account the economic value of the license. It shall also be taken into consideration the necessity of rectifying anticompetitive practices –if they exist- when estimating the remuneration value.
- i.** The terms prescribed in items (**b**) and (**d**) shall not apply in the case of licensing issued to rectify practices deemed to be constraining fair competition.
- j.** The Minister of Trade of his own motion or upon request of those concerned amends the licensing terms should the conditions for which a license has been given change.

## **Article (26)**

The competent authority at the Ministry of Trade shall provide the patentee with a copy of the licensing application –in cases other than the one stipulated in item (**a**) of Article (24) of this law, in which case the patentee may submit to the competent authority a written response to the application subject to the periods and procedures defined by the Executive By-laws. In all cases, the Minister shall issue a decision to either accept or reject the application or keep the application pending on some

requirements he stipulates and in all cases the Ministry shall be committed to notify the patentee and the license applicant of its decision within thirty days of issuance thereof. Such decision shall be recorded in the patent register and shall be published in the manner prescribed by the Executive By-laws.

### **Article (27)**

The Minister of Trade may, of his own motion or upon request from the patentee, terminate the license before it expires in the following cases:

**a.** Lapse of the reasons that led to license him provided that it is likely that these reasons will not arise again, in the case of which an adequate protection shall be granted to the legal interests of the licensee, subject to the conditions and procedures prescribed by the Executive By-laws.

**b.** Failure on the part of the licensee to exploit the license within two years of the licensing date.

**c.** Licensee violation of any condition according for which the license was given, or failure to undertake the obligations stipulated in this law and the decisions issued in the implementation thereof.

## **Chapter (5)** **Conclusion and Abrogation of patent rights**

### **Article (28)**

The rights accruing from the patent shall be terminated in the following cases:

- a.** Lapse of the period of protection prescribed in Article (14) of this law.
- b.** The abandonment of the patentee of its rights in the patent provided that this abandonment shall constitute no prejudice to the rights of others.
- c.** Abstention for a period more than one year from paying the prescribed due fees in violation of the provisions of Article (15) of this law despite receiving a notice to that effect in the form of a registered letter accompanied with non-enveloped acknowledgment to pay the due fees on the time prescribed by the Executive By- laws.
- d.** The issuance of a final ruling on the abrogation of the patent.

All patents whose terms of protection lapsed shall be recorded in the patent register, and a notice thereof shall be published in the manner prescribed in the Executive By- laws.

### **Article (29)**

The Ministry of Trade and all concerned may, at any time, require the Supreme Civil Court to issue a ruling to nullify patents that proven to be registered unlawfully.

## **Title 2**

### **Utility Model Patents**

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

A utility model patent shall be granted in accordance with the provisions of the law for any new technical addition in form or composition for methods, tools, equipment, parts thereof, products, compositions, or the methods of production thereof and other things used in trade.

The one concerned may transfer the application for a utility model patent to an application for a patent of invention when satisfying the conditions thereof and likewise may the applicant for a patent transfer his application into an application for a utility model patent.

In each aforementioned case, the record shall be based on the original date of application.

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

**a.** The competent authority in the Ministry of Trade shall set up a register named "The Utility Model Register" in which the accepted utility model patents, all details pertaining thereto and all actions affected thereupon shall be recorded, in accordance with the provisions of this law, its Executive By-laws and the decisions issued for its implementation.

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

The term of protection for the utility model patent shall be ten years as of the date of application for a utility model patent in the Kingdom.

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

The provisions pertaining to patents of inventions stipulated in Articles (2) and (3), Articles (5-11) and (13) and Articles (15-29) of this law shall apply to the utility model patents.

## **Title 3**

### **General Provisions**

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

Temporary protection shall be granted to patents and utility models that satisfy the registration requirements of this law while being displayed in national exhibitions which shall be defined by a decision by the Minister of Trade.

The rules, conditions and procedures for granting the protection are stipulated by the Executive By-laws.

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

Any interested person may view the Patents and Utility Model Registers prescribed by Articles (4) and (31) of this law and get extracts, drawings or data therefrom subject to the rules, procedures and manner prescribed by the Executive By-laws and after payment of the due fees.

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

Without prejudice to the provisions pertaining to the objection prescribed in the Articles (19) and (20) of this Law, and without detriment to provisions of Article (29) of the same Law; any concerned person may adjudicate in writing to the Minister of Trade any decision issued in accordance with the provisions of this law within thirty days of the date of being informed of the decision. The grievance shall be decided on within thirty days as of the date of filing. The concerned person shall be informed of that within thirty days of the date of his grievance.

The petitioner may revoke the rejection decision before the Civil Supreme Court within sixty days of being informed of the rejection of his grievance.

Revocation before the Court may not be applicable unless, the decision is adjudicated and the grievance is rejected or the lapse of the date specified for deciding it without notification.

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

A decision shall be issued by the Minister of Trade after the approval of the Cabinet to stipulate the categories of fees prescribed in this law and the rules, rates of increase and decrease and exemption thereof.

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

The Ministry of Trade and any person concerned may request from the Civil Supreme Court to add any detail to the Patent and Utility Model registers that may have been ignored or to omit or amend any detail that is non-compatible with reality or that has been unlawfully entered.

### **Article (39)**

The employees appointed and duly authorized by the Minister of Justice in agreement with the Minister of Trade shall have the capacity of Judicial Control Commissioners concerning the offenses taking place within their own jurisdiction and that pertain to their functions. The written minutes concerning these offenses shall be transferred to the Attorney General by virtue of a decision by the Minister of Trade or the one he delegates for this purpose.

### **Article (40)**

**a.** In the case of infringement or to prevent threats of infringement on any of the rights prescribed by this Law, the owner of the patent or the utility model may request an order in a petition from the chief of the court competent with the dispute source to take one or more precautionary measures as appropriate including the following:

- i. Making a detailed description of the goods –including the imported ones upon importation thereof-, materials, machinery and equipment used or that have been used in the infringement act and keeping the pertinent evidence.
- ii. Effecting precautionary seizure on the items mentioned hereinabove.
- iii. Stoppage of infringement

**b.** The petition shall be accompanied with sufficient evidence proving that the applicant is the right proprietor and that the said right is subject or vulnerable to infringement. The chief of the court may request the applicant to submit necessary information to help the competent authority to carry out the precautionary measure in identifying the products, materials, machinery or tools in question.

**c.** The chief of the court, when necessary, may issue the aforementioned order on an urgent basis –without summoning the other party- should there be a likelihood that any delay in issuing the order would lead to an inevitable damage on the part of the plaintiff or that it would lead to the destruction of the evidence- provided that the defendant shall be informed of the decision upon issuance thereof.

The issued order for taking any of the aforementioned measures may include delegating one expert or more to assist the execution of the order or impose the deposit on the plaintiff of a banking or monetary guarantee appropriate to compensate for any damage that may unlawfully result out of this measure. The defendant may adjudicate the decision before the competent court within the ten days following the issuance of the decision

or from the date of notifying him, as applicable, in the case of which the court may support the decision or abrogate it wholly or partially.

The lawsuit concerning the dispute source shall be raised within fifteen days as of the date of issuance of the order or otherwise the effects of the taken measure shall be rendered void and null.

### **Article (41)**

Without prejudice to any sever punishment prescribed by another law, he shall be punished with imprisonment of no less than three months and no more than a year or with a fine of no less than five hundred Dinars and no more than two thousand Dinars or with both penalties the person who unlawfully and willingly:

**a.** Imitated an invention or utility model patented in accordance with the provisions of this law.

**b.** Placed on the products, advertisements, trademarks, packaging tools, covers or the like data implicating that he has been granted a patent of invention or utility model.

**c.** Manufactured, sold, displayed for selling or circulation, imported from abroad or acquired for commercial purposes a product protected in the Kingdom by virtue of a patent of invention of a utility model patent

The court may order to publish the verdict in a daily newspaper for one time or more at the cost of the defendant.

In the case of repetition of the offense, the imprisonment term shall be no less than six months and no more than two years, or the fine no less than one thousand Dinars and no more than four thousand Dinars or with both penalties with the closure of the commercial store or project or stoppage of the activity –as applicable- for a period of no less than fifteen days and no more than six months. The verdict thereof shall be published one time or more in a daily newspaper at the expense of the defendant.

The court may, when a conviction is issued, order to confiscate or destroy the things accruing from the offense including the goods imported from abroad upon importation along with the tools and equipment used for that purpose.

It may, when an acquittal ruling is issued, order to confiscate or destroy the things mentioned hereinabove should it have resulted in injuries or have been used to infringe the patented rights.

#### **Article (42)**

Without prejudice to the agreements observed in the Kingdom, Industrial Privileges granted by virtue of the laws and regulations effective before the enactment of this Law, shall enjoy the protection prescribed in it and shall be considered as if registered according to the provisions thereof provided that the remaining period of protection shall be deduced from the protection term stipulated in this law, in accordance with the procedures and manner prescribed by the Executive By-laws.

#### **Article (43)**

The provisions of this Law shall apply to all applications filed before the date this law comes into effect and that has not yet been granted an Industrial Privilege. The applicant may amend his application in accordance with the provisions of this law.

#### **Article (44)**

The provisions concerning Industrial Privileges in the Regulation of Industrial Privileges, Designs and Trademark for the year 1955 amended by the legislative decree No. (22) for the year 1977 shall be hereby abrogated.

#### **Article (45)**

The Minister of Trade shall issue the Executive By-laws and the necessary decision to implement provisions of this Law.

#### **Article (46)**

The Ministers, each in his own capacity, shall implement this law, which shall come into effect as of the next day following the publication thereof in the Official Gazette.

Hamad Bin Isa Al Khalifa  
The King of the Kingdom of  
Bahrain

Issued in Al Rifa' Palace, on:  
4<sup>th</sup> of Thi Al Hijja, 1424 A.H  
January 2<sup>4th</sup>, 2004