

Patent Law

Law No. 4 for the Year 1962

**Dated 9. 4. 1962 Governing Patents, Designs and Industrial Models
Published on April 15, 1962 (Gazette No. 373)**

The Constituent Assembly having ratified the following Law,
we, Abdullah Al-Salem Al-Sabah, Amir of Kuwait,

Hereby approve and promulgate the same:

Part One Patents of Invention

Chapter 1 - General Provisions

Article 1

Patents shall be granted in accordance with the provisions of this Law for any new invention which is utilizable in industry whether it concerns new industrial product, original industrial process and techniques or a new application of know industrial process or techniques.

Article 2

Patents shall not be granted in respect of the following:

1. Inventions whose utilization results in a breach of morality or public policy.
2. Chemical inventions relating to foodstuffs, medicines or pharmaceutical formulae unless such products are made by special chemical methods or processes. In the latter event the patent shall not be issued for the products themselves but for the method of their preparation.

Article 3

An invention shall not be considered new, whether Wholly or partially, in the following two cases:

1. Where during the twenty years preceding the date of submission of the application for patent, the invention had been used openly in Kuwait, or where a description or design thereof had been announced in publications circulated in Kuwait, and the published description or design was so clear as to make it possible for skilled persons to utilize it.
2. Where, during the twenty years preceding the date of submission of the application for patent, a patent had been granted in respect of the invention or part thereof to other than the inventor or his assignee, or where others had applied for a patent in respect of the same invention or part thereof during the said period.

Article 4

A register called "The Register of Patents" shall be established at the Trade Marks Control Office in which shall be recorded patents and all particulars pertaining thereto in accordance with the provisions of this Law and the orders to be issued thereof.

Article 5

The following persons shall be entitled to apply for patents:

1. Kuwait nationals
2. Foreigners residing in Kuwait or having industrial or commercial establishments therein.
3. Foreigners who are nationals of countries which accord Kuwait reciprocal treatment, or who are residents of or have a true domicile in such countries.
4. Corporations, societies, firms or associations of industrialists, producers, merchants or workers established in Kuwait or in countries which accord Kuwait reciprocal treatment, if they enjoy corporate status.
5. Public services.

Article 6

The patent right shall belong to the inventor or his assignee.

Where the invention is the result of the joint effort of several persons, the patent right shall belong to all of them jointly and equally unless they agree otherwise.

Where, however, the invention was arrived at by several persons each independent of the others, the patent right shall belong to the person who submitted his application first.

Article 7

Where a person has requested another to disclose a particular invention, all the rights pertaining to such invention shall belong to the former. Similarly, the employer shall have all rights pertaining to inventions introduced by the worker or employee during the existence of the labor or employment relation where the invention falls within the contract or within the labor relation.

The name of the inventor shall be mentioned in the patent and he shall in all cases be entitled to a remuneration. Where such remuneration is not agreed on, he shall be entitled to an equitable compensation from the person whom he had requested to disclose the invention or from the employer.

Article 8

In cases other than those mentioned in the preceding Article, where the invention relates to the public or private establishment to which the inventor is attached, the employer shall have the option of either utilizing the invention or purchasing the patent in consideration of an equitable compensation to be paid to the inventor, provided that such option shall be exercised within three months from the date of notification of the granting of the patent.

Article 9

An application for patent submitted by an inventor within one year after the date of his separation from the private or public establishment shall be considered as if it had been submitted during the performance of the contract or the existence of the labour or employment relation, and both the inventor and the employer shall be entitled to all the rights provided for in the two preceding Articles, as the case may be.

Article 10

The patent owner shall have the exclusive right of utilizing the invention in every way.

Article 11

The provisions relating to patents shall not be applicable to a person who, in good faith, had been utilizing the invention industrially or had made the necessary arrangements to utilize it before the submission of the application for the patent, in which case he shall be entitled to utilize the patent for the needs of his establishment without such right being assignable independently of the establishment itself.

Article 12

The patent shall be valid for a period of fifteen years starting from the date of the application, and the patent owner shall have the right to apply for its renewal once only for a period not exceeding five years, provided that he shall apply for renewal during the last year and prove that invention is of special importance and that he has not reaped from it benefits compatible with his efforts and expenses.

A decision issued by the Trade Marks Control Office concerning renewal shall be open to challenge the Commercial Division of the First Instance Court.

Patents granted under Paragraph 2, Article 2, of this Law shall be valid for a non renewable period of ten years.

Article 13

A fee of ten dinars shall be paid upon the submission of an application for patent or for renewal. This fee shall not be refundable under any circumstance.

Article 14

Where the subject matter of the invention concerns the introduction of alterations, improvements or additions to an invention for which a patent was previously granted, the owner of such patent may, in accordance with the provisions of Articles 15 and 16 of this Law, apply for an additional patent whose validity shall expire with the validity of the original patent. A fee amounting to three dinars shall be payable upon the submission of the application.

In the event of the cancellation or invalidation of the original patent, the additional patent shall remain valid and become independent of the original patent, and its validity period shall be considered as starting from the date of that patent.

Chapter II - Application Procedures

Article 15

The application for patent shall be submitted by the inventor or his assignee to the Trade Marks Control Office of the Ministry of Finance and Economy in accordance with the term and conditions specified in the Regulations.

An application for patent shall not include more than one invention.

Article 16

A detailed description of the invention and the method of its utilization, including a clear description of the new elements for which the person concerned requests protection, as well as a drawing of the invention, where necessary, shall be attached to the application in the manner prescribed by the Regulations.

Article 17

The applicant for patent may utilize his invention as from the date of submission of the application.

Article 18

The Trade Marks Control Office shall examine the application for patent and its enclosures in order to ascertain:

1. That the application has been submitted in accordance with the provisions of Article 15 of this Law;
2. That the description and drawing depict the invention in a manner that permits industrialists to execute it;
3. That the original elements for which the person concerned requests protection are clearly and precisely mentioned in the application.

Article 19

The Trade Mark Control Office may, within the period specified in the Regulations, direct the applicant to make such changes in the application as it deems necessary according to the provisions of the preceding Article. If the applicant fails to do so, he shall be considered as having relinquished his application. The applicant may, within thirty days from the date of his notification of the decision of the Trade Marks Control Office concerning those changes, appeal to the Court of First Instance against this decision. The court may confirm, quash or amend the decision.

Article 20

Where the application for patent satisfies the conditions provided for in Article 18 of this Law, the

Trade Marks Control Office shall advertise the application in the manner prescribed in the Regulations.

Article 21

Any interested person may, within the period specified in the Regulations, oppose the issue of the patent by notice addressed to the Trade Marks Control Office. Such notice shall state the reasons for the opposition.

Article 22

Any decision issued by the Trade Marks Control Office on the opposition may be challenged before the court within a period of thirty days from the date of its notification to the persons concerned. The court shall summarily decide on such challenge.

Article 23

The grant of patent to the entitled person shall be effected by order of the Minister of Finance and Economy. Such order of the published in the manner prescribed by the Regulations.

Article 24

Where it appears to the Trade Marks Control Office that the invention is of defense or military value, it shall immediately advise the General Command of the Armed Forces of the application for patent and the attachments thereto. The General Command of the armed Forces may, within three months from the date of submission of the application for patent, oppose the grant of patent to the applicant in consideration either of purchase of the invention or of agreeing with him on its utilization.

Article 25

The applicant or owner of a patent may at any time apply for the amendment of the specifications or drawing of the invention, indicating the nature of the alteration and the reasons therefor, provided that the alteration shall not affect the substance of the invention.

The procedure to be followed in such application shall be that applicable to the application for patent.

Article 26

Any person may, in the manner prescribed in the Regulations, obtain a copy of the applications for patents and the documents relating thereto as well as extracts from the Register of Patents, and may also examine the applications, documents and the Register.

Chapter III Transfer of Ownership, Pledge and Attachment

Article 27

The patent right and all rights pertaining to the patent shall develop by inheritance. Similarly, the

ownership of a patent of invention may be transferred, wholly or partially, for or without a consideration, and may also be pledged.

The ownership of a patent shall be transferred and the pledge thereof shall be valid in respect of third parties but only from the date on which an entry to that effect is made in the Patents Register.

The transfer of ownership or the pledge of a patent shall be published in the manner prescribed in the Regulations.

Article 28

Creditors may lay attachment on patents belonging to their debtor, in accordance with the provisions of the Code of Procedures governing the attachment of movable property or garnishment under the hands of third parties. The Trade Marks Control Office shall be exempt from the provisions requiring a garnishee to declare the debts owed by him to a distrainee.

The attachment and the auction award shall be notified by the creditor to the Trade Marks Control Office for entry in the Register, and shall not be considered valid in respect of third parties except from the date of such entry. The attachment shall be published in the manner prescribed in the Regulations.

Chapter IV

Issue of Compulsory Licence for the Utilization of Inventions and their Expropriation in the Public Interest

Article 29

Where the invention is not utilized in Kuwait within three years from the date of the granting of the patent, or where the owner is unable to utilize it adequately to meet the needs of the country, or where the utilization of the invention has been stopped for a minimum period of two consecutive years, the Trade Marks Control Office may grant a compulsory licence for the utilization of the invention to any person to whom the patent owner has refused to transfer the right of utilization or has made such transfer conditional upon the fulfilment of exorbitant financial terms.

The compulsory licence shall be granted on condition that the applicant is able to utilize the invention effectively, and the patent owner shall be entitled to a suitable compensation. The Trade Marks Control Office shall forward a copy of the application to the patent owner who shall submit to the Control Office, within the period specified in the Regulations, a written reply to the application. Where the reply is not received within the prescribed period, the Trade Marks Control Office shall issue its decision regarding the acceptance or rejection of the application of the application..

The Control Office may make its acceptance subject to such conditions as it may deem necessary and its decision shall be challengeable before the court within a period of thirty days from the date of its notification to the person concerned.

Article 30

Where, despite the expiration of the periods provided for in the first paragraph of the preceding Article, the Trade Marks Control Office considers that the non-utilization of the invention is due to reasons beyond the control of the patent owner, it may grant him a delay not exceeding two years to utilize the invention in the proper way

Article 31

Where the utilization of the invention is of great importance to national industry and such utilization necessitates the use of another invention for which a patent was previously granted, the Trade Marks Control Office may grant the owner of the invention a compulsory licence to utilize the previous invention where the owner of the latter has refused to agree to its utilization on reasonable terms. Conversely, the owner of the previous invention may be granted compulsory licence to utilize the subsequent invention where his invention is of greater importance.

The circumstances and conditions referred to in Article 30 shall be observed in the granting of licence and the determination of the compensation due to one of the two invention owners from the other. The decision of the Trade Marks Control Office in this respect shall be challengeable before the court within a period of thirty days from the date of notification of the person concerned.

Article 32

Inventions may, for reasons connected with public utility or national defence, be expropriated by order of the Minister of Finance and Economy.

This may cover all the rights involved in the patent or in the application submitted therefor, or it may be restricted to the right of utilizing the invention for the country's needs.

In such event the patent owner shall be entitled to equitable compensation.

The compensation shall be determined by a committee formed by order of the Ministry of Finance and Economy.

The decision of the Committee shall be subject to appeal before the competent court within thirty days from the date of notification of the decision to the complainant.

Chapter V Expiration and Invalidation of Patent

Article 33

Patent rights shall lapse in the following cases:

- (a) Expiration of the period of protection allowed by the patent in accordance with the provisions of Article 12 of this Law.
- (b) Relinquishment of the patent by the owner.
- (c) Invalidation of the patent by a final court order.

Article 34

The Trade Marks Control Office and any interested person may petition the court for the invalidation of patents granted contrary to the provisions of Article 2 and 3 of this Law and the Trade Marks Control Office shall cancel patents when a final judgment to that effect is submitted to it.

The court may, at the request of the Trade Marks Control Office or of the persons concerned, order the addition to the register of any detail that has been overlooked, or the amendment of any detail that is inconsistent with the facts, or the deletion of any detail that has been wrongfully recorded.

Part Two Design and Industrial Models

Article 35

For the purpose of the application of this Law, any arrangement of lines or any type of figure, whether coloured or uncoloured, designed for use in industrial production by a mechanical, manual or chemical process shall be considered a design or industrial model.

Article 36

A register called "The Register of Designs and Industrial Models" shall be established at the Trade Marks Control Office in which shall be recorded designs and industrial models and all details pertaining thereto, in accordance with the provisions of this Law and the orders issued hereunder.

Article 37

The application for the registration of the design or model shall be submitted to the Trade Marks Control Office according to the terms and conditions provided for in the Regulations issue under this Law.

The application may include not more than fifty designs or models on condition that they shall together form a homogeneous unit.

Article 38

The application for registration shall be rejected only where the terms and conditions referred to in the preceding paragraph are not satisfied.

The applicant for registration may, within thirty days from the date of notification of the Trade Marks Control Office's decision in this respect, appeal to the Commercial Court of First Instance against this decision.

Article 39

The Trade Marks Control Office shall issue to the applicant upon registration a certificate

containing the following particulars:

- (a) Serial number and date of the application.
- (b) Number of designs and models covered by the application and the industrial products for which they are designed.
- (c) Name, surname, nationality and place of residence of applicant.

The effects of registration shall start from the date of submission of the application if it satisfied the legal requirements.

The registration shall be published in accordance with the conditions prescribed in the Regulations issued under this Law.

Article 40

Any person may request extracts or copies of the Register.

Article 41

The transfer of ownership of a design or model shall not be valid in respect of third parties until it has been duly recorded in the Register and published in the manner prescribed in the Regulations.

Article 42

The legal period of protection in respect of the registration of a design or model shall be five years starting the date of the application for registration.

Protection may continue for two new successive periods if the owner of the design or model submits, in the manner indicated in the Regulations issued under this Law, an application for renewal during the last year of each period.

The Trade Marks Control Office shall, during the month following the expiration of the period of protection, notify the owner in writing of such expiration. Where the three months following the date of expiration of the protection period pass without submission by the owner of an application for renewal, the Trade Marks Control Office shall strike off the registration.

Article 43

A fee amounting to ten dinars shall be paid upon the submission of an application for registration of a design or model, and also upon the submission of an application for renewal. This fee under no circumstance be refunded.

Article 44

The Trade Marks Control Office shall cancel a registration made in the name of a person other than the real owner of the design or model where a final court judgment ordering such cancellation is submitted to it.

The Trade Marks Office shall affect such cancellation spontaneously or at the request of the persons concerned.

Article 45

The cancellation or renewal of registration shall be published in the manner prescribed in the Regulations

Part Three Common Provisions - Offences and Penalties

Article 46

The following shall be liable to imprisonment for a period not exceeding two years or a fine of not less than ten dinars and not exceeding two hundred and twenty-five dinars, or to both penalties:

1. Any person who imitates the subject matter of an invention in respect of which a patent has been granted under this Law.
2. Any person who knowingly sells or offers for sale or exchange, or imports or acquire with the intention of trading, imitated products or materials on which appears an imitated design or industrial model where such invention, design or model is registered in Kuwait.
3. Any person who unlawfully inserts on products advertisements, trade marks, packing materials, etc. details which convey the impression that he holds a patent or has a registered design or industrial model.

Article 47

The owner of a patent, design or model may, during the hearing of a civil or criminal case, obtain from the President of the Court of First Instance an order for the taking of precautionary measures, especially the seizure of the imitated products or goods, and the machines or implements which were used or which might be used in committing the criminal offence, and the seizure of the imported goods on arrival.

The person concerned shall submit his request for the taking of such precautionary measures in a petition supported by an official certificate proving the registration of the invention, design or industrial model.

The order issued for the taking of such measures may, where necessary, provide for the delegation of one or more experts to help in its execution.

Article 48

The Civil Court or the Criminal Court may order that the articles already seized or those which may be seized later be confiscated and the proceeds thereof deducted from the fines or compensation, or that they be disposed of in any other manner deemed appropriate by the court.

The Court may also order that the judgment be published in one or more newspapers at the expense of the losing party.

Article 49

The Regulations to be issued under this Law shall include provisions which ensure temporary protection for inventions, designs and industrial models displayed in local or international exhibitions held in Kuwait or in a country which accords Kuwait reciprocal treatment.

Such exhibitions shall be specified in an order to be issued by the Minister of Finance and Economy.

Article 50

Where application for patent is submitted in a country which accords Kuwait reciprocal treatment, the person concerned or his assignee may, within one year from the date of submission of the application in the foreign country, submit an application to the Trade Marks Control Office in respect of such invention according to the terms and conditions provided for in this Law.

As an exception to the provision of Article 3 of this Law the publication of the specification of the invention or its use or the submission of another application in respect thereof during the period provided for in the preceding paragraph shall not affect the application.

Without prejudice to Article 11, the provisions of this Article shall apply to designs and industrial models, provided that the period shall be six months from the date of submission of the application for registration in the foreign country.

Article 51

The rights of the patent owner shall not be prejudiced by the use of the invention in land, sea and air transport facilities of a country which accords Kuwait reciprocal treatment in the event of temporary or casual existence of such facilities in Kuwait.

Article 52

The provisions of this Law shall apply to all inventions, designs and industrial models enjoying legal protection on the effective date hereof, provided that the application for patent or for registration of the design or model shall be submitted within two years from that date, and the previous period of protection shall form part of the protection period allowed under the provisions of this Law.

Article 53

The personnel of the commercial section of the Ministry of Finance and Economy may not, whether personally or through a medium, submit applications for the acquisition of patents or for the registration of designers or industrial models, unless two years at least have elapsed since the date of their separation from service.

Article 54

The Minister of Finance and Economy shall issue Regulations for the implementation of the provisions of this Law. These Regulations shall, in particulars, provide for the following:

1. The method of keeping the registers of patents, designs and industrial models.
2. The terms, conditions and time-limits relating to administrative procedures.
3. The terms and conditions concerning publication and notification under this law.
4. The fees payable for the issue of copies and certificates and for the different formalities and entries.

Article 55

The Minister of Finance and Economy and the Minister of Justice shall, each within his competence, implement this Law which shall come into effect three months after the date of its publication in the Official Gazette.

Decree By Law No. 4 of 1999 in the Matter of Amendment of Certain Provisions of the Law No. 4 of 1962 Concerning Patents, Designs and Industrial Models

Article 1

The provisions of Articles 2, 12, 13, 23, 42 (paragraph 1 and paragraph 2), 43 and 46 (paragraph 1) of the above referenced Law No. 4 of 1962 shall be substituted by the following articles.

Article 2

Patents shall not be granted for the following:

1. Inventions whose use result in violation of morality and public order.
2. Discoveries, theories, mathematical ways and computer programs.
3. Drawings, principles, methods for the practice of commercial activities or pure mental activities or exercise of a certain game.
4. Plant kinds: animal species and biological processes used for the production of plants or animals. The processes of microbiology and their products are excluded from such processes.
5. Methods of treating the human body or animal body through surgery or medication and the ways of diagnosing diseases applied on the human body or animal body. The products which are used in any of such ways are excluded.

Article 12

The patent shall be valid for a period of twenty (20) years starting from the date of the application. The patent owner is required to submit an application for renewal of the patent during the last six (6) months upon expiry of every four (4) years. As regards the patents which were registered in other countries and which are applied for registration in the State of Kuwait, the term of protection for such patents shall be the remaining period for such patents in the countries in which the patents were registered.

Article 13

Upon submission of the patent application or renewal application, a fee shall be payable as prescribed in the Executive Regulations. Such fee is not refundable under any circumstances.

Article 23

A patent shall be granted to its owner by virtue of an order to be issued by the Undersecretary of the Ministry of Commerce & Industry or whoever is delegated for such purpose. Such order shall be published as prescribed in the Executive Regulations.

Article 42 (paragraph 1 and paragraph 2)

The legal period of protection resulting from registration of the design, model or integrated circuit shall be ten (10) years starting from the date of the registration application. Protection may continue for another five (5) years if the owner of the design, model or integrated circuit submits an application for renewal within the last year as prescribed in the Executive Regulations of this Law.

Article 43

Upon submission of the registration application of the design, model or integrated circuit, a fee shall be payable as prescribed in the Executive Regulations. Upon submission of the application for renewal, a fee shall be payable as prescribed in the Executive Regulations. Such fee is not refundable under any circumstance.

Article 46 (paragraph 1)

The following shall be liable to imprisonment for a period not exceeding one year and a fine not exceeding KD 5000 (Kuwaiti Dinars Five Thousand) or either penalties:-

Article 2

The phrase (Patent & Trademark Department) shall substitute the phrase (Trademark Control), the phrase (Ministry of Commerce & Industry) shall substitute the phrase (Ministry of Finance & Economy) and the phrase (Minister of Commerce & Industry) shall substitute the phrase (Minister of Finance & Economy) wherever such phrases are mentioned in the above referenced Law No. 4 of 1962.

Article 3

A new item (D) is added to Article 33, a new chapter entitled (Chapter VI), Book 1 of the above referenced Law No. 4 of 1962. under the title "Patents for models of use." The new chapter consists of three (3) articles: (article 34 bis, article 34 bis A and article 34 bis B) whose texts read as follows:-

Article 33 (paragraph d)

D - If the patent owner does not submit the renewal application of the protection period or if the patent owner does not pay the renewal fee specified in the article (13).

(Chapter VI) Patents for Model of Use

Article (34 bis)

A patent for a mode of use shall be granted to whoever submits an application including a new technical solution in shape or formulation for equipment, means, tools, parts thereof or others which are used in commercial application. An applicant may transform his application into a patent for invention if the conditions are fulfilled. Also, an applicant for patent may transform his application into a model of use. In both cases, the filing date of the original application shall be taken into consideration.

Article 34 (bis A)

The term of protection of a model of use is seven (7) years starting from the date of submitting the application. Such term is not renewable, The Patent and Trademark Department shall make publication for the model of use applications within six (6) months as of the date of submitting the application.

Article 34 (bis B)

A fee shall be payable for the registration applications of the models of use. An annual fee shall be payable starting from the second year onwards until expiry of the protection period. The Executive Regulations shall prescribe the classifications of such fees, the procedures to be followed for submission of the registration applications, the documents to be enclosed therewith, time set for settlement of such applications, the manner of objection against the decisions issued in this regard and the amount of payable fees.

Article 4

At the end of the heading of Book II of the above referenced Law No. 4 of 1962, the phrase (integrated circuits) shall be added. The phrase (integrated circuits) shall be added to every article of the said law in which the phrase (designs and industrial models) is mentioned. The phrase (or model of use) shall be added to article (46), after the phrase (patent), article (47), after the phrase (patent) and after the phrase (patent registration), article (50), after the phrase (patent), article (51), after the phrase (use of patent), and the phrase (models of use) shall be added to article 49), after the phrase (provisional protection of patents).

Article 5

The Ministers - each in his own domain of competence - shall execute this decree by law which takes effect as of the date of publication in the official gazette and it is to be referred to the National Council.

Amir of Kuwait
Jaber Al Ahmed Al Sabah



KUWAIT

Prime Minister
Saad A1-Abdullah Al Salem Al Sabah

Minister of Commerce & Industry
Hisham Sulaiman Al-Otaibi

Issued at Byaan Palace on: 10 Safar 1420 A.H., Corresponding to 25 May 1999 A.D.