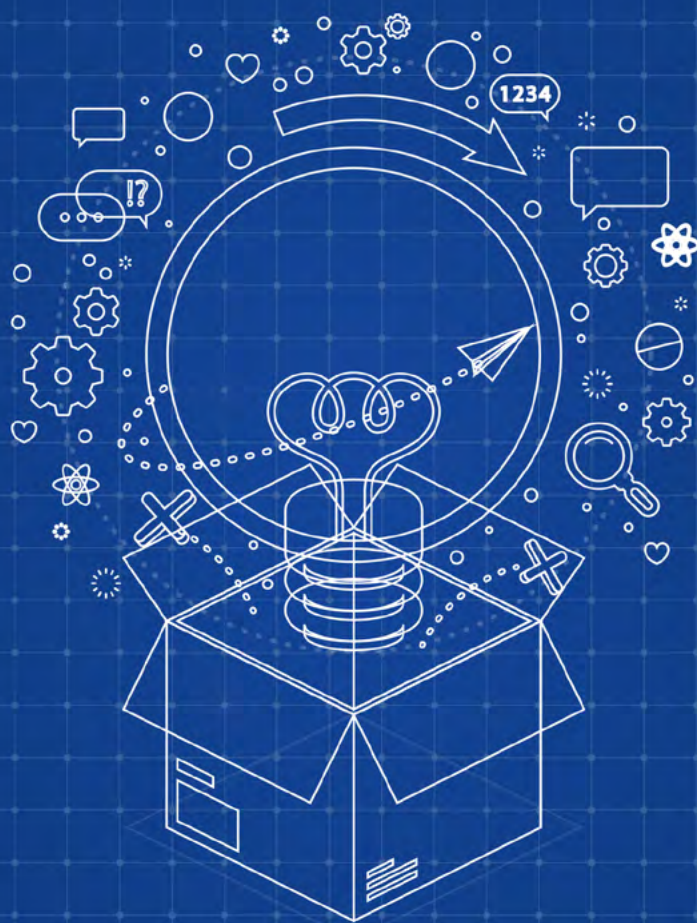


JUNE 2022



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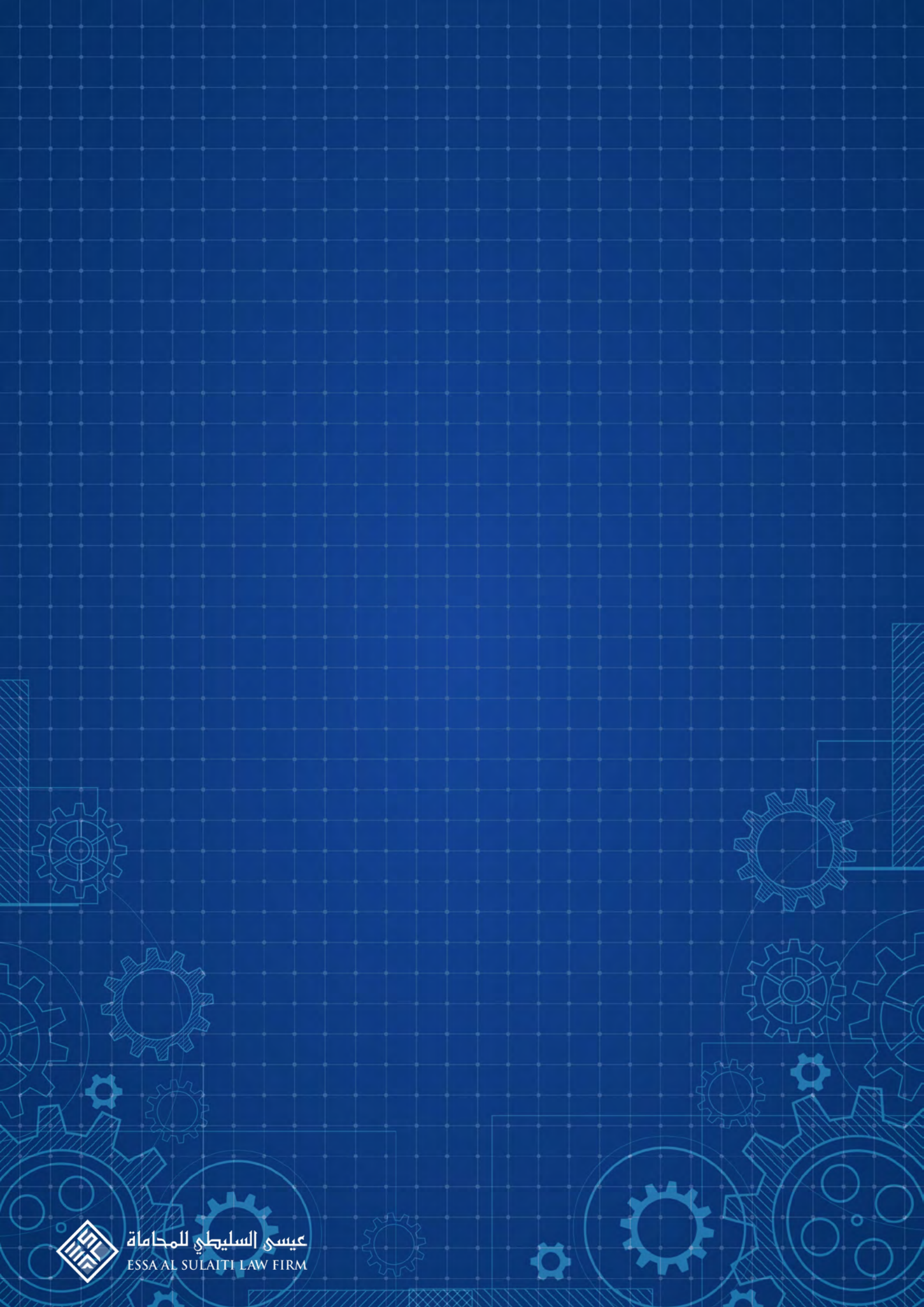
# MODERN LAW



## PATENTS

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# PATENTS

## PREAMBLE

A patent is an exclusive right granted to a product or a process that generally provides a new way of doing something, or offers a new technical solution to a problem. The patent provides its owner with protection of his invention. Patent protection is granted for a limited period, generally 20 years. Patent protection means that the invention cannot be commercially made, used, distributed, imported, or sold by others without the patent owner's consent. Patent has an integral role of incentive for individuals to recognize their creativity, and reward them financially for their inventions that can be marketed. The importance of patents was widely seen at the global level, leading to the emergence of many international conventions to regulate patents for their importance in the development of mankind. Below, we are going to briefly address the most important conventions, which are as follows:

### Paris Convention

The Paris Convention, concluded in 1883, was revised at Brussels in 1900, at Washington in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and was amended in 1979. The Paris Convention applies to industrial property in the widest sense, including patents,

trademarks, industrial designs, utility models (a kind of "small-scale patent" provided for by the laws of some countries), service marks, trade names (designations under which an industrial or commercial activity is carried out), geographical indications (indications of source and appellations of origin) and the repression of unfair competition. The substantive provisions of the Convention fall into three main categories: national treatment, right of priority, common rules.

### Strasbourg Agreement Concerning the International Patent Classification (1971)

The Agreement – commonly referred to as the IPC Agreement – was concluded in 1971 and amended in 1979. The Strasbourg Agreement establishes the International Patent Classification (IPC) which divides technology into eight sections with approximately 80,000 subdivisions. Each subdivision is denoted by a symbol consisting of Arabic numerals and letters of the Latin alphabet. The appropriate IPC symbols are indicated on patent documents (published patent applications and granted patents), of which over 2 million are issued each year. The appropriate symbols are allotted by the national or regional industrial property office



that publishes the patent document. For PCT applications, IPC symbols are allotted by the International Searching Authority. Classification is indispensable for the retrieval of patent documents in the search for "prior art". Such retrieval is needed by patent-issuing authorities, potential inventors, research and development units and others concerned with the application or development of technology.

### **Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977)**

The main feature of the Treaty is that a contracting State which allows or requires the deposit of microorganisms for the purposes of patent procedure must recognize, for such purposes, the deposit of a microorganism with any "international depositary authority", irrespective of whether such authority is on or outside the territory of the said State.

Disclosure of the invention is a requirement for the grant of patents. Normally, an invention is disclosed by means of a written description. Where an invention involves a microorganism or the use of a microorganism, disclosure is not possible in writing but can only be effected by the deposit, with a specialized institution, of a sample of the microorganism. In practice, the term "microorganism" is interpreted in a broad sense, covering biological material the

deposit of which is necessary for the purposes of disclosure, in particular regarding inventions relating to the food and pharmaceutical fields.

### **Patent Cooperation Treaty (PCT) (1970)**

The PCT was concluded in 1970, amended in 1979 and modified in 1984 and in 2001.

The Patent Cooperation Treaty (PCT) makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an "international" patent application. Such an application may be filed by anyone who is a national or resident of a PCT Contracting State. It may generally be filed with the national patent office of the Contracting State of which the applicant is a national or resident or, at the applicant's option, with the International Bureau of WIPO in Geneva.

If the applicant is a national or resident of a Contracting State party to the European Patent Convention, the Harare Protocol on Patents and Industrial Designs (Harare Protocol), the Bangui Agreement, or the Eurasian Patent Convention, the international application may also be filed with the European Patent Office (EPO), the African Regional Intellectual Property Organization (ARIPO), the African Intellectual Property Organization (OAPI) or the Eurasian Patent Office (EAPO), respectively. In 2020, the PCT Implementing Regulations were issued.





## DEFINITION OF PATENTS

A patent is a certificate issued by the competent authority in the State to an inventor whose invention fulfills the necessary requirements for a valid patent and such certificate grants the invention legal protection.

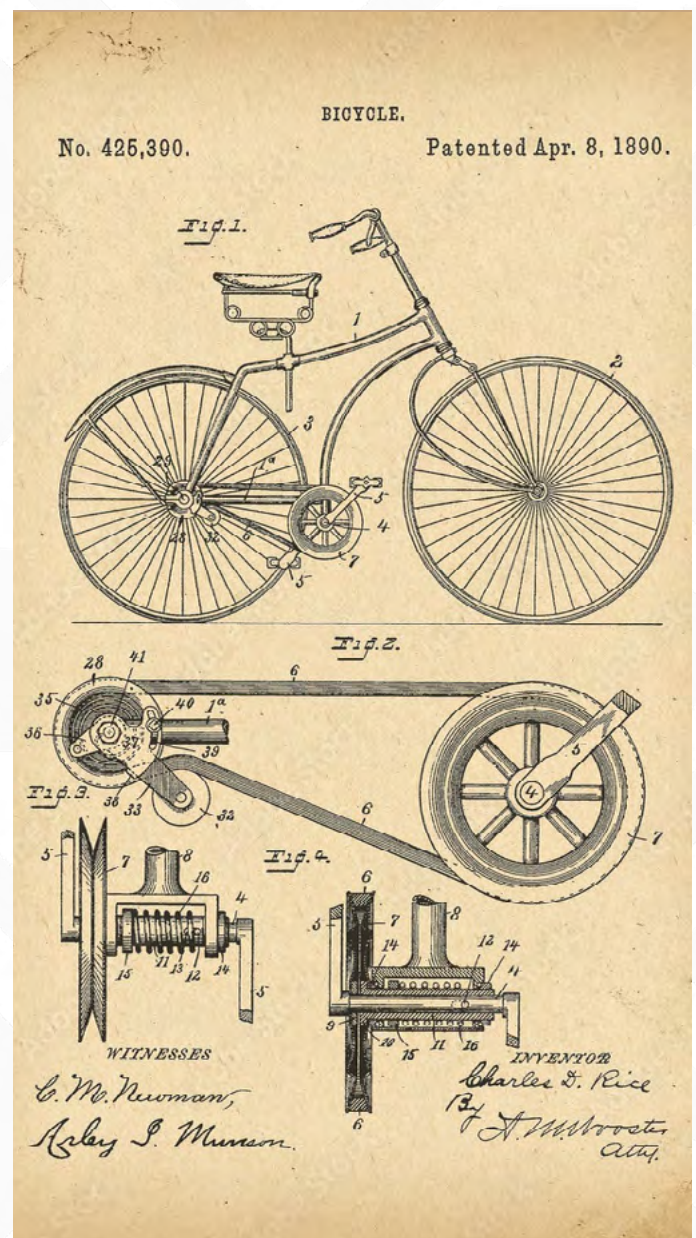
The Qatari legislator realized the importance of regulating patents with many decisions and laws regulating them, both at the internal level and at the regional (GCC) level. Several ministerial resolution and decree-laws were issued as follows:

- ◆ Minister of Economy and Commerce Resolution No. (154) of 2018 regarding the formation of a grievance Committee for decisions related to the registration of patents and the Compulsory license to exploit the invention and the related procedures
- ◆ Minister of Economy and Commerce Resolution No. (153) of 2018 regarding the implementing regulations of the Patent Law promulgated by Decree-Law No. (30) of 2006.
- ◆ Decree-Law No. (30) of 2006 promulgating the Patent Law.
- ◆ Cabinet Resolution No. (13) of 2003 regarding patents related to the technologies used in the ORYX GTL Ltd. project.
- ◆ Decree No. (12) of 2003 ratifying the amended Patent Law of the Cooperation Council for the Arab States of the Gulf.
- ◆ Decree No. (46) for the year 1996 ratifying the Patent Law of the Cooperation Council for the Arab States of the Gulf, and the statute of the GCC Patent Office.

Below, we shall discuss the Decree-Law No. 30/2006 consisting of 24 articles regulating all aspects related to patents. Article (1) thereof defined the patent as: "The certificate granted by the office to the patent owner in order that

his/her invention might get the legal protection in accordance with the present law and its implementing regulations."

Accordingly, the article states that the protection granted by the law for the inventor is his/her exclusive right to use invention and exploit it financially, thus enabling him/her to take profits from such exploitation for disclosing the secret of the invention to the community.



## FIRST: TYPES OF LICENSES

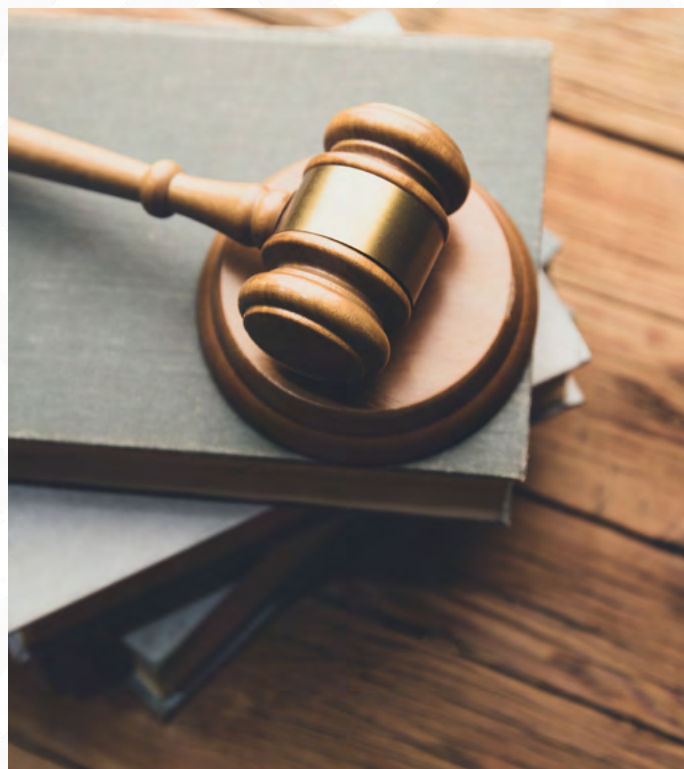
However, such right does not prevent the inventor from licensing to others to exploit the patent, as stipulated in Article (1) of Law No. (30/2006), which is called the contracting license.

### **Contractual License:**

The owner of the patent may sell the patent or license others to use it or dispose of it in any way whatsoever. Since the patent has a financial value, then it may be sold, bought, have the right of usufruct, be mortgaged or licensed to exploit it.

### **Compulsory License:**

Likewise, in some cases, the license issued may be issued mandatorily without the consent of the owner, in cases specified by law, such as epidemics. A Compulsory license may be issued for certain drugs to confront the threat of an epidemic.



## SECOND: CONDITIONS FOR GRANTING A PATENT

Article (2) of the Qatari of Patent Law stipulates that: "Patents shall be available for any inventions, provided that they are new, involve an inventive step and is industrially applicable whether the invention is connected with new industrial products, modern industrial techniques and devices, or common industrial methods. Besides, it shall not be contradicting with the provisions of Islamic Sharia' (Law), violating the public order, ethics or national security." Accordingly, there are several conditions that must be met:

### **Novelty:**

The invention must be new not used by any other before. This is to encourage creativity and innovation by giving the inventor the exclusive right to exploit his/her invention for a certain period in exchange for disclosing the secret of the invention to the community.

### **An Inventive step:**

Novelty is not the only requirement for protecting an invention through patenting, but rather it must involve significant addition to the state of the art. In other words, it would not have been obvious to a person having ordinary skills in the technological field of the invention.

### **Industrial applicability:**

For an invention to get a patent, it must be industrially applicable. This means that a patent is granted only for exploitable inventions in the field of industry, such as the invention of a specific commodity, machine, or chemical substance. As for abstract ideas and pure scientific theories, they do not fall under the protection of patents.



## THIRD: WHO IS ENTITLED TO REGISTER A PATENT?

To register a patent, the inventor shall submit an application to the designated office in order to register ownership of the invention to the inventor. Article (3) of the Law stipulated that: "In the event of the submission of more than one application for patenting the same invention, priority shall be given to the application date." That is, if more than one person applies to register the same invention, priority and ownership shall be given to the one who first applied to register it. "In case more than one person is involved in the same invention, they shall have equal right for patent unless otherwise agreed. A person shall not be deemed involved in the invention if his/her effort is confined only to implementation rather than creation." That is, if more than one person is involved in the same invention, they shall have equal right for patent unless otherwise agreed. A person shall not be deemed an owner of the invention if his/her effort is confined only to implementation.

"Patent ownership shall be entitled to the employer if the invention is a product of an implementation of a contract or a commitment through devoting the whole effort to creativity, or if the employer proves that the worker has only achieved that invention through the utilization of facilities, aids or data provided to him/her by work. However, this shall not prejudice the worker's entitlement to a fair reward. The application may be submitted by the inventing worker during his/her service or within two years of quitting service."

The same Article also addressed the employer's

ownership and provided that if the invention is a product of an implementation of a contract or a commitment through devoting the whole effort to creativity, or if the employer proves that the worker has only achieved that invention through the utilization of facilities, aids or data provided to him/her by work, the patent ownership shall be entitled to the employer with giving the worker's a fair reward. The employer shall have such right whenever the worker submits the invention during his/her service or within two years of quitting service.

The Law organized the grievance procedure through submitting a grievance to the Committee and on the time set forth in Article (7) of the same Law against the acceptance or refusal decision within fifteen days and the Committee's decision shall only be irrevocable after being approved by the Minister, as provided in the below provision:

"Whoever has an interest therein shall be entitled to submit a grievance to a Committee and on the time in article (7) of this Law against the acceptance or refusal decision. However, the Committee's decision shall only be irrevocable after being approved by the Minister."

Article (5) stipulated any person, natural or judicial, Qatari or non-Qatari, who belongs to, or assumes a real and effective activity center in any WTO member state or member entity that enjoys reciprocity with Qatar, shall be eligible to apply to the office for a patent and any other rights pertaining to it in accordance with this Law.

## FOURTH: NON-PATENTABLE INVENTIONS

Article (4) of the Qatari Patent Law stated that the patent subject may be in the form of material product, an industrial process or a manufacturing technique. Hence, patentability shall not include:

1. Scientific theories, mathematical methods, computer programs, exercise of pure intellectual activities, or practice of a specific game;
2. Plant and animal research, and essential biological processes for the production of plants or animals other than microbiological processes and its productions.
3. Methods of surgical or therapeutic treatment of the human or animal body and methods of diagnosis applied to the human or animal body.



## FIFTH: PATENT REGISTRATION APPLICATION PROCEDURES

The Law identified several steps to register a patent in Articles (6-7-8-9), as follows:

### First: Submission of Application (Article 6)

1. Patent registration application shall be submitted to the office by the inventor, his/her authorized agent or assignee.
2. The applicant may withdraw his/her application at any time before the issuance of the final decision. However, application withdrawal shall not entail the withdrawal of documents or the refunding of any fees or costs.
3. The application may include the desire to give the priority to an application that has been previously submitted in a country which is one of the parties of an agreement or convention concluded with the State.

### Second: Examination of Application (Article 7)

1. The office shall examine registration applications. In this regard, it shall be entitled to request all necessary documents for patent granting and seek the assistance of experts at the applicant's expense. If the application is rejected, the competent department shall notify the applicant or his/her representative of its decision by registered letter or any other means, the rejection shall be grounded.
2. The applicant may appeal office rejection decision within fifteen days of being notified by a registered mail at a committee whose membership and competence are decided by a Ministerial decision. The Committee shall issue a decision on the appeal within three months from the date of its submission, and it may extend this period, provided that all extensions do not exceed six months from the date of filing the appeal. If the work of the Committee requires



the assistance of one or more experts, it may extend the period referred to in the previous paragraph as required for expert work. If the three-month period or other periods that should not exceed six months have elapsed without the issuance of the decision, it shall be deemed an implicit rejection.

3. The Committee's decision shall only be irrevocable after being approved by the Minister.

### **Third: Acceptance of Patent Registration (Article 8)**

1. The office, in case of patent acceptance, shall register and announce it as follows:

A. Endorse the patent acceptance decision in the registry.

B. Notify the applicant of the acceptance of his application by registered letter or any other means, who shall submit to the administration, at his/her expense, within three months from the date of the notification, three copies of the full detailed description in Arabic language, and three copies of the brief description of the invention, according to the form determined by

the competent department, otherwise his/her application shall be null and void.

2. Announce the decision in the Gazette (Patent Gazette issued by the competent department, to announce, publicize and publish the decisions issued for granting and amending patents, and the judgments issued in this regard).

3. Enable any person to view the patent file at the competent department, including the application and all its data and what is recorded in the register, who shall be entitled to obtain a copy thereof after paying the prescribed fee.

4. The registration shall be renewed annually after paying the prescribed fee.

### **Fourth: Issuance of Patent (Article 9)**

Article (9) stated that the patent shall be granted to the owner or his/her representative. The decision shall bear registration number and issue date in addition to the following:

1. Name of the patent holder, his/her nationality, and place of residence or head office.

2. Name of the inventor.



3. Name of the invention.
4. Duration of protection, its start and expiry date.
5. Priority/priorities details, numbers and dates, and the entity or state where applications were submitted.
6. Publication of the decision issued for granting the patent in the designated Gazette.

### **Fifth: Rights Conferred**

The patent provided protection for a period of twenty years counted from the date of obtaining the patent. As per Article (11), within the period from application date through the date of patent accomplishment, the invention shall enjoy the same protection granted for the patent. The patent shall allow its owner to exploit the patented invention through making, using, offering for sale, selling, or importing the necessities of legitimate exploitation. No one shall be allowed to exploit the patent without an explicit written permission by its owner.

Pursuant to Article (12), patent ownership and all its rights shall descend to the legitimate successors unless otherwise bequeathed. Whoever it may concern may apply to the office for amending the patent application provided that necessary documents must be provided. Patent ownership shall not be assigned before the date of registering the amendment decision. And pursuant to Article (13), patent owner shall also have the right to assign in writing all or some of the patent exploitation rights. Such assignment shall not serve as title evidence towards others before registration in the patent registry.

Pursuant to Article (14), granting the contractual license shall not entail the deprivation of the patent owner of exploiting it by his/her own, or granting another license on the same patent unless the licensing contract prescribes otherwise.

## **SIXTH: COMPULSORY LICENSE**

Compulsory license is the authorization/license given by the minister without the consent of the owner. Article (14) of the Patent Law states that any concerned person to, after the expiration of three years of the patent granting date, apply for a compulsory license for exploitation of an invention under any of the following causes:

1. There has been no serious or effective exploitation of the patent throughout a period of three years since the patent was granted.
2. The patent holder has ceased exploiting the protected invention for two consecutive years without giving any acceptable reasons to the Patent Office.
3. The patent holder has refused to grant contractual licensing for exploiting the invention thus impeding the establishment or development of industrial and commercial activities in Qatar.

Under any circumstances, compulsory license shall not be granted if the patent owner provides legitimate reasons. Importing the product shall, however, not be considered a legitimate reason. Such a license is only to be issued by the appropriate minister. In all cases, the patent owner is entitled to appeal against the decision of granting the compulsory licensing, to the Committee stipulated in Article (7) of the Patent Law.

In addition, pursuant to Article (16), a compulsory license must not be granted unless the applicant provides evidence that the patent owner has been notified, through registered mail, of the reasons behind the license application, and that no agreement has been reached between him/her and the patent owner within thirty days of the notification.



## **SEVENTH: PATENT OWNER'S RIGHT TO APPEAL THE COMPULSORY LICENSE**

The patent owner may appeal the Committee's decision to grant a compulsory license to exploit the invention within fifteen days from the date of his/her notification of the decision. The committee shall issue a decision on the appeal within three months from the date of its submission, and it may extend this period, provided that all extensions do not exceed six months from the date of filing the appeal.

The appeal rejection decision shall be grounded, and the lapse of the three-month period or other periods that should not exceed six months without the issuance of the decision, it shall be deemed an implicit rejection. The committee's decision shall only be irrevocable after being approved by the Minister.

## **EIGHTH: LICENSEE'S RIGHTS CONFERRED BY COMPULSORY LICENSE**

Pursuant to Article (18) of the Patent Law, the compulsory license shall entitle the licensee to undertake any or all the business entitled to the patent owner under the license, except for importing the product. The license owner shall be entitled to use the civil or penal rights of the patent owner to protect and exploit the invention in case of any default by the patent owner in spite of being notified.

## **NINTH: WARRANTIES REQUIRED IN THE EVENT OF GRANTING A COMPULSORY LICENSE**

Compulsory license shall not be granted to whoever fails to provide the warranties necessary for exploiting the invention in overcoming the deficiencies or meeting the needs that require applying for such a compulsory license. A person granted a compulsory license shall not be entitled to grant others a license to exploit or dispose of the patent. The Minister shall cancel any license if the licensee violates its conditions or if the reasons that has justified granting such license cease to exist.

The licensee shall be entitled to appeal that decision to the committee within fifteen days of the date of notification in the format prepared for such purpose, with attaching the following documents:

1. Copy of the compulsory license
2. Copy of the decision to cancel the license
3. Brief statement of the reasons for the appeal
4. Any other documents requested by the committee

The committee shall issue a decision on the appeal within three months from the date of its submission, and it may extend this period, provided that all extensions do not exceed six months from the date of filing the appeal. The appeal rejection decision shall be grounded, and the lapse of the three-month period or other periods that should not exceed six months without the issuance of the decision, it shall be deemed an implicit rejection. The committee's decision shall only be irrevocable after being approved by the Minister.

## TENTH: REGISTRATION OF COMPULSORY LICENSES

Pursuant to Article (19) of the Patent Law, compulsory licenses and all decisions, verdicts or applications related to them shall be registered in a special registry at the Patent Office, which shall include the following:

1. Patent number, name of its owner, and date of granting.
2. Applications related to the compulsory license.
3. Decisions issued for the compulsory license.
4. Name of the licensee, his/her address, and commercial activity data.
5. Statements of judgments issued regarding compulsory patent license

## ELEVENTH: OBJECTION TO GRANTING PATENTS AND LICENSES

Pursuant to Article (20) of the Patent Law, concerned parties shall be allowed to apply to the competent court for revoking the patent or the compulsory license, if such patent or license have been issued in the following cases:

- a) Non-compliance with the conditions of the law or its implementing regulations;
- b) Non-observance of the priority of the previous applications.

The patent owner, licensee or any relevant person shall be notified of the court session for hearing the case. In case a revocation verdict is issued, reference on such issue shall be made in the special registry at the Patent Office, and such verdict shall be published in the Gazette in its entirety.

## TWELFTH: CONSERVATORY ATTACHMENT

Pursuant to Article (21) of the Patent Law, the patent owner or any other person to whom some or all of the patent rights have been transferred under the law hereby, shall be entitled to call upon the competent court to attach the invention or the enterprise or that part of the enterprise that uses or exploits the invention, in the event of any infringement or illegitimate acts in violation of the law hereby or the licenses granted in accordance with its provisions.

Pursuant to Article (22) of the Patent Law, Attachment claimant shall deposit a bail to be estimated by the court before issuing the attachment verdict. The seizer shall bring the case within eight days of the court verdict; otherwise, it shall be deemed invalid.

The distrainee shall be entitled to bring a restitution claim within sixty days of the lapse of previous period or the date of a final verdict declining the case brought by the distrainer or the restitution claim brought by the distrainee. The above bail shall not be refundable except after the issuance of a final verdict in the attachment case or the restitution claim brought by the distrainee.





## THIRTEENTH: PENALTIES

Article (24) of the Patent Law stipulated the penalties for obtaining a patent based on incorrect or forged documents, imitating an invention, or willfully infringing any right protected by this Law, as follows:

“Without prejudice to any tougher penalties prescribed by other laws, a penalty of not more than two years imprisonment and a fine not exceeding ten thousand Qatari Riyals, or

either of the two penalties, shall be levied on whoever offers or gives incorrect or false information to obtain a patent, or whoever counterfeits an invention or a manufacturing technique, or intentionally trespasses on a right protected by the law hereby. The court may judge by confiscating or destroying the seized objects and the tools and instruments used in counterfeiting.”



## CONCLUSION

Undoubtedly, regulation of patents by enacting laws leads to the ease of technology transfer. The protection granted by any state to inventions is a prerequisite for encouraging national creativity, and is contingent on the existence of a thorough legal system that protects these inventions, ensures full protection of capital and creates a suitable climate for innovation and creativity and the resulting investment and technology attractions. It is known that the vast majority of innovations and inventions in the

world emerge from the legislatively developed states that have established a legal system that provides protection for innovations, inventions and technology. The State of Qatar has realized the importance of developing an integrated legal system for patents, evidencing its great interest in patents and their protection to be among the advanced states in this field, as well as its belief in encouraging innovation and inventors, which gives it an advanced place among the world nations.





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